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COUNCIL REGULATION (EC) No 520/94
of 7 March 1994
establishing a Community procedure for administering quantitative quotas

(OJ L 66, 10.3.1994, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 138/96 of 22 January 1996	L 21	6	27.1.1996
►**M2**	Council Regulation (EC) No 806/2003 of 14 April 2003	L 122	1	16.5.2003

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COUNCIL REGULATION (EC) No 520/94

of 7 March 1994

establishing a Community procedure for administering quantitative quotas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No 1023/70 of 25 May 1970 establishing a common procedure for administering quantitative quotas [1] established, for the Community, a procedure for administering quantitive quotas based on the allocation of quotas among the Member States, which might entail the compartmentalization of the Community market and checks at internal frontiers for the products concerned;

Whereas under Article 7a of the Treaty, the internal market comprises since 1 January 1993 of an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas a new system for administering quantitative quotas should therefore be established in line with this objective and based on the principle of a uniform common commercial policy, in accordance with the guidelines laid down by the Court of Justice of the European Communities;

Whereas there should be a choice between several allocation methods, depending on criteria such as the situation of the Community market, the type of product concerned, specific characteristics of the supplier countries and the Community's international obligations, particularly those which undertake to allow for traditional trade flows;

Whereas the administration of import and export quotas should be based on a system of licences issued by the Member States in line with quantitative criteria established at Community level;

Whereas the administrative procedure must ensure that all applicants have fair access to quotas, and whereas the documents issued must be such that they can be used throughout the Community;

Whereas it is necessary to set up a committee to organize close and effective cooperation between the Member States and the Commission for the purposes of the implementation of this Regulation;

Whereas the provisions of this Regulation and those governing its implementation should not prejudice existing national and Community rules concerning profesional secrecy;

Whereas the products listed in Annex II to the Treaty, together with textiles and other products that are subject to specific common import arrangements laying down specific provisions as regards quota administration should be excluded from the scope of this Regulation;

Whereas this Regulation should replace Regulation (EEC) No 1023/70 and the said Regulation should therefore be repealed; whereas, by Regulation (EEC) No 1024/70 [2], the Council applied Regulation (EEC) No 1023/70 to the French overseas departments; whereas there is no longer any need for a separate regulation, given that the common provisions laid down in this Regulation apply to Community territory in its entirety, as defined in Article 227 of the Treaty; whereas Regulation (EEC) No 1024/70 should therefore also be repealed,

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[1] OJ No L 124, 8. 6. 1970, p. 1. Regulation as last amended by the 1985 Act of Accession.

[2] OJ No L 124, 8. 6. 1970, p. 5.

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HAS ADOPTED THIS REGULATION:

PART I

GENERAL ADMINISTRATIVE PRINCIPLES

Article 1

1. This Regulation establishes the rules governing the administration of quantitative import and export quotas, hereinafter referred to as 'quotas', whether autonomous or conventional, established by the Community.

2. This Regulation shall not apply to products listed in Annex II to the Treaty, nor to other products that are subject to specific common import or export arrangements laying down special provisions for quota administration.

Article 2

1. Quotas shall be allocated among applicants as soon as possible after they have been opened. It may be decided, in accordance with the procedure laid down in Article 23, to allocate them in several tranches.

2. Quotas may, *inter alia*, be administered using one of the following methods, or a combination of these methods:

(a) a method based on traditional trade flows, in accordance with Articles 6 to 11;

(b) a method based on the order in which applications are submitted (on a 'first come, first served' basis), in accordance with Article 12;

(c) a method allocating quotas in proportion to the quantities requested when the applications are submitted (using the 'simultaneous examination' procedure), in accordance with Article 13.

3. The allocation method to be used shall be determined by following the procedure laid down in Article 23.

4. If it is apparent that none of the methods indicated in paragraph 2 is appropriate to the specific requirements of a quota which has been opened, the Commission shall determine whatever method may be appropriate following the procedure laid down in Article 23.

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5. Quantities that are not allocated, assigned or used shall be redistributed in accordance with Article 14 in time to allow them to be used before the end of the period covered by the quota.

If it is found that it has not been possible to redistribute such quantities in time, the Commission shall decide, on a case-by-case basis, in accordance with the procedure laid down in Article 23, on their possible redistribution during the following quota period.

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6. Save where other provisions are adopted when the quota is set, the release for free circulation or export of products subject to quotas shall be conditional on the presentation of an import or export licence issued by the Member States in accordance with this Regulation.

7. Member States shall designate the administrative authorities competent to carry out implementing measures for which they are responsible under this Regulation. They shall notify the Commission of the authority thus designated.

Article 3

The Commission shall publish a notice announcing the opening of quotas in the *Official Journal of the European Communities*, setting out the allocation method chosen, the conditions to be met by licence applications, time limits for submitting them and a list of the competent national authorities to which they must be sent.

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Article 4

1. All Community importers and exporters, no matter where they are established in the Community, may submit a single licence application for each quota or tranche of a quota to the competent authority of the Member State of their choice, drawn up in the official language or languages of the Member State concerned.

