COMMISSION REGULATION (EC) No 2459/94

of 11 October 1994

establishing administration procedures for the first tranche of the 1995 quantitative quotas for certain products originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas [1], and in particular Article 2 (3) and (4), and Articles 13 and 24 thereof,

Whereas Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83 [2], as amended by Regulation (EC) No 1921/94 [3], introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex II to that Regulation ; whereas the provisions of Regulation (EC) No 520/94 establishing a Community procedure for administering quantitative quotas are applicable to those quotas ;

Whereas the Commission accordingly adopted Regulation (EC) No 738/94 laying down general rules for the implementation of Regulation (EC) No 520/94 [4], whereas these provisions apply to the administration of the above quotas subject to the provisions of this Regulation ;

Whereas certain characteristics of China's economy, the seasonal nature of some of the products and the time needed for transport mean that orders for products subject to quota are generally placed before the beginning of the quota year ; whereas it is therefore important to ensure that administrative constraints do not impede the realization of the planned imports ; whereas in order not to affect the continuity of trade flows, the arrangements for allocating and administering the 1995 quotas should accordingly be adopted before the start of the quota year ;

Whereas it is also necessary, in laying down such measures, to look ahead to the accession to the European Union of new Member States under the Treaty concerning the accession of Norway, Austria, Finland and Sweden to the European Union [5] ; whereas the need for continuity of trade applies equally to importers in the acceding States, who will be subject to the quotas from 1 January 1995 ;

Whereas proper means should be provided for, to allow the importers in the acceding States to have access to the 1995 quotas on the terms set for Community importers under Regulations (EC) No 520/94, (EC) No 738/94 and this Regulation, subject to such adjustments as are necessary to take account of the specific position of importers in the acceding States prior to 1 January 1995 ;

Whereas the Governments of Austria, Finland, Norway and Sweden have undertaken to adopt suitable measures to ensure compliance with the terms of the above Regulations, with particular reference to the rules for submission of import applications and supporting evidence, and to inform the Commission within the deadlines laid down by this Regulation of the relevant particulars of import applications received, with a view to the establishment of quantitative criteria for the allocation of quotas to importers ;

Whereas compliance with the said rules will enable the Commission to determine the quantitative criteria for the allocation of the 1995 quotas, taking account of the participation of the importers in the acceding States, without prejudice to and on the date of entry into force of the Accession Treaty ;

Whereas it is desirable to restrict the advance allocation of quotas, in accordance with Article 2 (1) of Regulation (EC) No 520/94, to an initial tranche representing 75 % by volume/value of the annual quotas set by Regulation (EC) No 519/94 ;

(1) OJ No L 66, 10. 3. 1994, p. 1.
(2) OJ No L 67, 10. 3. 1994, p. 89.
(3) OJ No L 198, 30. 7. 1994, p. 1.
(4) OJ No L 87, 31. 3. 1994, p. 47.
(5) OJ No C 241, 29. 8. 1994, p. 9.

Whereas the second tranche of the quotas will be allocated without delay in the light of adjustments made by the Council to reflect the trade patterns of the new Member States;

Whereas after examination of the different administrative methods provided for by Regulation (EC) No 520/94, the method based on traditional trade flows should be adopted; whereas under this method quotas tranches are divided into two portions, one of which is reserved for traditional importers and the other for other applicants;

Whereas this method ensures a smooth transition between the previous system, which was marked by disparities between the Member States' import arrangements for the products concerned, and the uniform system resulting from the introduction of the Community quotas in question;

Whereas this method takes account of the traditional import trade flows formed under the previous system; whereas, however, the introduction of a Community system must ensure progressive access by non-traditional importers; whereas the portion set aside for other applicants must make due allowance for the disparities in the above import arrangements in accordance with Article 6 (4) of Regulation (EC) No 520/94; whereas in the light of all these factors a balance must therefore be sought in determining the portion to be allocated to the two categories of importers;

Whereas the 1991/92 reference period used for the apportionment of the 1994 quota should again be applied to the allocation of the share set aside for traditional importers, since it continues to reflect the normal trend of traditional trade flows established under the previous arrangements;

Whereas, however, it is necessary to simplify the formalities to be fulfilled by traditional importers who already hold import licences issued when the 1994 quotas were allocated under Commission Regulation (EC) No 1012/94 of 29 April 1994 establishing the allocations to traditional importers from the Community quantitative quotas on certain products originating in the People's Republic of China [1]; whereas the competent administrative authorities already possess the requisite evidence for all traditional importers; whereas the latter need only enclose a copy of their previous licences with their new licence applications;

