COMMISSION REGULATION (EC) No 544/97

of 25 March 1997

introducing certificates of origin for garlic imported from certain third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [1], and in particular Article 31 (2) thereof,

Whereas Commission Regulation (EEC) No 1859/93 of 12 July 1993 on the application of the system of import licences for garlic imported from third countries [2], as amended by Regulation (EC) No 1662/94 [3], makes the release of garlic for free circulation in the Community subject to the presentation of an import licence;

Whereas, in recent years, particularly as a result of the introduction of a safeguard clause on the import of garlic originating in China, massive or sudden increases have been recorded in imports of this product from certain third countries that are not traditionally exporters to the Community;

Whereas, based on these observations and the information received by the Commission, there are well-founded grounds for doubting the true origin of the garlic imported from these countries; whereas, on this basis, the competent Commission staff have alerted the appropriate offices in the Member States; whereas, however, imports whose true origin remains doubtful have continued at a high rate;

Whereas, to improve controls and prevent any risk of a deflection of trade based on incorrect documents, imports of garlic from these countries should be made subject to the presentation of a certificate of origin issued by the competent national authorities, in accordance with Articles 56 to 62 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [4], as last amended by Regulation (EC) No 89/97 [5]; whereas, for the same reason, direct transport of garlic originating in these third countries to the Community must be imposed;

Whereas introduction of this certificate scheme will require administrative cooperation between the Community and the third countries involved, in accordance with Articles 63 to 65 of Regulation (EEC) No 2454/93, with a view to providing the Commission with information on the competent authorities for issuing certificates of origin in each of the third countries; whereas, once this information is sent by each of the countries concerned to the Commission, it will be published in the 'C' series of the *Official Journal of the European Communities*; whereas, upon publication of this information, this Regulation will apply to each of the third countries concerned; whereas a maximum limit of three months should however be laid down for sending the Commission the necessary information; whereas this Regulation shall apply to all of the countries concerned once this deadline has passed, irrespective of whether they have sent the information to the Commission or not;

Whereas application of this Regulation should be specifically waived in the case of goods already on their way to the Community;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The release for free circulation in the Community of garlic from the third countries listed in the Annex hereto shall be conditional on:

(a) the presentation of a certificate of origin issued by the competent national authorities of these countries in accordance with Articles 55 to 65 of Regulation (EEC) No 2454/93; and

(b) the product being transported direct from these countries into the Community.

Article 2

1. The following shall be considered as transported direct to the Community from the third countries listed in the Annex:

(a) products transported without passing through the territory of any other country;

(b) products transported through countries other than the country of origin, with or without transhipment or temporary warehousing in those countries, provided that passage through those countries is justified for geographical reasons or exclusively on account of transport requirements, and that the products:

(1) OJ No L 297, 21. 11. 1996, p. 1.
(2) OJ No L 170, 13. 7. 1993, p. 10.
(3) OJ No L 176, 9. 7. 1994, p. 1.
(4) OJ No L 253, 11. 10. 1993, p. 1.
(5) OJ No L 17, 21. 1. 1997, p. 28.

— have remained under the supervision of the customs authorities of the country of transit or warehousing,

— have not entered into commerce or been released for consumption, and

— have not undergone operations other than unloading and reloading or any other operation to keep them in good condition.

2. Proof that the conditions laid down in 1 (b) above have been met shall be provided by supplying the Community authorities with:

(a) a single transport document issued in the country of origin covering passage through the country of transit; or

(b) a certificate issued by the customs authorities of the country of transit containing:

— an exact description of the goods,

— the dates of their unloading and reloading or, where applicable, their lading or unlading, identifying the vessels used,

— certification of the conditions under which they were kept during their time in the country of transit; or

(c) failing these, any substantiating documents.

Article 3

Once sent by each of the third countries listed in the Annex hereto, the information needed to implement the administrative cooperation under Articles 63 to 65 of Regulation (EEC) No 2454/93 shall be published in the 'C' series of the *Official Journal of the European Communities.*

Article 4

1. This Regulation shall not apply to products in the process of shipment to the Community within the meaning of paragraph 2.

2. Products shall be deemed to be in the process of shipment to the Community if they:

— left the country of origin before the date this Regulation begins to apply, and

— are shipped from the place of loading in the country of origin to the place of unloading in the Community under cover of a valid transport document issued before the date this Regulation begins to apply.

3. The parties concerned shall provide proof to the satisfaction of the customs authorities that the conditions laid down in paragraph 2 have been met.

However, the authorities may regard the products as having left the country of origin before the date this Regulation begins to apply if one of the following documents is provided:

— in the case of transport by sea, the bill of lading showing that loading took place before that date,

— in the case of transport by rail, the consignment note that was accepted by the railway authorities in the country of origin before that date,

— in the case of transport by road, the CMR contract for the carriage of goods or any other transport document issued in the country of origin before that date,

— in the case of transport by air, the air consignment note showing that the airline took the products over before that date.

Article 5

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

It shall apply to all the countries listed in the Annex upon publication of the information referred to in Article 3 or, failing that, three months after its publication.

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

Done at Brussels, 25 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

List of third countries referred to in Article 1 (1)

Lebanon
Iran
United Arab Emirates
Vietnam