COUNCIL REGULATION (EC) No 1036/97

of 2 June 1997

introducing safeguard measures in respect of imports of rice originating in the overseas countries and territories (OCTs)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community [1], and in particular Article 109 thereof, in conjuction with Annex IV, Article 1 (7),

Whereas Council Regulation (EC) No 304/97 [2] introducing safeguard measures in respect of imports of rice originating in the overseas countries and territories for the period from 1 January to 30 April 1997;

Whereas, at the end of the period of application of those measures, the serious disruption in the Community rice sector and the risk of a significant deterioration in that sector of economic activity have not been eliminated, in particular with regard to the level of Community prices, the need for significant amounts to be bought into intervention and the risk of a great reduction in land under indica rice;

Whereas, on 9 April 1997 the Italian Government applied to the Commission, pursuant to Article 109 of Decision 91/482/EEC for the extension of the safeguard measures in respect of imports of rice originating in the overseas countries and territories (hereinafter referred to as OCTs);

Whereas the Commission adopted on 23 April 1997 Regulation (EC) No 764/97 [3] introducing safeguard measures for a period of five months in respect of imports of rice originating in the overseas countries and territories;

Whereas the governments of the United Kingdom and Spain have referred the said Decision from the Commission to the Council in accordance with Article 1 (5) of Annex IV of Decision 91/482/EEC;

Whereas pursuant to paragraph 7 of that Article, the Council may adopt a different decision within the time limit indicated;

Whereas the rice originating from the OCTs which is exempt from customs duty on import into the Community in accordance with Article 101 (1) of Decision 91/482/EEC is, as a result of the quantities involved, causing a disturbance on the Community market in rice, which has experienced a normal harvest of indica rice in 1996/97 after two years of drought;

Whereas the Community has provided aid per hectare on a temporary basis to encourage Community producers to grow more indica rice; whereas massive imports of rice from the OCTs under preferential conditions may undermine these attempts to diversify production, leading European producers initially to put large quantities into intervention and subsequently to return to growing japonica rice, for which there is already a surplus; whereas, under those conditions, it is important to maintain producers' confidence during the sowing period;

Whereas the quantities of rice imported from the OCTs are likely to increase still further owing to the producer regions' unrealized potential;

Whereas the first safeguard measures have had a favourable effect on the rice market situation in the Community; whereas, nevertheless, the market price in the Community remains considerably under the intervention price fixed for rice in the Community;

Whereas quantities of rice in excess of 70 000 tonnes have been offered at the end of April 1997 for intervention and significant supplementary amounts will be offered for intervention in the weeks and months to come;

Whereas, consequently, the threat of damage to a sector of the Community economy persists; whereas the application of safeguard measures to imports into the Community of rice from the OCTs should therefore be extended;

Whereas priority should be given to measures which would least disturb the functioning of the association of the OCTs and the Community, in accordance with Article 109 (2) of Decision 91/482/EEC; whereas such measures must, moreover, be limited to what is strictly necessary to remedy the difficulties that have arisen;

Whereas the maintenance of a tariff quota would guarantee OCT rice access to the Community market within limits compatible with the stability of that market while preserving preferential treatment for that product consistent with the objectives of Decision 91/482/EEC;

Whereas, under these conditions, the limitation of imports to 10 000 tonnes of rice originating from Montserrat and the Turks and Caicos Islands and 59 610 tonnes of rice originating from other OCTs for a period of five months, as provided for by Commission Regula-

[1] OJ No L 263, 19. 9. 1991, p. 1.
[2] OJ No L 51, 21. 2. 1997, p. 1.
[3] OJ No L 112, 29. 4. 1997, p. 3.

tion (EC) No 764/97, is insufficient to compensate for the serious disturbances caused to the rice production sector in the Community by imports free of customs duties from the OCTs;

Whereas the quota should be opened for a period sufficient to achieve the abovementioned objectives; whereas a period of application of seven months from 1 May 1997, which would cover the last month of the current marketing year and the first month of the next, would meet those requirements; whereas interrupting those measures before the start of the new marketing year could gravely affect the stability of trade in products from the previous harvest and create a great deal of uncertainty at a time when the marketing forecasts for the new marketing year are being prepared; whereas a premature interruption of the measures would endanger the results achieved up to now;

Whereas in accordance with Article 110 of Decision 91/482/EEC, particular attention should be paid to the interests of the least-developped OCTs listed in Article 230 of that Decision; whereas those territories include Montserrat and the Turks and Caicos Islands;

Whereas, following major volcanic activity at Montserrat, rice growing represents for that island the most important source of employment apart from government services;

Whereas this situation should be closely studied and as a result the portion relating to Montserrat and the Turks and Caicos Islands of the overall quota should be increased in relation to the quantity laid down for that island in Commission Regulation (EC) No 764/97;

Whereas under those conditions, the quota should be opened for a period running from 1 May to 30 November 1997 for a quantity of 13 430 tonnes of husked rice equivalent originating in Montserrat and the Turks and Caicos Islands and 56 180 tonnes originating in the other OCTs;

Whereas the total available quantities should be allocated among the interested importers and speculation should be prevented; whereas the number of licence applications made daily by each importer for each origin should be restricted and provision should be made for the lodging by the importer concerned of an appropriate security so as to ensure correct performance of the import;

Whereas, with a view to guaranteeing proper administration of the measures, special rules should be laid down regarding the submission of applications and the issuing of licences; whereas those rules will either supplement or derogate from the provision of Commission Regulation (EEC) No 3719/88 [1];

Whereas, in the light of the experience obtained and the assessment made at the end of the period of application of the measures introduced in January 1997, it seems possible to extend, by derogation from Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [2], the period of validity of import licences until the end of the third month following that in which they were actually issued, so as to allow importers better to organize their imports and avoid concentrating them too much, and to reduce the amount of the security applying to the certificate guaranteeing that importers' obligations are met,

HAS ADOPTED THIS REGULATION:

Article 1

Imports into the Community of rice originating in the OCTs falling within CN code 1006 and benefiting from exemption from customs duties shall be restricted during the period 1 May to 30 November 1997 to the following quantities of husked rice equivalent:

(a) 13 430 tonnes for rice originating in Montserrat and the Turks and Caicos Islands; and

(b) 56 180 tonnes for rice originating in the other OCTs.