Whereas it has been found in the past that the method provided for in Article 10 of Regulation (EC) No 520/94, which is based on the order in which applications are submitted, may not be an appropriate way of allocating that portion of the quota reserved for non-traditional importers; whereas, consequently, in accordance with Article 2 (4) of Regulation (EC) No 520/94, an alternative method of apportioning the quota should be determined; whereas, to this end, it is appropriate to provide for allocation in proportion to the quantities requested, on the basis of a simultaneous examination of import licence applications actually lodged, in accordance with Article 13 of Regulation (EC) No 520/94;

Whereas in order to ensure that the quotas can be allocated and efficiently used any speculative applications should be excluded and it is furthermore necessary to allocate economically significant quantities; whereas, to this end, the amount that any non-traditional importer may request should be restricted to a set volume/value;

Whereas for the purpose of quota allocation, a time limit must be set for the submission of licence applications by traditional and other importers;

Whereas with a view to optimum use of quotas, licence applications for imports of footwear under quotas which refer to several CN headings must specify the quantities required for each CN heading;

Whereas the Member States must inform the Commission of the import licence applications received, in accordance with the procedure laid down in Article 8 of Regulation (EC) No 520/94; whereas the information about traditional importers' previous imports must be broken down by reference year and expressed in the same units as the quota in question; whereas if the quota is is set in ecus, the counter-value of the currency in which previous imports are expressed must be calculated in accordance with Article 18 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community customs code [2];

Whereas in view of the special nature of transactions concerning the products subject to quota the period of validity of import licences should be set at nine months starting from 1 January 1995;

Whereas these measures are in accordance with the opinion of the Committee set up under Regulation (EC) No 520/94 including, for these purposes, representatives of the acceding Sates participating with observer status,

HAS ADOPTED THIS REGULATION:

Article 1

1. Pursuant to Article 2 (1) of Regulation (EC) No 520/94 the quantitative quotas listed in Annex II to Regulation (EC) No 519/94 shall be allocated for 1995 by tranches, the first of which shall be allocated to importers in accordance with this Regulation.

2. The volume/value of the first tranche of each quota is shown in Annex I.

[1] OJ No L 111, 30. 4. 1994, p. 100.

[2] OJ No L 302, 19. 10. 1992, p. 1.

3. Regulation (EC) No 738/94 laying down certain rules for the implementation of Regulation (EC) No 520/94 shall be applicable subject to the provisions of this Regulation.

Article 2

1. The first tranche of each quota shall be allocated using the method based on traditional trade flows referred to in Article 2 (2) (a) of Regulation (EC) No 520/94.

2. The portions reserved respectively for traditional importers and other importers are shown in Annex II.

3. The portion set aside for non-traditional importers shall be allocated using the method based on allocation in proportion to quantities requested; the volume/value requested by a single importer may not exceed that shown in Annex III.

Article 3

Applications for import licences shall be lodged from the day following the day of publication of this Regulation in the *Official Journal of the European Communities* to 28 October 1994 at 3 p.m., Brussels time, with the competent authorities listed in Annex I to Regulation (EC) No 738/94.

Article 4

1. For the purposes of allocating the portion of each quota tranche set aside for traditional importers, 'traditional' importers shall mean importers who can show that they have imported goods in the calendar year 1991 and 1992.

2. The evidence referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release for free circulation during calendar years 1991 and 1992 of products originating in the People's Republic of China which are covered by the quota tranche for which the application is made.

3. Instead of the evidence referred to in the first indent of Article 7 of Regulation (EC) No 520/94:

— applicants may enclose with their licence applications documents drawn up and certified by the competent national authorities on the basis of available customs information as evidence of the imports of the product in question during calendar years 1991 and 1992 carried out by themselves or, where applicable, by the operator whose activities they have taken over,

— applicants already holding import licences issued under Regulation (EC) No 1012/94 for the same products as those covered by the quota instalment may enclose a copy of their previous licences with their licence applications. In that case they shall indicate in their licence application the aggregate value of imports of the product in question in each of the years in the reference period.

