COMMISSION REGULATION (EC) No 1154/97

of 25 June 1997

increasing the volume of the tariff quota for imports of bananas provided for in Article 18 of Council Regulation (EEC) No 404/93 for 1997

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [1], as last amended by Regulation (EC) No 3290/94 [2], and in particular Articles 18 (1) and 30 thereof,

Whereas Article 18 (1) of Regulation (EEC) No 404/93 provides that, where Community demand is determined on the basis of the supply balance referred to in Article 16 increases, the volume of the quota is to be increased in consequence;

Whereas, in Decision 97/402/EC [3], the Commission establishes the forecast balance for production and consumption in the Community and for imports and exports; whereas that balance indicates an increase in Community demand in particular as a result of the accession to the Community of Austria, Finland and Sweden;

Whereas on 4 April 1995 the Commission forwarded to the Council a proposal adapting the volume of the tariff quota for the import of bananas following the accession of the new Member States [4]; whereas, in spite of the Commission's efforts, the Council has so far not adopted any decision on that proposal; whereas, in order to satisfy consumption demand and to prevent serious disturbance on the Community market, the Commission is obliged to increase the volume of the tariff quota on the basis of the forecast balance;

Whereas the Court of Justice, in its ruling dated 26 November 1996 in case C 68/95, rightly stated that 'Article 30 of Regulation (EEC) No 404/93 authorizes and, depending on the circumstances, requires the Commission to lay down rules catering for cases of hardship arising from the fact that importers of third-country bananas or non-traditional ACP bananas meet difficulties threatening their existence when an exceptionally low quota has been allocated to them on the basis of the reference years to be taken into consideration under Article 19 (2) of that regulation, where those difficulties are inherent in the transition from the national arrangements existing before the entry into force of the regulation to the common organization of the market and are not caused by a lack of care on the part of the traders concerned';

Whereas, as a result of that ruling, a number of operators submitted to the Commission applications for additional allocations claiming cases of hardship; whereas, in order to accede during 1997 to those applications which appear justified in the light of the principles handed down by the Court of Justice, a special reserve should be created within the tariff quota;

Whereas the Management Committee has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The tariff quota for imports of third-country and non-traditional ACP bananas provided for in Articles 18 and 19 of Regulation (EEC) No 404/93 shall be 2 553 000 tonnes for 1997.

Within that tariff quota, a maximum quantity of 10 000 tonnes shall be reserved to allow the adoption of special measures pursuant to Article 30 of that Regulation with a view to settling cases of hardship encountered by certain operators, following the entry into force of the common organization of the market in bananas. That quantity shall not be taken into account for the allocation of import licences to operators in categories A, B and C pursuant to Article 19 (1) and (2) of that Regulation.

Article 2

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

[1] OJ No L 47, 25. 2. 1993, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 105.
[3] See page 79 of this Official Journal.
[4] OJ No C 136, 3. 6. 1995, p. 22.

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

Done at Brussels, 25 June 1997.

For the Commission
Franz FISCHLER
Member of the Commission