



COMMISSION OF THE EUROPEAN COMMUNITIES

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2007/0221 (ACC)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EEC) No 3491/90 on  
imports of rice originating in Bangladesh**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The purpose of this proposal is to amend Council Regulation (EEC) No 3491/90 so as to make it clear what factors are to be taken into account for calculating the import duties applicable to rice originating in Bangladesh imported under that Regulation.

- **Background**

Since Regulation (EEC) No 3491/90 was adopted, numerous changes have been made to the horizontal rules for calculating the rates of duty applicable to imports under Article 1 of the Regulation in question though the Regulation has not actually been amended, which means that there are liable to be diverging interpretations.

- **Provisions in force in the area of the proposal**

Article 1 of Regulation (EEC) No 3491/90 on imports of rice originating in Bangladesh<sup>1</sup> provides for the following reductions in duties:

- “1. *For imports originating in Bangladesh and within the limits of the quantities laid down in Article 2, the import levy on rice falling within CN codes 1006 10 (excluding CN code 1006 10 10), 1006 20 and 1006 30 shall be equal to the levy applicable on imports from third countries, minus:*
- a) *for paddy rice falling within CN code 1006 10, excluding CN code 1006 10 10:*
    - 50%, and
    - ECU 3.6;
  - b) *for husked rice falling within CN code 1006 20:*
    - 50%, and
    - ECU 3.6;
  - c) *for semi-milled and wholly-milled rice falling within CN code 1006 30:*
    - *the amount for the protection of the industry referred to in Article 14(3) of Regulation (EEC) No 1418/76 (2), as last amended by Regulation (EEC) No 1806/89 (3), in the case of semi-milled rice, converted in line with the conversion rate for wholly-milled and semi-milled rice as referred to in the third indent of Article 19 (a) of that Regulation, minus 50% and*
    - ECU 5.4.”

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<sup>1</sup> OJ L 337, 4.12.1990, p. 1.

Detailed rules for the application of the Regulation were laid down by Regulation (EEC) No 862/91<sup>2</sup>, Article 1 of which originally read:

“The amounts of the levies referred to in Article 1(1) of Regulation (EEC) No 3491/90 shall be calculated each week by the Commission on the basis of the levies laid down in accordance with Article 11 of Regulation (EEC) No 1418/76.”

Commission Regulation (EC) No 2123/95<sup>3</sup> replaced this Article 1 on a transitional basis from 1 July 1995 to 30 June 1996 by the following:

*“The customs duties referred to in Article 1(1) of Regulation (EEC) No 3491/90 shall be calculated each week by the Commission as follows:*

- *the duty applicable to imports of paddy rice falling within CN code 1006 10, with the exception of that falling within CN code 1006 10 10, shall be equal to the customs duties set out in the Common Customs Tariff less 50%, less ECU 4.34,*
- *the duty applicable to imports of husked rice falling within CN code 1006 20 shall be equal to the duty fixed pursuant to Article 12(2) of Regulation (EEC) No 1418/76 less 50%, less ECU 4.34,*
- *the applicable rate for imports of milled rice falling within CN code 1006 30 shall be equal to the duty fixed in accordance with Article 12(2) of Regulation (EC) No 1418/76, less ECU 16.78, less 50%, less ECU 6.52.”*

This amendment was then reiterated annually by Regulations (EC) No 1373/96<sup>4</sup>, (EC) No 1407/97<sup>5</sup> and lastly by Regulation (EC) No 1482/98<sup>6</sup>, the legal basis being Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations<sup>7</sup>. However, this legal basis only allowed transitional measures to be taken until 30 June 1999.