4. Article 18 of Regulation (EEC) No 2913/92 shall apply where evidence is expressed in foreign currency.

Article 5

Member States shall inform the Commission no later than 7 November 1994 at 10 a.m., Brussels time, of the number and aggregate volume of the import licence applications and, in the case of applications from traditional importers, of the volume of previous imports carried out by traditional importers during each year of the reference period referred to in Article 4 (1) of this Regulation.

Article 6

1. On 11 November 1994 at the latest, the Commission shall adopt the quantitative criteria according to which importers' applications are to be met by the competent national authorities.

2. The Commission shall notify the acceding States of its decision.

Article 7

Import licences shall be valid for nine months, starting on 1 January 1995.

Article 8

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

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

Done at Brussels, 11 October 1994.

For the Commission

Leon BRITTAN

Member of the Commission

ANNEX I

Amount/value of the first tranche of the 1995 quotas

Product description	CN code	First tranche
Gloves	4203 29	ECU 71 898 750
Footwear falling within HS/CN codes	ex 6402 19 (1) ex 6402 99 (1)	26 250 000 pairs
	ex 6403 19 (1)	2 062 500 pairs
	6403 51 6403 59	1 875 000 pairs
	ex 6403 91 (1) ex 6403 99 (1)	7 444 500 pairs
	ex 6404 11 (1)	12 637 500 pairs
	6404 19 10	21 789 000 pairs
Tableware, kitchenware of porcelain or china	6911 10	29 250 tonnes
Ceramic tableware or kitchenware	6912 00	22 275 tonnes
Glassware of a kind used for table	7013	8 250 tonnes
Car radios falling within HS/CN codes	8527 21 8527 29	1 575 000 units 127 500 units
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 150 598 500 ECU 62 888 250 ECU 381 012 000

(1) Excluding footwear involving special technology : shoes which have a cif price per pair of not less than ECU 12 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

ANNEX II

Allocation of the first tranche of the quotas

Product description	CN code	Portion reserved for traditional importers	Portion reserved for other importers
Gloves	4203 29	ECU 61 113 937 (85 %)	ECU 10 784 813 (15 %)
Footwear falling within HS/CN codes	ex 6402 19 (1) ex 6402 99 (1)	21 000 000 pairs (80 %)	5 250 000 pairs (20 %)
	ex 6403 19 (1)	1 650 000 pairs (80 %)	412 500 pairs (20 %)
	6403 51 6403 59	1 500 000 pairs (80 %)	375 000 pairs (20 %)
	ex 6403 91 (1) ex 6403 99 (1)	5 955 600 pairs (80 %)	1 488 900 pairs (20 %)
	ex 6404 11 (1)	10 110 000 pairs (80 %)	2 527 500 pairs (20 %)
	6404 19 10	17 431 200 pairs (80 %)	4 357 800 pairs (20 %)
Tableware, kitchenware of porcelain or china	6911 10	23 400 tonnes (80 %)	5 850 tonnes (20 %)
Ceramic tableware or kitchenware	6912 00	17 820 tonnes (80 %)	4 455 tonnes (20 %)
Glassware of a kind used for table, etc.	7013	6 600 tonnes (80 %)	1 650 tonnes (20 %)
Car radios falling within HS/CN codes	8527 21 8527 29	1 260 000 units 102 000 units (80 %)	315 000 units 25 500 units (20 %)
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 112 948 875 ECU 47 166 187 ECU 285 759 000 (75 %)	ECU 37 649 625 ECU 15 722 063 ECU 95 253 000 (25 %)

(1) Excluding footwear involving special technology : shoes which have a cif price per pair of not less than ECU 12 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

ANNEX III

Maximum quantity which may be requested by each importer other than traditional

Product description	CN code	Predetermined maximum quantity
Gloves	4203 29	ECU 30 000
Footwear falling within HS/CN codes	ex 6402 19 (1) ex 6402 99 (1)	4 000 pairs
	ex 6403 19 (1)	4 000 pairs
	6403 51 6403 59	4 000 pairs
	ex 6403 91 (1) ex 6403 99 (1)	4 000 pairs
	ex 6404 11 (1)	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china	6911 10	4 tonnes
Ceramic tableware or kitchenware	6912 00	4 tonnes
Glassware of a kind used for table	7013	4 tonnes
Car radios falling within HS/CN codes	8527 21 8527 29	4 000 units 4 000 units
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 30 000 ECU 30 000 ECU 30 000

(1) Excluding footwear involving special technology : shoes which have a cif price per pair of not less than ECU 12 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.