

Case T-79/96 R

Camar Srl

v

Commission of the European Communities

(Common organization of the markets — Bananas — Application for interim measures — Request for the issue of import licences)

Order of the President of the Court of First Instance, 21 March 1997 II - 405

Summary of the Order

Application for interim measures — Interim measures — Request for the issue of import licences for bananas in derogation from the tariff quota fixed for the current marketing year — Necessary to take account of the limits imposed by Regulation No 404/93 — Rejection of the request made by an importer of bananas from Somalia considered to be in a position to resume its traditional imports

(Rules of Procedure of the Court of First Instance, Art. 104(2); Council Regulation No 404/93, Art. 30)

When examining the merits of an application for interim measures, made by an undertaking which imports traditional ACP bananas from Somalia and seeking to obtain, outside

the tariff quota fixed for the current marketing year, import licences for third-country or non-traditional ACP bananas in a quantity equal to the difference between the quantity

of Somalian bananas which it is able to import during that marketing year and the quantity which it imported before the outbreak of civil war in Somalia, the judge hearing the application must verify not only that the requirements laid down by Article 104 of the Rules of Procedure of the Court of First Instance are satisfied but also that the limits imposed on the introduction of derogations from the general system of allocating licences by Regulation No 404/93 on the common organization of the market in bananas, and in particular by Article 30 concerning the transitional measures considered necessary to assist the transition from national arrangements to the common organization of the markets are observed.

There is no need to adopt measures intended to correct the current allocation of import licences, since the forecast production of a quantity of Somalian bananas sufficient to enable the undertaking to resume its traditional imports supports the *prima facie* conclusion that the rules governing the common organization of the markets do not appear to restrict the opportunities for that undertaking to import bananas from Somalia within the framework of the tariff quota provided for by Regulation No 404/93 and that, for the current marketing year, there do not appear to be any difficulties, caused by the transition from the national arrangements existing before the entry into force of Regulation No 404/93 to the present arrangements under the common organization of the markets, which could threaten the undertaking's survival.