Where a quota is limited to one or several regions of the Community, the application shall be made to the competent authorities in the Member State(s) of the region(s) in question.

2. Applications for licences shall be submitted in accordance with the arrangements determined following the procedure laid down in Article 23.

Article 5

The Commission shall ensure that the licences to be issued are for economically significant quantities, having regard to the nature of the product covered by the quota.

PART II

SPECIFIC RULES FOR THE DIFFERENT ADMINISTRATIVE METHODS

Section A

Method based on traditional trade flows

Article 6

1. Where quota allocation takes account of traditional trade flows, one portion of the quota shall be reserved for traditional importers or exporters while the other shall be set aside for other importers or exporters.

2. Importers or exporters deemed to be traditional are those able to demonstrate that in the course of a previous period, to be known as 'the reference period' they have imported into the Community or exported from it the product or products covered by the quota.

3. The portion set aside for traditional importers or exporters, the reference period and the portion allocated to other applicants shall be determined in accordance with the procedure laid down in Article 23.

4. Until 31 December 1996, the Commission shall ensure that the portion set aside for other applicants makes due and fair allowance for the situation created by the existence of national restrictions applied under Council Regulation (EEC) No 288/82 of 5 February 1982 on common rules on imports ([1]) and Council Regulation (EEC) No 3420/83 of 14 November 1983 on import arrangements for products originating in State-trading countries, not liberalized at Community level ([2]).

5. The allocation shall be carried out in accordance with the principles set out in Articles 7 to 11.

Article 7

To qualify for the allocation of the part of the quota set aside for them, and to provide evidence of the imports or exports carried out during the reference period, traditional importers or exporters shall enclose with their licence applications:

— a certified copy of the original of the entry for free circulation or export declaration made out in the name of the importer or exporter

([1]) OJ No L 35, 9. 2. 1982, p. 1. Regulation as last amended by Regulation (EEC) No 2875/92 (OJ No L 287, 2. 10. 1992, p. 1).

([2]) OJ No L 346, 8. 12. 1983, p. 6. Regulation as last amended by Regulation (EEC) No 2456/92 (OJ No L 252, 31. 8. 1992, p. 1).

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concerned or, where applicable, that of the operator whose activities they have taken over;

— any equivalent evidence, as determined by the Commission in accordance with the procedure laid down in Article 23.

Article 8

Member States shall, within the period laid down in the notice opening the quota concerned, inform the Commission of the number and the aggregate amount of the import or export applications, broken down into those from traditional importers or exporters and other importers or exporters, and of the amount of the previous imports or exports carried out by the applicants during the reference period.

Article 9

The Commission shall examine the information provided by the Member States at the same time and shall establish the quantitative criteria according to which traditional importers' or exporters' applications are to be met as follows:

— where aggregate applications are equal to or less than the amount set aside for traditional importers or exporters, applications will be met in full,

— where aggregate applications exceed the amount set aside for traditional importers or exporters, applications will be met on a pro rata basis, calculated in accordance with each applicant's share of the total reference imports or exports,

— where the use of this quantitative criterion would entail allocating amounts greater than those applied for, the excess quantities shall be reassigned following the procedure laid down in Article 14.

Article 10

The portion of the quota set aside for non-traditional importers or exporters shall be allocated in accordance with Article 12.

Article 11

Where no applications are received from traditional importers or exporters, the importers or exporters that do apply shall have access to the whole quota or tranche concerned.

In such cases, the allocation shall be carried out following the procedure laid down in Article 12.

Section B

Method based on the order in which applications are submitted

Article 12

1. Where a quota or tranche of a quota is allocated on a ‘first come, first served’ basis, the Commission shall apply the procedure laid down in Article 23 to determine the quantity to which operators are entitled until the quota is exhausted.

In setting this quantity, the same for all operators, allowance shall be made for the need to assign economically significant quantities having regard to the nature of the product concerned.

2. When the competent authorities have checked the Community balance still available, they shall assign each importer or exporter the quantity determined in accordance with paragraph 1.

3. When licence-holders can prove that they have indeed imported or exported the total quantity for which they were issued a licence or a portion to be determined in accordance with the procedure laid down in Article 23, they may submit a new licence application. This application will be processed in accordance with the same conditions as

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previously. This procedure may be repeated until the quota is exhausted.

4. To ensure that all applicants have equal access to the quota, the Commission shall specify the dates and times of access to the Community balance available in the notice opening the quota.

Section C

Method allocating quotas in proportion to the quantities requested

Article 13

1. Where a quota is allocated in proportion to the quantities applied for, the competent authorities of the Member States shall inform the Commission of the licence applications they have received in compliance with the deadlines and conditions established following the procedure laid down in Article 23.

This information shall specify the number of applicants and the aggregate quantities applied for.

2. Within the deadline set following the procedure laid down in Article 23, the Commission shall examine the information provided by the competent authorities of the Member States at the same time, and shall determine the quantity of the quota or of the tranches concerned for which the said authorities are to issue import or export licences.