Article 2

1. Applications for import licences shall be lodged with the competent authorities of the Member States from 2 May 1997.

2. Applications for import licences shall be for a quantity not less than 100 tonnes and not more than 2 000 tonnes of rice.

3. Applications for import licences shall be accompanied by:

— proof that the applicant is a natural or legal person who has carried out a commercial activity in the rice sector for at least 12 months and is registered in the Member State in which the application is submitted,

— a written declaration by the applicant stating that he has not submitted more than one application on the day in question for each of the origins referred to in Article 1. Where an applicant submits more than one application for an import licence, all his applications shall be rejected.

Article 3

1. The licence application and the import licence shall contain the following indications:

(a) in box 8, the country of origin must be indicated and 'yes' must be marked with a cross;

[1] OJ No L 331, 2. 12. 1988, p. 1. Regulation as last amended by Regulation (EC) No 2350/96 (OJ No L 320, 11. 12. 1996, p. 4).

[2] OJ No L 117, 24. 5. 1995, p. 2. Regulation as last amended by Regulation (EC) No 1527/96 (OJ No L 190, 31. 7. 1996, p. 23).

(b) in box 20 of the licence, one of the following entries must be made:

— Exención del derecho de aduana (Decisión 91/482/CEE, artículo 101)

— Toldfri (artikel 101 i afgørelse 91/482/EØF)

— Zollfrei (Beschluß 91/482/EWG, Artikel 101)

— Απαλλαγή από τους δασμούς (απόφαση 91/482/ΕΟΚ, άρθρο 101)

— Exemption from customs duty (Decision 91/482/EEC, Article 101)

— Exemption du droit de douane (Décision 91/482/CEE, article 101)

— Esenzione dal dazio doganale (Decisione 91/482/CEE, articolo 101)

— Vrijgesteld van douanerecht (Besluit 91/482/EEG, artikel 101)

— Isenção de direito aduaneiro (Decisão 91/482/CEE, artigo 101º)

— Tullivapaa (päätös 91/482/ETY, artikla 101)

— Tullfri (beslut 91/482/EEG, artikel 101).

2. Notwithstanding Article 8 (4) of Regulation (EEC) No 3719/88, the quantity entered for free circulation may not exceed that entered in boxes 17 and 18 of the import licence. The figure '0' shall accordingly be entered in box 19 of the licence.

3. Notwithstanding Article 9 of Regulation (EEC) No 3719/88, the rights arising from import licences shall not be transferable.

4. Nothwithstanding Article 10 of Regulation (EEC) No 1162/95, the amount of the security in respect of the import licences shall be equal to 50 % of the customs duty calculated in accordance with Article 11 of Regulation (EC) No 3072/95 (1) applicable on the date on which the application was lodged.

5. The concept 'original products' for the purposes of applying this Regulation and the methods of administrative cooperation relating to it shall be as defined in Annex II to Decision 91/482/EEC.

Article 4

1. On the day on which licence applications are lodged, the Member States shall inform the Commission's departments by telex or fax of the quantities, by CN code and by country of origin, for which import licences have been applied and the names and addresses of the applicants.

2. Without prejudice to paragraph 3, import licences shall be issued on the 11th working day following that on which the application was lodged.

3. If the quantities applied for exceed the quantities still available for one or more of the quotas specified in Article 1, the Commission shall, within 10 working days following the date on which the licence applications were lodged, set a single percentage reduction to be applied to the quantities for which applications were lodged on the day on which the quotas were exceeded.

4. If the quantity for which the import licence is issued is less than the quantity applied for, the amount of the security referred to in Article 3 (4) shall be reduced proportionately.

Article 5

Member States shall notify the Commission by telex or fax:

(a) within two working days following issue, of the quantities for which import licences have been issued, specifying date, CN code, country of origin and name and address of holder,

(b) on the last working day of the following month, of the quantities by CN code and by country of origin actually entered for free circulation during each month.

The above information must be notified in the same way but separately from information on other import licence applications in the rice sector.

Article 6

1. Regulation (EEC) No 3719/88 shall apply, including Article 33 (5) thereof.

2. Regulation (EC) No 1162/95 shall apply without prejudice to this Regulation. However, by derogation from Article 6 of Regulation (EC) No 1162/95, import licences for husked, wholly-milled, semi-milled rice and broken rice shall be valid from the date on which they were actually issued until the end of the third month following that date, pursuant to Article 21 (2) of Regulation (EEC) No 3719/88.

Article 7

Commission Regulation (EC) No 764/97 is hereby repealed.

Article 8

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 May to 30 November 1997.

(1) OJ No L 329, 30. 12. 1995, p. 18.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 2 June 1997.

For the Council

The President

H. VAN MIERLO