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PROPOSAL

from: European Commission
dated: 16 April 2012

No Cion doc.: COM(2012) 172 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on imports of rice originating in Bangladesh

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 172 final



EUROPEAN COMMISSION

Brussels, 16.4.2012
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on imports of rice originating in Bangladesh

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The purpose of the proposal is to align Council Regulation (EEC) No 3491/90 of 26 November 1990¹ on imports of rice originating in Bangladesh with the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultation of interested parties

Collection and use of expertise

There was no need for consultation of interested parties or for external expertise since the proposal to align Council Regulation (EEC) No 3491/90 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations.

Impact assessment

No need for an impact assessment since the proposal to align Council Regulation (EEC) No 3491/90 to the Lisbon Treaty is an inter-institutional matter that will concern all Council Regulations.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

Identify the delegated and implementing powers of the Commission in Council Regulation (EEC) No 3491/90 and establish the corresponding procedure for adoption of these acts.

Legal basis

Article 207 of the Treaty on the Functioning of the European Union

Subsidiarity principle

Agricultural policy is of shared competence between the EU and the Member States. This means that as long as the EU does not legislate in the sector Member States maintain their competence. This proposal is limited to adapting the provisions on preferential imports of rice originating in Bangladesh to new requirements introduced by the Lisbon Treaty. Thus the existing Union approach is not affected by this Proposal.

¹ OJ L 337, 4.12.1990, p. 1. Regulation as amended by Regulation (EC) No 1532/2007 (OJ L 337, 21.12.2007, p. 19)

Proportionality principle

The proposal complies with the proportionality principle.

Choice of instruments

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: direct application is due to the nature of the CAP and its management requirements an indispensable characteristic of CAP legislation.

4. BUDGETARY IMPLICATION

This measure has no budgetary implications.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission²,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In the context of the Uruguay round, the Union has undertaken to offer preferential import arrangements for rice originating in the least-developed countries. One of the countries to which the offer was addressed, Bangladesh, indicated its interest in the development of trade in rice. To that end, Council Regulation (EEC) No 3491/90 of 26 November 1990 on imports of rice originating in Bangladesh³ has been adopted.
- (2) Regulation (EEC) No 3491/90 confers powers on the Commission in order to implement some of its provisions. As a consequence of the entry into force of the Lisbon Treaty, those powers need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (the Treaty). For the sake of clarity it is appropriate to repeal Regulation (EEC) No 3491/90 and to replace it with a new Regulation.
- (3) In order to ensure the reliability and the efficiency of the preferential import arrangement, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to establish rules making the participation in the arrangement conditional upon the lodging of a security. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

² OJ C [...], [...], p. [...].

³ OJ L 337, 4.12.1990, p. 1.

- (4) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers, save where explicitly provided otherwise, should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member states of the Commission's exercise of implementing powers⁴. However, where the suspension of the preferential import arrangement becomes necessary, the Commission should be allowed to adopt implementing acts without applying the Regulation (EU) No 182/2011.
- (5) The preferential import arrangements involve a reduction of the import duty within the limits of a certain quantity of husked rice. The equivalent quantities at stages of milling other than that of husked rice should be calculated in accordance with Commission Regulation (EC) No 1312/2008 of 19 December 2008 fixing the conversion rates, the processing costs and the value of the by-products for the various stages of rice processing⁵.
- (6) In order to fix the import duties applicable to rice originating in Bangladesh imported under this Regulation, account should be taken of the relevant provisions of Regulation No XXXX/XXXX of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁶.
- (7) To ensure that the advantages of the preferential import arrangements are limited only to rice originating in Bangladesh, a certificate of origin should be issued and an export tax of an amount corresponding to the reduction of the import duty should be collected by the exporting country,

HAVE ADOPTED THIS REGULATION:

Article 1

Scope

1. This Regulation establishes a preferential import arrangement for imports of rice originating in Bangladesh falling within CN codes 1006 10 (excluding CN code 1006 10 10), 1006 20 and 1006 30.
2. The preferential import arrangement shall be limited, by calendar year, to a quantity equivalent to 4 000 tonnes of husked rice.

The quantities at stages of milling other than the husked-rice stage shall be converted using the conversion rates fixed in Article 1 of Regulation (EC) No 1312/2008.

⁴ OJ L 55, 28.2.2011, p.13.

⁵ OJ L 344, 20.12.2008, p. 56

⁶ OJ L [...], [...], p. [...].

3. By means of an implementing act adopted without the assistance of the Committee referred to in Article 323(1) of Regulation No XXXX/XXXX, the Commission shall suspend the application of the preferential import arrangement provided for in paragraph 1 of this Article once it ascertains that, during the year in progress, imports qualifying under the said arrangement have reached the quantity indicated in paragraph 2.

Article 2

Import duty

1. Within the limits of the quantity laid down in Article 1(2), the import duty on rice shall be equal:
 - for paddy rice falling within CN codes 1006 10, with the exception of CN code 1006 10 10, to the customs duties fixed in the Common Customs Tariff, less 50 % and less a further EUR 4,34;
 - for husked rice falling within CN code 1006 20, to the duty fixed in accordance with Article 242 of the Regulation No XXXX/XXXX , less 50 % and less a further EUR 4,34;
 - for semi-milled and milled rice falling within CN code 1006 30, to the duty fixed pursuant to Article 244 of the Regulation No XXXX/XXXX, less EUR 16,78, less a further 50 % and less EUR 6,52.
2. Paragraph 1 shall apply subject to the following conditions:
 - (a) that proof is provided that an export tax of an amount corresponding to the reduction referred to in paragraph 1 has been collected by Bangladesh
 - (b) that the competent authority of Bangladesh has issued a certificate of origin

Article 3

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 4 laying down rules making the participation in the preferential import arrangement established in Article 1 conditional upon the lodging of a security.

Article 4

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for an indeterminate period of time from the day of entry into force of this Regulation.
3. The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 5

Implementing powers

The Commission shall, by means of implementing acts, adopt the necessary measures concerning:

- (a) the administrative method to be used for the management of the preferential import arrangement ;
- (b) the means for determining the origin of the product covered by the preferential import arrangement;
- (c) the form and period of validity of the certificate of origin referred to in Article 2(2);
- (d) the nature of the proofs required to establish that the export tax referred to in Article 2 (2) has been paid ;
- (e) the period of validity of the import licences, where appropriate;
- (f) the amount of the security required to be lodged in accordance with Article 3;
- (g) the notifications to be made to the Commission by Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [323(2)] of Regulation (EU) No [xxxx/xxxx] of the European Parliament and of the Council (Single CMO Regulation).

Article 6

Repeal

Regulation (EEC) No 3491/90 is repealed.

References to Regulation (EEC) No 3491/90 shall be construed as references to this Regulation and be read in accordance with the correlation table set out in the Annex to this Regulation.

Article 7

Entry into force

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,

For the European Parliament
The President

For the Council
The President

ANNEX

CORRELATION TABLE REFERRED TO IN ARTICLE 6

Regulation (EEC) No 3491/90	This Regulation
Article 1	Article 2
Article 2(1)	Article 1(2)
Article 2(2)	Article 1(3)
Article 3	Articles 3, 4 and 5