3. Where aggregate licence applications are equal to, or less than, the quantity of the quota concerned, applications shall be met in full.

4. Where aggregate applications exceed the quantity of the quota concerned, they shall be met on a pro rata basis, in proportion to the quantities applied for.

Section D

Allocation of quantities for redistribution

Article 14

1. Quantities for redistribution shall be determined by the Commission on the basis of the information provided by Member States in accordance with Article 20.

2. Where the quota is initially allocated using the method laid down in Article 12, the Commission shall immediately add the quantities for redistribution to any amounts still available, or use them to reconstitute the quota if the latter is exhausted.

3. Where the quota is initially allocated using another method, the quantities for redistribution shall be assigned in accordance with the procedure laid down in Article 23.

If this is the case, the Commission shall publish an additional notice in the *Official Journal of the European Communities*.

PART III

RULES CONCERNING IMPORT OR EXPORT LICENCES

Article 15

1. Where the method used is that laid down in Article 12, Member States shall issue licences immediately on verification of the Community balance available.

2. In other cases:

— the Commission shall notify the competent authorities in the Member States, within a period to be determined in accordance with the procedure laid down in Article 23, of the quantities for which they issue licences to the various applicants. If shall inform the other Member States thereof;

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— the competent authorities in the Member States shall issue import or export licences within ten working days of notification of the Commission decision or within the time limit set by the Commission;

— the said authorities shall inform the Commission that import or export licences have been issued.

Article 16

The issue of licences may be made conditional upon the lodging of a security, in accordance with the procedure laid down in Article 23.

Article 17

1. Import or export licences shall authorize the import or export of products which are subject to quotas and shall be valid throughout the Community, regardless of the place of import or export mentioned in the applications by the operators.

Where a quota is limited to one or several regions of the Community, import or export licences shall be valid only in the Member State(s) of the region(s) in question.

2. The period of validity of import or export licences to be issued by the competent authorities of the Member States shall be four months. However, a different period of validity may be set in accordance with the procedure laid down in Article 23.

3. The holders of import or export licences may, on request, obtain extracts thereof from the competent authorities which issued the licences in the Member State concerned.

Such extracts shall have the same legal effects as the licences from which they are derived, up to the quantity for which the licences were issued.

4. Applications for import or export licences, licences and extracts shall be drawn up on forms conforming to a specimen the characteristics of which shall be established in accordance with the procedure laid down in Article 23.

Article 18

Without prejudice to the specific provisions to be adopted in accordance with the procedure laid down in Article 23, import or export licences and their extracts may not be loaned or transferred, whether for a consideration or free of charge, by the person in whose name the document was issued.

Article 19

1. Import or export licences or extracts ►**M1** ———— ◄ shall, except in cases of *force majeure*, be returned to the competent authorities of the Member State of issue within ten working days of their expiry date at the latest.

2. Where the issue of import or export licences is conditional upon the lodging of a security, the security shall, except in cases of *force majeure*, be forfeit where the time limit referred to in paragraph 1 is not complied with.

Article 20

The competent authorities of the Member States shall notify the Commission, immediately upon being so informed and in any case no later than twenty days after the expiry date of the licences, of the quantities of quotas assigned and not used, with a view to their subsequent redistribution pursuant to Article 2 (5).

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Article 21

The competent authorities of the Member States shall inform the Commission, by the end of each month, of the quantities of products subject to quotas which have been imported or exported during the preceding month.

PART IV

FINAL PROVISIONS

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Article 22

1. The Commission shall be assisted by a committee.

2. The Committee shall adopt its Rules of Procedure.

Article 23

Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC ([1]) shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

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Article 24

The procedures for applying this Regulation shall be adopted by the Commission in accordance with the procedure laid down in Article 23. They shall in particular determine the implementation of the methods of allocation, the information to be transmitted by the competent authorities in the Member States and the measures intended to ensure compliance with this Regulation.

Article 25

1. The information received by the Council, the Commission or the Member States pursuant to this Regulation may be used only for the purposes for which it was requested.

2. The Council, the Commission and the Member States, and those acting on their behalf, shall not disclose information in respect of which a duly substantiated request for confidential treatment has been lodged, except where express authorization is granted by the party providing the information.

3. This Article shall not prevent the Community authorities from disclosing information of a general nature, in particular the grounds on which decisions are taken pursuant to this Regulation, or evidence used by them to justify their arguments in the event of legal proceedings. Such disclosure must take into account the legitimate interest of the parties concerned in preserving commercial confidentiality.

Article 26

Member States and the Commission shall provide each other with the requisite information and shall cooperate in applying this Regulation. Communication and information dissemination procedures shall, where necessary, be established in accordance with the procedure laid down in Article 23.

Article 27

Regulations (EEC) No 1023/70 and (EEC) No 1024/70 are hereby repealed. References to the repealed Regulations shall be construed as references to this Regulation.

([1]) OJ L 184, 17.7.1999, p. 23.

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Article 28

This Regulation shall enter into force on the third day following 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.