COMMISSION REGULATION (EC) No 1394/2001

of 9 July 2001

establishing administrative procedures for the 2002 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], as last amended by Regulation (EC) No 138/96 [2], and in particular Article 2(3) and (4), Article 6(3), Articles 13, 23 and 24 thereof,

Whereas:

(1) Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain non-member countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83 [3], as last amended by Regulation (EC) No 1138/98 [4], introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex II to that Regulation. The provisions of Regulation (EC) No 520/94 are applicable to those quotas.

(2) The Commission accordingly adopted Regulation (EC) No 738/94 [5], as last amended by Regulation (EC) No 983/96 [6], laying down general rules for the implementation of Regulation (EC) No 520/94. These provisions apply to the administration of the above quotas subject to the provisions of this Regulation.

(3) 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. It is therefore important to ensure that administrative constraints do not impede the realisation of the planned imports. In order not to affect the continuity of trade flows, the arrangements for allocating and administering the 2002 quotas should accordingly be adopted before the start of the quota year.

(4) 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. Under this method the quotas are divided into two portions, one of which is reserved for traditional importers and the other for other applicants.

(5) This has proved to be the best way of ensuring the continuity of business for the Community importers concerned and avoiding any disturbance of trade flows.

(6) The reference period used for allocating the portion of the quota set aside for traditional importers in the previous Regulation on the administration of these quotas cannot be updated. The year 2000 was characterised by certain distortions, in particular a more than twofold increase of applications from one Member State, which resulted in substantially reduced individual quota allocations to all non-traditional importers in all Member States. The years 1998 or 1999 are, thus, the most recent years representative of the normal trend of trade flows in the products in question. Traditional importers must, therefore, prove that they have imported products originating in China and covered by the quotas in question in the years 1998 or 1999.

(7) 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 received, may not be an appropriate way of allocating that portion of the quota reserved for non-traditional importers. Consequently, in accordance with Article 2(4) of Regulation (EC) No 520/94, 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.

(8) It has been found that the unusual increase of applications lodged for the portion of the quota set aside for non-traditional importers is due to multiple licence applications from companies who do not effectively operate as separate importers, but which have been established as separate legal entities only for the purpose of being able to submit additional applications. Regulation (EC) No 520/94, in particular recital 5 and Article 5 thereof, requires the Commission to ensure fair access to quotas and that import licences be issued for economically significant quantities. To allocate the non-traditional quota in line with these principles, the administrative procedures should be amended. The Commission

[1] OJ L 66, 10.3.1994, p. 1.
[2] OJ L 21, 27.1.1996, p. 6.
[3] OJ L 67, 10.3.1994, p. 89.
[4] OJ L 159, 3.6.1998, p. 1.
[5] OJ L 87, 31.3.1994, p. 47.
[6] OJ L 131, 1.6.1996, p. 47.

considers it necessary that operators applying as non-traditional importers and falling under the definition of related persons within the meaning of Article 143 of Commission Regulation (EC) No 2454/93 [1], as last amended by Regulation (EC) No 993/2001 [2], may only submit a single licence application for each line of the quota set aside for non-traditional importers. In order to exclude speculative applications, the amount that any non-traditional importer may request should be restricted to a set volume.

(9) For the purposes of quota allocation, a time limit must be set for the submission of licence applications by traditional and other importers.

(10) 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. The information about traditional importers' previous imports must be expressed in the same units as the quota in question.

(11) In view of the special nature of transactions concerning products subject to quota, and in particular the time needed for transport, the import licences should expire on 31 December 2002.

(12) These measures are in accordance with the opinion of the Committee for the Administration of Quotas set up under Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down for 2002 specific provisions for the administration of the quantitative quotas referred to in Annex II to Regulation (EC) No 519/94.

Regulation (EC) No 738/94 laying down general rules for the implementation of Regulation (EC) No 520/94 shall apply, subject to the specific provisions of this Regulation.