Nonetheless, since 1 July 1999 the amounts of the customs duties referred to in Regulation (EEC) No 3491/90 have continued to be calculated in accordance with Article 1 of Regulation (EEC) No 862/91, as amended by Regulations (EC) No 2123/95, (EC) No 1373/96, (EC) No 1407/97 and (EC) No 1482/98. The following aspects of Community law, although not explicitly incorporated into Regulation (EEC) No 3491/90 to date, are applicable:

- a) under Regulation (EC) No 3290/94, all the measures restricting imports of agricultural products, including variable import levies, were converted into customs duties from 1 July 1995;

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<sup>2</sup> OJ L 88, 9.4.1991, p. 7.

<sup>3</sup> OJ L 212, 7.9.1995, p. 8.

<sup>4</sup> OJ L 178, 17.7.1996, p. 5.

<sup>5</sup> OJ L 194, 23.7.1997, p. 13.

<sup>6</sup> OJ L 195, 11.7.1998, p. 14.

<sup>7</sup> OJ L 161, 26.6.1996, p. 1.

- b) to avoid harming the interests of Bangladesh, the amount for the protection of the industry referred to in Article 1 of Regulation (EEC) No 3491/90 was replaced by a fixed amount of ECU 16.78 under Regulation (EC) No 2123/95 et seq referred to above. Moreover, the concept of “amount for the protection of the industry” was abolished from 1 July 2006 pursuant to the amendment to Regulation (EC) No 1785/2003 on the common organisation of the market in rice<sup>8</sup> introduced by Regulation (EC) No 797/2006<sup>9</sup>;
- c) the switch-over mechanism (or “green ecu”) introduced in 1984 in the Community agri-monetary system was abolished on 1 February 1995. At that point CAP prices and amounts expressed in ecus were increased by applying a correcting factor of 1.207509, to cancel out the effects of bringing the conversion rates used in agriculture back to a realistic level. These provisions were adopted under Council Regulation (EC) No 150/95<sup>10</sup> amending Regulation (EEC) No 3813/92 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>11</sup> which was repealed and replaced as from 1 January 1999 by Regulation (EC) No 2799/98 establishing agrimonetary arrangements for the euro<sup>12</sup>. From 1 February 1995 the coefficient of 1.207509 was therefore applied to the amounts provided for in Article 1 of Regulation (EEC) No 3491/90, corresponding to the amounts provided for in Article 1 of Regulation (EEC) No 862/91, as amended by Regulation (EC) No 2123/95 et seq.

From 1 January 2007 Regulation (EEC) No 862/91 was repealed and replaced by Regulation (EC) No 1964/2006, which contains no provisions on the rules for calculating the duty applicable to imports of rice originating in Bangladesh.

Regulation (EEC) No 3491/90 should therefore be amended accordingly.

- **Consistency with the other policies and objectives of the Union**

As a clarification of legislation, the proposal is consistent with the objectives of the Union.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Not applicable.

- **Collection and use of expertise**

No recourse to external expertise has been necessary.

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<sup>8</sup> OJ L 270, 21.10.2003, p. 96.

<sup>9</sup> OJ L 144, 31.5.2006, p. 1.

<sup>10</sup> OJ L 22, 31.1.1995, p. 1.

<sup>11</sup> OJ L 387, 31.12.1992, p. 1.

<sup>12</sup> OJ L 349, 24.12.1998, p. 1.

- **Impact assessment**

The provisions proposed exactly reflect those currently applicable.

### 3. **LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The purpose of this proposal is to adapt Regulation (EEC) No 3491/90 to the changes to the horizontal rules made since its adoption as regards calculating the rates of duty applicable to imports.

- **Legal basis**

Treaty establishing the European Community, and in particular Article 133 thereof.

- **Subsidiarity principle**

The proposal concerns an area that falls under exclusive Community competence. The subsidiarity principle does not therefore apply.

- **Proportionality principle**

The proposal complies with the proportionality principle.

- **Choice of instruments**

Proposed instrument: regulation.

Other means would not be appropriate for the following reason: an existing Regulation needs to be amended.

