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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 304/97

of 17 February 1997

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

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 conjunction with Annex IV, Article 1 (7) thereof,

Whereas, on 29 November and 10 December 1996, the Italian and Spanish Governments respectively applied to the Commission, pursuant to Article 109 of Decision 91/482/EEC, for safeguard measures to be introduced in respect of imports of rice from the overseas countries and territories (OCT);

Whereas the Italian and Spanish Governments have pointed out that increased imports of cheap rice from the OCT have caused serious disruption in the Community rice sector and may cripple this sector of the Community economy;

Whereas on 8 January 1997 the Commission adopted Regulation (EC) No 21/97 introducing safeguard measures in respect of imports of rice originating in the overseas countries and territories [2];

Whereas the Government of the United Kingdom referred that Commission Decision to the Council in accordance with Article 1 (5) of Annex IV to Decision 91/482/EEC;

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

Whereas rice originating in the OCT, which is exempt from the levy on import into the Community in accordance with Article 101 (1) of Decision 91/482/EEC, is sold on the Community market at a lower price than that at which Community rice can be sold, given the level of processing involved;

Whereas the combined effect of the quantities and low prices of those imports is 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 imports of cheap rice from the OCT may undermine these attempts to diversify production, leading European producers initially to put enormous quantities into intervention and subsequently to return to growing Japonica rice, for which there is already a surplus;

Whereas the quantities of rice imported from the OCT are likely to increase still further owing to the region's unrealized potential;

Whereas, consequently, the threat of damage to a sector of the Community economy exists; whereas safeguard measures should therefore be applied to imports into the Community of rice from the OCT pursuant to Article 109 of Decision 91/482/EEC;

Whereas priority should be given to measures which would least disturb the functioning of the association 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 introduction of a tariff quota would guarantee OCT rice access to the Community market within the limits compatible with the stability of that market while preserving the greatest possible degree of preferential treatment for that product consistent with the objectives of Decision 91/482/EEC;

Whereas the quota should be opened for a period sufficient to monitor trends on the Community market and long enough to be compatible with the stability and

[1] OJ No L 263, 19. 9. 1991, p. 1.
[2] OJ No L 5, 9. 1. 1997, p. 24.

predictability of trade; whereas a period of four months from 1 January 1997 would meet those requirements; whereas, before that period expires, there should be an evaluation of the situation to determine whether the measures need to be extended or adjusted;

Whereas the quota should be opened for a quantity of 36 728 tonnes of husked rice equivalent originating in the OCT, other than the least-developed OCT, corresponding to the quantities imported over the last four years for which statistics are available;

Whereas, in accordance with Article 110 of Decision 91/482/EEC, particular attention should be paid to the interests of the least-developed OCT listed in Article 230 of that Decision, amongst which appear Montserrat and the Turks and Caicos Islands;

Whereas, moreover, as a result of major volcanic activity on Montserrat, rice-milling is the most significant source of employment for that island apart from Government service,

HAS ADOPTED THIS REGULATION:

Article 1

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

(a) 8 000 tonnes for rice originating in Montserrat and in the Turks and Caicos Islands, made up of:

— 4 594 tonnes originating in Montserrat, and

— 3 406 tonnes originating in Montserrat or the Turks and Caicos Islands;

and

(b) 36 728 tonnes for rice originating in the other OCT.

2. The quantity of rice originating in the regions referred to in paragraph 1 for which import licences have been issued since 1 January 1997 shall be allocated from the quotas specified in paragraph 1.

3. Licences shall be issued for applications for import licences for rice originating in the regions referred to in paragraph 1 submitted between 1 and 3 January 1997 in accordance with the provisions applicable when the applications were submitted.

4. Applications for import licences for rice originating in the regions referred to in paragraph 1 submitted between 4 January 1997 and the date of entry into force of this Regulation for which licences have not been issued shall be deemed admissible under this Regulation provided that:

— they concern a quantity not greater than 1 000 tonnes per application and per origin, or the quantity applied for is reduced to 1 000 tonnes per origin,

— the applicant has submitted no more than one application per origin per day or, if he has submitted more than one application per day, the other applications have been rejected

and

— the importer lodges an additional security to ensure compliance with the obligation referred to in Article 3 (4).

Admissible applications shall be treated as applications submitted pursuant to Articles 2 and 3. For the purpose of applying Article 4 (3), such applications shall be considered admissible on the date of their submission.

5. Within five working days following the date of entry into force of this Regulation, the Member States shall inform the Commission of:

(a) the quantity of rice originating in the regions referred to in paragraph 1 for which import licences have been issued in accordance with paragraph 2;

(b) the quantity for which licences have been applied for pursuant to paragraph 3 as well as the quantity for which licences have actually been issued;

(c) the quantity for which applications have been accepted pursuant to paragraph 4, broken down by date of submission of the application.

Article 2

1. Applications for import licences shall be for a quantity not less than 100 tonnes and not more than 1 000 tonnes of rice.

2. 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 who 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;

(b) in box 24 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. Notwithstanding Article 10 of Commission Regulation (EC) No 1162/95 [1], the amount of the security in respect of the import licences shall be equal to the customs duty calculated in accordance with Article 11 of Council Regulation (EC) No 3072/95 [2] applicable on the date on which the application was lodged.

5. The concept 'originating 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 for 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 quantities 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 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.

Article 7

1. Commission Regulation (EC) No 21/97 [3] is hereby repealed.

2. Any reference to Regulation (EC) No 21/97, in particular with regard to applications for import licences, import licences issued and Commission Regulation (EC) No 115/97 [4], shall be deemed to be a reference to this Regulation.

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 January to 30 April 1997, except for the second indent of Article 1 (1) (a), which shall apply from the date of entry into force of this Regulation.

Any application for an import licence for rice originating in the Turks and Caicos Islands shall be deemed to have been made under the terms of this Regulation.

[1] OJ No L 117, 24. 5. 1995, p. 2.
[2] OJ No L 329, 30. 12. 1995, p. 18.
[3] OJ No L 5, 9. 1. 1997, p. 24.
[4] OJ No L 20, 23. 1. 1997, p. 30.

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

Done at Brussels, 17 February 1997.

For the Council

The President

G. ZALM