Article 2

1. The quantitative quotas referred to in Article 1 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 of each quantitative quota set aside for traditional importers and other importers are set out in Annex I to this Regulation.

3. (a) The portion set aside for non-traditional importers shall be apportioned using the method based on allocation in proportion to quantities requested; the volume requested by each applicant may not exceed that shown in Annex II.

(b) Operators that are deemed to be related persons as defined by Article 143 of Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EC) No 2913/92 establishing the Community Customs Code [3] may only submit single licence application for the portion of the quota set aside for non-traditional importers regarding the goods described in the application. In addition to the statement required by Article 3(2)(g) of Regulation (EC) No 738/94, the licence application for the non-traditional quota shall state that the applicant is not related to any other operator applying for the non-traditional quota line in question.

Article 3

Applications for import licences shall be lodged with the competent authorities listed in Annex III to this Regulation from the day following the day of publication of this Regulation in the *Official Journal of the European Communities* until 3 p.m., Brussels time, on 7 September 2001.

Article 4

1. For the purposes of allocating the portion of each quota set aside for traditional importers, 'traditional' importers shall mean operators who can show that they have imported goods in the calendar years 1998 or 1999.

2. The supporting documents referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release for free circulation during either calendar year 1998 or 1999, as indicated by the importer, of products originating in the People's Republic of China which are covered by the quota in respect of which the application is made.

3. Instead of the documents 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 the calendar years 1998 or 1999 carried out by themselves or, where applicable, by the operator whose activities they have taken over.

[1] OJ L 253, 11.10.1993, p. 1.
[2] OJ L 141, 28.5.2001, p. 1.
[3] OJ L 302, 19.10.1992, p. 1.

Article 5

Member States shall inform the Commission no later than 21 September 2001 at 10 a.m., Brussels time, of the number and aggregate quantity of import licence applications and, in the case of applications from traditional importers, of the volume of previous imports carried out by traditional importers during the reference period referred to in Article 4(1) of this Regulation.

Article 6

The Commission shall adopt the quantitative criteria to be used by the competent national authorities for the purpose of meeting importers' applications no later than 12 October 2001.

Article 7

Import licences shall be valid for one year, starting on 1 January 2002.

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, 9 July 2001.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX I

ALLOCATION OF THE QUOTAS

Product description	HS/CN code	Portion reserved for traditional importers (70 %)	Portion reserved for other importers (30 %)
Footwear falling within HS/CN codes	ex 6402 99 (1)	27 406 037 pairs	11 745 444 pairs
	6403 51 6403 59	1 956 500 pairs	838 500 pairs
	ex 6403 91 (1) ex 6403 99 (1)	8 484 000 pairs	3 636 000 pairs
	ex 6404 11 (2)	12 760 146 pairs	5 468 634 pairs
	6404 19 10	22 328 402 pairs	9 569 314 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	33 663 tonnes	14 427 tonnes
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	25 468 tonnes	10 915 tonnes

(1) Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 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 neutralise impact of materials such as low-density polymers.

(2) Excluding:

(a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;

(b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 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 neutralise impact or materials such as low-density polymers.

ANNEX II

MAXIMUM QUANTITY WHICH MAY BE REQUESTED BY EACH IMPORTER OTHER THAN TRADITIONAL

Product description	HS/CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 (1)	5 000 pairs
	6403 51 6403 59	5 000 pairs
	ex 6403 91 (1) ex 6403 99 (1)	5 000 pairs
	ex 6404 11 (2)	5 000 pairs
	6404 19 10	5 000 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	5 tonnes
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	5 tonnes

(1) Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 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 neutralise impact or materials such as low-density polymers.

(2) Excluding:

(a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;

(b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 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 neutralise impact or materials such as low-density polymers.

ANNEX III

LIST OF THE COMPETENT NATIONAL AUTHORITIES

1. BELGIQUE/BELGIË

Ministère des affaires économiques
Administration des relations économiques
4e division: mise en œuvre des politiques commerciales
Service des licences

Ministerie van Economische Zaken
Bestuur van de Economische Betrekkingen
4e afdeling: Toepassing van de Handelspolitiek
Dienst Vergunningen
rue Général-Leman 60/Generaal Lemanstraat 60
B-1040 Bruxelles/Brussel
Tél./Tel. (32-2) 206 58 16
Télécopieur/Fax (32-2) 230 83 22/231 14 84

2. DANMARK

Erhvervsfremme Styrelsen
Vejlsøvej 29
DK-8600 Silkeborg
Tlf. (45) 35 46 60 00
Fax (45) 35 46 64 01

3. DEUTSCHLAND

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn
Tel. (49) 619 64 08-0
Fax (49) 619 69 42 26/(49) 61 96 908-800

4. GREECE/ΕΛΛΑΔΑ

Ministry of National Economy
General Secretariat of International Economic Relations
Directorate for Foreign Trade Issues
1, Kornarou Street
GR-Athens 10563
Tel.: (30-1) 328 60 31/328 60 32
Fax: (30-1) 328 60 94/328 60 59

5. ESPAÑA

Ministerio de Economía y Hacienda
Dirección General de Comercio Exterior
Paseo de la Castellana, 162
E-28046 Madrid
Tel.: (34) 913 49 38 94/913 49 37 78
Fax: (34) 913 49 38 32/913 49 37 40

6. FRANCE

Service des titres du commerce extérieur
8, rue de la Tour-des-Dames
F-75436 Paris Cedex 09
Tél. (33-1) 55 07 46 69/95
Fax (33-1) 55 07 46 59

7. IRELAND

Department of Enterprise, Trade and Employment
Licensing Unit, Block C
Earlsfort Centre
Hatch Street
Dublin 2
Ireland
Tel. (353-1) 631 25 41
Fax (353-1) 631 25 62

8. ITALIA

Ministero del Commercio con l'estero
DG per la Politica commerciale e la gestione del regime degli scambi — Divisione VII
Viale America, 341
I-00144 Roma
Tel. (39) 06 599 31/59 93 24 19/59 93 24 00
Fax (39) 06 592 55 56

9. LUXEMBOURG

Ministère des affaires étrangères
Office des licences
Boîte postale 113
L-2011 Luxembourg
Tél. (352) 22 61 62
Télécopieur (352) 46 61 38

10. NEDERLAND

Belastingdienst/Douane
Engelse Kamp 2
Postbus 30003
9700 RD Groningen
Nederland
Tel. (31-50) 523 91 11
Fax (31-50) 526 06 98/523 92 37

11. ÖSTERREICH

Bundesministerium für Wirtschaft und Arbeit
Landstrasser Hauptstraße 55/57
A-1031 Wien
Tel. (43) 171 10 00 83 45
Fax (43) 171 10 00 83 86

12. PORTUGAL

Ministério da Economia
Direcção-Geral das Relações Económicas Internacionais
Avenida da República, 79
P-1069-059 Lisboa
Tel.: (351) 217 91 18 00/19 43
Fax: (351) 217 93 22 10,/217 96 37 23
Telex: 13 418

13. SUOMI/FINLAND

Tullihallitus/Tullstyrelsen
Erottajankatu 2/Skillnadsgatan 2
FIN-00101 Helsinki/Helsingfors
P./tfn (358-9) 6141
F./fax (358-9) 614 28 52

14. SVERIGE

Kommerskollegium
Box 6803
S-113 86 Stockholm
Tfn (46-8) 690 48 00
Fax (46-8) 30 67 59

15. UNITED KINGDOM

Department of Trade and Industry
Import Licensing Branch
Queensway House
West Precinct
Billingham
TS23 2NF
United Kingdom
Tel. (44-1642) 36 43 33/36 43 34
Fax (44-1642) 53 35 57