### 4. **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EEC) No 3491/90 on  
imports of rice originating in Bangladesh**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 1 of Council Regulation (EEC) No 3491/90 of 26 November 1990 on imports of rice originating in Bangladesh<sup>13</sup> provides for reductions in the import levies on rice imports from that country. Those reductions corresponded, on the one hand, to amounts fixed in ecus and, on the other, to the amount for the protection of the industry referred to in Article 14(3) of Council Regulation (EEC) No 1418/76 of 21 June 1976 on the common organisation of the market in rice<sup>14</sup>.
- (2) Since the arrangement was adopted, numerous changes have been made to the horizontal rules applicable, but Regulation (EEC) No 3491/90 has not been amended accordingly. The factors for calculating the duties applicable to imports provided for in Article 1 of the said Regulation must be applied having regard to the horizontal rules concerned, thereby running the risk of divergent interpretations.
- (3) More particularly, from 1 July 1995, variable import levies were converted into customs duties, following the adoption of Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations<sup>15</sup>.
- (4) The concept of “amount for the protection of the industry” was abolished from 1 July 2006 pursuant to the amendment of Regulation (EC) No 1785/2003 of 29 September

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<sup>13</sup> OJ L 337, 4.12.1990, p. 1.

<sup>14</sup> OJ L 166, 25.6.1976, p. 1. Regulation repealed by Regulation (EC) No 3072/95 (OJ L 329, 30.12.1995, p. 18).

<sup>15</sup> OJ L 349, 31.12.1994, p. 105. Regulation as last amended by Regulation (EC) No 1340/98 (OJ L 184, 27.6.1998, p. 1).

2003 on the common organisation of the market in rice<sup>16</sup> by Regulation (EC) No 797/2006<sup>17</sup>.

- (5) The switch-over mechanism introduced in 1984 in the Community agri-monetary system, the purpose of which was to prevent agricultural exchange rates from developing in line with monetary rates, was abolished on 1 February 1995 by Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy<sup>18</sup>, as amended by Regulation (EC) No 150/95. When Regulation (EEC) No 3813/92 was replaced from 1 January 1999 by Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro<sup>19</sup>, the prices and amounts provided for in the common agricultural policy (CAP) expressed in ecus were increased in parallel by applying a correcting factor of 1.207509, to cancel out the effects of bringing the conversion rates used under the CAP back to a realistic level, and the same coefficient of 1.207509 was therefore applied from 1 February 1995 to the amounts provided for in Article 1 of Regulation (EEC) No 3491/90.
- (6) Council Regulation (EEC) No 3491/90 should therefore be amended to make it clear what factors are to be taken into account for calculating the import duties applicable to rice originating in Bangladesh imported under that Regulation.
- (7) Regulation (EEC) No 3491/90 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 3491/90 is amended as follows:

- 1) Article 1(1) is replaced by the following:
  - “1. For imports originating in Bangladesh and within the limits of the quantities laid down in Article 2, the import levy on rice falling within CN codes 1006 10 (excluding CN code 1006 10 10), 1006 20 and 1006 30 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 11a of Council Regulation (EC) No 1785/2003\*, less 50% and less a further EUR 4.34;

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<sup>16</sup> OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Regulation (EC) No 797/2006.

<sup>17</sup> OJ L 144, 31.5.2006, p. 1.

<sup>18</sup> OJ L 387, 31.12.1992, p. 1. Regulation repealed by Regulation (EC) No 2799/98 (OJ L 349, 24.12.1998, p. 1).

<sup>19</sup> OJ L 349, 24.12.1998, p. 1.

- for semi-milled and milled rice falling within CN code 1006 30, to the duty fixed pursuant to Article 11c of Regulation (EC) No 1785/2003, less EUR 16.78, less a further 50% and less EUR 6.52.

\* OJ L 270, 21.10.2003, p. 96.”

2) Article 2(1) is amended as follows:

- a) In the first subparagraph "levy" is replaced by "import duty";
- b) In the second subparagraph "as last amended by Regulation (EEC) No 2325/88" is deleted.

### *Article 2*

This Regulation shall enter into force on the third 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 Council  
The President*