COMMISSION REGULATION (EC) No 1097/2008

of 6 November 2008

providing for exceptional measures regarding import licences in the rice sector due to problems in the international market in 2008

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([1]), and in particular Articles 134 and 148 in conjunction with Article 4 thereof,

Whereas:

(1) Since the beginning of 2008, the pattern of imports of rice into the Community has been disturbed by various export restricting measures in third countries. In some cases those measures were official export prohibitions, or they had the effect of official export prohibitions. Consequently importers in the Community could not comply with their obligations related to import licences, in particular as concerns the obligation to import as laid down in Article 7 of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ([2]).

(2) Therefore, in order to limit the adverse impact on importers, exceptional measures should be provided for as regards import licences issued under 2007/08 and 2008 tariff quota period.

(3) The obligation to import is a primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products ([3]), which, if the obligation has not been met, should lead to forfeiture of the security according to Article 22 of that regulation. At the request of interested parties and pursuant to Articles 40 of Regulation (EC) No 376/2008 the obligation to import should be cancelled and the security should be released on a case by case basis. It is appropriate to lay down conditions to be fulfilled by the titular holder in demonstrating that the export restricting measures can be considered as *force majeure*.

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 114, 26.4.2008, p. 3.
([3]) OJ L 205, 3.8.1985, p. 5.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Market,

HAS ADOPTED THIS REGULATION:

Article 1

1. Pursuant to Article 40 of Regulation (EC) No 376/2008, at the request of the titular holder, within one month after entry into force of this regulation, for the import licences issued in the tariff rate quota period 2007/08 under the Regulations (EC) No 964/2007 ([4]) and (EC) No 1002/2007 ([5]), or the tariff rate quota period 2008 under the Regulations (EC) No 2058/96 ([6]), (EC) No 327/98 ([7]), (EC) No 955/2005 ([8]), (EC) No 1964/2006 ([9]) and (EC) No 1529/2007 ([10]), the obligation to import shall be cancelled and the securities shall be released for the quantities not used, by the competent authorities of the Member States.

2. The measure provided for in paragraph 1 shall only apply in cases where the titular holder invokes rules imposed by a third country which are considered by the competent authorities of the Member State to constitute *force majeure* in accordance with Articles 39 and 40 of Regulation (EC) No 376/2008. The titular holder shall demonstrate, to the satisfaction of the competent authorities that he was unable to import owing to the introduction by third countries of formal export bans or measures with equivalent effect, on which a reasonably prudent trader in the rice sector could not have anticipated the introduction of these measures at the time of applying for the import licence, and that the titular holder made all reasonable efforts to use the import licence during the period of validity.

Article 2

Before 31 January 2009 the Member States shall report to the Commission the measures taken in application of Article 1(2) of this regulation.

The notifications shall be made by electronic means. The form and content of the notifications shall be defined on the basis of models made available by the Commission to the Member States.

([4]) OJ L 213, 15.8.2007, p. 26.
([5]) OJ L 226, 30.8.2007, p. 15.
([6]) OJ L 276, 29.10.1996, p. 7.
([7]) OJ L 37, 11.2.1998, p. 5.
([8]) OJ L 164, 24.6.2005, p. 5.
([9]) OJ L 408, 22.12.2006, p. 19.
([10]) OJ L 348, 31.12.2007, p. 155.

Article 3

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

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

Done at Brussels, 6 November 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission