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COMMISSION REGULATION (EC) No 565/2002

of 2 April 2002

establishing the method for managing tariff quotas and introducing a system of certificates of origin for garlic imported from third countries

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COMMISSION REGULATION (EC) No 565/2002

of 2 April 2002

establishing the method for managing tariff quotas and introducing a system of certificates of origin for garlic imported from 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 organisation of the market in fruit and vegetables ([1]), as last amended by Commission Regulation (EC) No 911/2001 ([2]), and in particular Article 31(2) thereof,

Having regard to Council Decision 2001/104/EC of 28 May 2001 on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Argentina pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 for the modification of concessions with respect to garlic provided for in Schedule CXL annexed to GATT ([3]), and in particular Article 2 thereof,

Whereas:

(1) Following negotiations conducted in accordance with Article XXVIII of GATT 1994, the Community amended the conditions for the import of garlic. Since 1 June 2001 the normal customs duty for imports of garlic falling within CN code 0703 20 00 has consisted of an *ad valorem* customs duty of 9,6 % and a specific amount of EUR 1 200 per tonne net. However, a quota of 38 370 tonnes free of specific duty was opened by the Agreement concluded with Argentina, approved by Decision 2001/404/EC, hereafter called the 'GATT quota'. The Agreement stipulates that the quota is to be divided up into 19 147 tonnes for imports from Argentina (serial number 09.4104), 13 200 tonnes for imports from China (serial number 09.4105) and 6 023 tonnes for imports from other countries (serial number 09.4106).

(2) Imports of garlic may also be carried out, outside the GATT quota or the normal duty, on preferential terms, under agreements concluded between the Community and certain third countries.

(3) The method for managing the GATT quota was established by Commission Regulation (EC) No 1047/2001 ([4]), as last amended by Regulation (EC) No 1865/2001 ([5]). Experience shows however that this management could be improved and simplified. In particular, the need for import licences for imports carried out outside the GATT quota should be abolished, and the conditions for access by importers to this quota should be adapted to take better account of traditional trade flows.

(4) Imports of garlic can be monitored in accordance with Article 308d 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 ([6]), as last amended by Regulation (EC) No 444/2002 ([7]).

(5) In view of the existence of a specific duty for non-preferential imports outside the GATT quota, management of the quota requires the introduction of a system of import licences. The

([1]) OJ L 297, 21.11.1996, p. 1.
([2]) OJ L 129, 11.5.2001, p. 3.
([3]) OJ L 142, 29.5.2001, p. 7.
([4]) OJ L 145, 31.5.2001, p. 35.
([5]) OJ L 254, 22.9.2001, p. 3.
([6]) OJ L 253, 11.10.1993, p. 1.
([7]) OJ L 68, 12.3.2002, p. 11.

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detailed rules of that system must be complementary to, or derogate from, those laid down by Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [1], as last amended by Regulation (EC) No 2299/2001 [2].

(6) Measures are needed to keep to a minimum speculative applications for import licences which are not linked to a genuine commercial activity on the fruit and vegetable market. To that end special rules should be laid down on applications for and the validity of licences.

(7) Given that the Agreement concluded with Argentina provides for the management of the GATT quota on the basis of a system of traditional and new importers, the concept of traditional importers should be defined and the quota allocated between the two categories of importer, while allowing optimum use of the quota.

(8) To guarantee correct management of the GATT quota, the measures to be taken by the Commission in the event that licence applications exceed, for a specific origin or in a specific quarter, the quantities fixed by Decision 2001/404/EC plus the unused quantities from licences previously issued, should be determined. Where such measures involve a reduction coefficient to be applied at the time of issue of licences, the possibility should be granted for applications for those licences to be withdrawn with immediate release of the security.

(9) To improve controls and prevent any risk of a deflection of trade based on inaccurate documentation, the existing system of certificates of origin for garlic imported from certain third countries and the requirement for this garlic to be transported direct from the third country of origin to the Community should be retained. That certificate of origin is to be issued by the competent national authorities in accordance with Articles 56 to 62 of Regulation (EEC) No 2454/93.

(10) Regulation (EC) No 1047/2001 should be repealed.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

CHAPTER I

TARIFF QUOTAS

Article 1

Purpose and fixing of customs duty applicable to the quota

1. This Chapter lays down the rules for managing tariff quotas for garlic falling within CN code 0703 20 00, opened by Decision 2001/404/EC.

2. The *ad valorem* duty applicable to products imported under the quotas referred to in paragraph 1 shall be 9,6 %.

Article 2

Definitions

For the purposes of this Regulation:

(a) ‘import period’ means a period of one year running from 1 June of one year to the following 31 May;

[1] OJ L 152, 24.6.2000, p. 1.
[2] OJ L 308, 27.11.2001, p. 19.

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(b) ‘importers’ means operators, natural or legal persons, individuals or groups having imported into the Community, in at least one of the previous two calendar years, at least 50 tonnes per year of fruit and vegetables as referred to in Article 1(2) of Regulation (EC) No 2200/96;

(c) ‘traditional importers’ mean importers who have imported garlic into the Community in at least two of the three previous import periods, irrespective of the origin and date of these imports;

(d) ‘reference quantity’ means the maximum quantity of annual imports of garlic carried out by a traditional importer during the 1998, 1999 and 2000 calendar years. Where the importer in question has not imported any garlic during at least two of these three years, the reference quantity shall be the maximum quantity of annual imports of garlic during the three import periods preceding that for which a licence application has been presented;

(e) ‘new importers’ mean importers who are not traditional importers.

The reference quantity calculated for a period shall remain valid for the whole of that period.

Article 3

System of import licences

1. All imports under the quotas referred to in Article 1(1) shall be subject to the presentation of an import licence, hereafter called the ‘licence’, issued in accordance with Regulation (EC) No 1291/2000, subject to the provisions of this Regulation.

2. Article 8(4) of Regulation (EC) No 1291/2000 shall not apply to the licences. Box 19 of licences shall be marked ‘0’.

3. Notwithstanding Article 9 of Regulation (EC) No 1291/2000, the rights accruing from licences shall not be transferable.

4. The amount of the security referred to in Article 15(2) of Regulation (EC) No 1291/2000 shall be EUR 15 per tonne net.

Article 4

Validity of licences

1. Box 8 of licence applications and licences shall indicate the country of origin of the product. The word ‘yes’ in box 8 shall be marked with a cross. Licences shall be valid only for the products originating in the country indicated in that box.

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2. Licences shall be valid only for the quarter for which they have been issued. Box 24 thereof shall contain one of the following entries:

— certificado expedido y válido solamente para el trimestre comprendido entre el 1 … y el 28/29/30/31 …

— L Licence vydaná a platná pouze pro čtvrtletí od 1. … do 28./29./30./31. …

— licens, der kun er udstedt og gyldig for kvartalet fra 1. … til 28./29./30./31. …

— Lizenz nur erteilt und gültig für das Quartal vom 1. … bis 28./29./30./31. …

— Πιστοποιητικό εκδοθέν και ισχύον μόνο για το τρίμηνο από την 1η … έως τις 28/29/30/31 …

— licence issued and valid only for the quarter from 1 [month] to 28/29/30/31 [month]

— Litsents on välja antud üheks kvartaliks alates 1. [kuu] kuni 28./29./30./31. [kuu] ja kehtib selle aja jooksul

— certificat émis et valable seulement pour le trimestre du 1er … au 28/29/30/31 …

— Az engedélyt kizárólag a [hó] 1-jétől [hó] 28/29/30/31-ig terjedő negyedévre állították ki és kizárólag erre az időszakra érvényes

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— titolo rilasciato e valido unicamente per il trimestre dal 1º … al 28/29/30/31 …

— Licencija išduota ir galioja tik vienam ketvirčiui nuo 1 [mėnuo] iki 28/29/30/31 [mėnuo]

— atļauja izsniegta un derīga tikai ceturksnī no 1. [mēnesis] līdz 28/29/30/31 [mēnesis]

— liċenzja maħruġa u valida biss għal tliet xhur mill-1 ta' [xahar] sa' 28/29/30/31 ta' [xahar]

— voor het kwartaal van 1 … tot en met 28/29/30/31 … afgegeven en uitsluitend in dat kwartaal geldig certificaat.

— Pozwolenie wydane i ważne tylko na kwartał od 1 … do 28/29/30/31 …

— certificado emitido e válido apenas para o trimestre de 1 de … a 28/29/30/31 de …

— povolenie vydané a platné len pre štvrťrok od 1. [mesiac] do 28./29./30./31. [mesiac]

— dovoljenje, izdano in veljavno izključno za četrtletje od 1. … do 28./29./30./31. …

— todistus on myönnetty 1 päivän … ja 28/29/30/31 päivän … väliselle vuosineljännekselle ja se on voimassa ainoastaan kyseisenä vuosineljänneksenä

— licens utfärdad och giltig endast för tremånadersperioden den 1 … till den 28/29/30/31 …

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Article 5

Licence applications

1. Licence applications may be lodged only by importers.

To support their applications, importers, and in particular traditional importers, shall provide information verifying to the satisfaction of the competent national authorities compliance with Article 2(b) and (c).

Where new importers have obtained licences pursuant to this Regulation or to Regulation (EC) No 1047/2001 during the previous import period, they must produce proof that at least 90 % of the quantity allocated to them has actually been released into free circulation.

2. For each of the quarters referred to in Annex I, licence applications may be lodged only from the second Monday of the month before the month preceding the quarter in question until the last Friday inclusive of that quarter.

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Box 20 of those applications shall contain one of the following entries:

— certificado solicitado para el trimestre comprendido entre el 1 … y el 28/29/30/31 …

— Licence požadovaná na čtvrtletí od 1. … do 28./29./30./31. …

— licens, der er ansøgt om for kvartalet fra 1. … til 28./29./30./31. …

— Lizenz beantragt für das Quartal vom 1. … bis 28./29./30./31. …

— Πιστοποιητικό που ζητήθηκε για το τρίμηνο από την 1η … έως τις 28/29/30/31 …

— licence sought for the quarter from 1 [month] to 28/29/30/31 [month]

— Litsentsi on taotletud 1. [kuu] kuni 28./29./30./31. [kuu] kestvaks kvartaliks

— certificat demandé pour le trimestre du 1er … au 28/29/30/31 …

— A [hó] 1-jétől [hó] 28/29/30/31-ig terjedő negyedévre igényelt engedély

— titolo richiesto per il trimestre dal 1º … al 28/29/30/31 …

— licencija prašoma vienam ketvirčiui nuo 1 [mėnuo] iki 28/29/30/31 [mėnuo]

— atļauja pieprasīta par ceturksni no 1. [mēnesis] līdz 28/29/30/31 [mēnesis]

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— liċenzja mitluba għal tlett xhur mill-1 ta' [xahar] sa' 28/29/30/31 ta' [xahar]

— voor het kwartaal van 1 … tot en met 28/29/30/31 … aangevraagd certificaat.

— pozwolenie wnioskowane na kwartał od 1 … do 28/29/30/31 …

— certificado pedido para o trimestre de 1 de … a 28/29/30/31 de …

— povolenie požadované pre štvrťrok od 1.[mesiac] do 28./29./30./31. [mesiac]

— dovoljenje, zahtevano za četrtletje od 1. … do 28./29./30./31. …

— todistus on haettu 1 päivän … ja 28/29/30/31 päivän … väliselle vuosineljännekselle

— licens begärd för tremånadersperioden den 1 … till den 28/29/30/31 …

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3. Licence applications lodged by traditional importers may cover, by import period, a quantity no more than the reference quantity for those importers.

4. For each of the three origins and for each of the quarters indicated in Annex I, licences applications lodged by new importers may cover no more than 10 % of the quantity referred to in Annex I for that quarter and for that origin.

5. No licence applications may be lodged for a specific quarter and for a specific origin where no quantity is indicated in Annex I for that quarter and for that origin.

6. Box 20 of licence applications shall indicate ‘traditional importer’ or ‘new importer’ as appropriate.

Article 6

Maximum quantity to be issued

1. For each of the three origins and for each of the quarters indicated in Annex I, licences shall be issued only up to a maximum quantity equal to the sum of:

(a) the quantity indicated in Annex I for that quarter and for that origin;

(b) the quantities not applied for during the previous quarter for that origin;

(c) the unused quantities notified to the Commission from licences previously issued for that origin.

However, quantities not applied for or not used during an import period may not be transferred to the following import period.

2. For each of the three origins and for each of the quarters indicated in Annex I, the maximum quantity calculated in accordance with paragraph 1 shall be allocated as follows:

(a) 70 % to traditional importers,

(b) 30 % to new importers.

However, the quantities available shall be allocated to each of the two categories of importers without discrimination from the first Monday of the second month of each quarter.

Article 7

Member State communications to the Commission

1. The Member States shall notify the Commission of:

(a) the quantities covered by licence applications;

(b) the quantities covered by unused or partly used licences, corresponding to the difference between the quantities entered on the back of the licences and the quantities for which they were issued;

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(c) the quantities relating to applications for licences withdrawn pursuant to Article 8(4).

2. The information referred to in paragraph 1(a) shall be notified each Thursday in respect of applications lodged on the Monday and Tuesday of that week and each Monday in respect of applications lodged on the previous Wednesday, Thursday and Friday.

The information referred to in paragraph 1(b) and (c) shall be notified each Thursday in respect of information received the previous week.

The communications referred to in paragraph 1 shall be made by 12 noon (Brussels time) at the latest.

If no import licence application has been lodged or if there are no unused or withdrawn quantities within the meaning of paragraph 1(b) and (c), the Member State concerned shall notify the Commission thereof on the days indicated in this paragraph.

If the day for the communication of information provided for in this paragraph is a national holiday, the Member State concerned shall send the said communication by 3 p.m. (Brussels time) at the latest on the previous working day.

3. The communications referred to in paragraph 1 shall be effected by electronic means on the form sent for that purpose by the Commission to the Member States.

They shall be broken down by day of licence application, by third country of origin, by quarter and by type of importer within the meaning of Article 2.

Article 8

Issue of licences

1. Licences shall be issued on the fifth working day following the day on which applications are lodged unless the Commission takes measures within that time pursuant to paragraph 2.

Where measures are adopted pursuant to paragraph 2, licences shall be issued on the third working day following the entry into force of those measures.

2. Where the Commission finds, on the basis of the information notified by the Member States pursuant to Article 7, that licence applications exceed the available balance of one of the maximum quantities established in accordance with Article 6, it shall, if necessary, adopt by means of a regulation a single reduction percentage for the applications in question and shall stop the issue of licences until the date referred to in the second subparagraph of Article 6(2) or for the rest of that quarter for subsequent applications.

3. For the purposes of the examination referred to in paragraph 2, the Commission shall take account of the licences already issued or to be issued for the quarter and the origin in question.

4. Where, pursuant to paragraph 2, the quantity for which a licence is issued is less than the quantity requested, the licence application may be withdrawn within three working days of the entry into force of the measures adopted pursuant to paragraph 2. In the event of such a withdrawal the security shall be released immediately.

5. No licence may be issued with a view to importing products originating in countries listed in Annex II which have not forwarded to the Commission the information needed to set up an administrative cooperation procedure in accordance with Articles 63 to 65 of Regulation (EC) No 2454/93. The information shall be deemed to have been forwarded on the date of its publication as provided for in Article 11.

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CHAPTER II

CERTIFICATES OF ORIGIN

Article 9

General provisions

Any release into free circulation in the Community of garlic originating in a third country listed in Annex II shall be subject to:

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

(b) the condition that the product has been transported directly, within the meaning of Article 10, from that country to the Community.

Article 10

Direct transport

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

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

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

  (i) have remained under the supervision of the customs authorities of the country or countries of transit or warehousing,

  (ii) have not entered into commerce or been released for consumption there, and

  (iii) have not undergone operations there other than unloading and reloading or any other operation to keep them in good condition.

2. Proof that the conditions referred to in paragraph 1(b) have been satisfied shall be submitted to the Community authorities. That proof may be provided, in particular, in the form of one of the following documents:

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

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

  (i) a precise description of the goods;

  (ii) the dates of their unloading and reloading or their lading or unlading, identifying the vessels used;

  (iii) certification of the conditions in which they were kept.

Article 11

Administrative cooperation

As soon as the information needed to set up an administrative cooperation procedure pursuant to Articles 63 to 65 of Regulation (EEC) No 2454/93 has been forwarded by each third country listed in Annex II, a communication concerning the forwarding of that information shall be published in the C series of the *Official Journal of the European Communities* ([1]).

([1]) For Iran, see Communication 98/C 12/04 (OJ C 12, 16.1.1998, p. 13).

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CHAPTER III

FINAL PROVISIONS

Article 12

Repeal

Regulation (EC) No 1047/2001 is hereby repealed with effect from 1 June 2002.

Article 13

Entry into force

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 licences applied for from 8 April 2002, for the quarter from 1 June to 31 August 2002, and to releases into free circulation effected from 1 June 2002. It shall not apply to releases into free circulation carried out, until 31 May 2002, under import licences issued in accordance with Regulation (EC) No 1047/2001.

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

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ANNEX I

Tariff quotas opened pursuant to Decision 2001/404/EC for imports of garlic falling within CN code 0703 20 00

(in tonnes)

Origin	Serial number	Quota				
		First quarter (June/ August)	Second quarter (September/ November)	Third quarter (December/ February)	Fourth quarter (March/ May)	Total
Argentina	09.4104	—	—	13 700	5 447	19 147
China	09.4105	3 600	3 600	3 000	3 000	13 200
All other third countries	09.4106	1 344	2 800	1 327	552	6 023
Total	—	4 944	6 400	18 027	8 999	38 370

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ANNEX II

List of third countries referred to in Article 9

Lebanon

Iran

United Arab Emirates

Vietnam

Malaysia