

COMMISSION REGULATION (EC) No 1047/2001

of 30 May 2001

introducing a system of import licences and certificates of origin and establishing the method for managing tariff quotas 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 2001/404/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. From 1 June 2001 the normal customs duty for imports of garlic falling within CN code 0703 20 00 consists 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 Decision 2001/404/EC, hereafter called the 'GATT quota'. The Annex to that Decision 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 all other third countries (serial number 09.4106).

(2) In view of the existence of a specific duty for non-quota imports, management of the quota requires the introduction of a system of import licences. Such a system should also permit the detailed monitoring of all garlic imports, thus continuing and replacing the arrangements introduced by Commission Regulation (EC) No 1859/93 ⁽⁴⁾ as last amended by Regulation (EC) No 2872/2000 ⁽⁵⁾, which must therefore be repealed. The details of the system must supplement or derogate from those adopted 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 ⁽⁶⁾. In particular:

- two categories of licence should be created: one for imports under GATT quota conditions (A licences), and one for non-quota imports (B licences),
- the validity of those licences should be limited to three months without going beyond the end of the quota year in question,
- the validity of those licences should be limited to the origin indicated in the application,
- a timetable for the lodging of A licence applications and the issue of those licences should be laid down which will permit the Member States to notify the Commission in good time of the information relating to A licence applications.

(3) Measures are needed to keep to a minimum speculative applications for A licences or applications which are not linked to a genuine commercial activity on the fruit and vegetable market. To that end:

- certain criteria regarding the status of applicants for such licences should be laid down,
- the transfer of the licences should be prohibited, and
- a reasonable limit to individual applications should be set.

(4) In view of the Exchange of Letters concluded with Argentina, the quantities allocated should be divided between traditional importers and others and the concept of traditional importers should be defined, while allowing optimum use of the quotas.

(5) To guarantee correct management of the GATT quota, the measures to be taken by the Commission in the event that A 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 A licences, the possibility should be granted for applications for those licences to be withdrawn with immediate release of the security.

⁽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 170, 13.7.1993, p. 10.

⁽⁵⁾ OJ L 333, 29.12.2000, p. 49.

⁽⁶⁾ OJ L 152, 24.6.2000, p. 1.

- (6) To improve controls and prevent any risk of a deflection of trade based on inaccurate documentation, Commission Regulation (EC) No 544/97⁽¹⁾, as amended by Regulation (EC) No 2520/98⁽²⁾, introduces a certificate of origin for garlic imported from certain third countries and imposes direct transport to the Community of garlic originating in those third countries. That certificate of origin is to be issued by the competent 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⁽³⁾, as last amended by Regulation (EC) No 993/2001⁽⁴⁾. To keep administration simple, the relevant provisions of Regulation (EC) No 544/97 should be incorporated into this Regulation and that Regulation should be repealed.
- (7) Provision should be made for imports of garlic carried out after the entry into force of this Regulation under licences issued in accordance with Commission Regulation (EC) No 1104/2000 of 25 May 2000 adopting a protective measure applying to imports of garlic originating in China⁽⁵⁾ to be carried out under the conditions in force when those licences were issued.
- (8) 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:

TITLE ONE

IMPORT LICENCES AND TARIFF QUOTAS

Article 1

General provisions

- Any release into free circulation in the Community of garlic falling within CN code 0703 20 00 shall be subject to presentation of an import licence issued in accordance with this Regulation.
- Only import licences containing one of the following entries in box 20 shall permit the release into free circulation of garlic under the tariff quotas opened by Decision 2001/404/EC at an *ad valorem* duty of 9,6 %:
 - Derecho de aduana 9,6 % — Reglamento (CE) n° 1047/2001

⁽¹⁾ OJ L 84, 26.3.1997, p. 8.
⁽²⁾ OJ L 315, 25.11.1998, p. 10.
⁽³⁾ OJ L 253, 11.10.1993, p. 1.
⁽⁴⁾ OJ L 141, 28.5.2001, p. 1.
⁽⁵⁾ OJ L 125, 26.5.2000, p. 21.

- Toldsats 9,6 % — forordning (EF) nr. 1047/2001
- Zollsatz 9,6 % — Verordnung (EG) Nr. 1047/2001
- Δασμός 9,6 % — Κανονισμός (ΕΚ) αριθ. 1047/2001
- Customs duty 9,6 % — Regulation (EC) No 1047/2001
- Droit de douane 9,6 % — Règlement (CE) n° 1047/2001
- Dazio 9,6 % — Regolamento (CE) n. 1047/2001
- Douanerecht 9,6 % — Verordening (EG) nr. 1047/2001
- Direito aduaneiro: 9,6 % — Regulamento (CE) n.º 1047/2001
- Tulli 9,6 prosenttia — Asetus (EY) N:o 1047/2001
- Tull 9,6 – Förordning (EG) nr 1047/2001.

Such import licences shall be known hereafter as 'A licences'. Other import licences shall be known hereafter as 'B licences'.

3. Licence applications containing in box 20 one of the entries referred to in paragraph 2 above shall be deemed to be A licence applications. Other applications shall be deemed to be B licence applications. An A licence application cannot give rise to the issue of a B licence.

Article 2

Provisions applicable to all licences

1. Regulation (EC) No 1291/2000 shall apply to the system introduced by this Regulation, subject to the latter's specific provisions.
2. Box 8 of licence applications and import licences shall indicate the country of origin of the product. The word 'yes' in box 8 shall be marked with a cross. Import licences shall only be valid for the products originating in the country indicated in that box.
3. The amount of the security referred to in Article 15(2) of Regulation (EC) No 1291/2000 shall be EUR 15 per tonne net.
4. The term of validity of the import licences shall be three months from the day on which they are actually issued but must not go beyond the following 31 May.

Article 3

Provisions applicable to A licence applicants

1. A licence applications may only be lodged by agricultural traders within the meaning of paragraph 2.
2. Agricultural traders are defined as operators, natural or legal persons, individuals or groups having marketed 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. Compliance with this condition shall be certified by registration in a Member State's register of businesses or by another form of proof accepted by the Member State.
3. To support their applications, agricultural traders within the meaning of paragraph 2 shall provide information verifying to the satisfaction of the competent national authorities compliance with the conditions referred to in paragraph 2.

*Article 4***Licence applications**

1. For each of the quarters referred to in Annex I, A licence applications may be lodged only from the first Monday until the last Friday inclusive of the quarter in question.
2. For each of the three origins and each of the quarters indicated in Annex I, an agricultural trader within the meaning of Article 3 may lodge no more than four applications for A licences for the import of garlic at least five days apart. Each of the applications may cover no more than 20 % of the quantity indicated in Annex I for that origin and that quarter.
3. No A licence application may be lodged where no quantity is indicated in Annex I.
4. The periods referred to in paragraph 1 shall not apply to B licence applications.

*Article 5***Issue of licences**

1. A licences shall be issued on the fifth working day following the day on which they are lodged unless the Commission takes measures within that time. Notwithstanding Article 9 of Regulation (EC) No 1291/2000, the rights accruing from A licences shall not be transferable.
2. B licences shall be issued without time limit or quantity restriction.
3. 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.

*Article 6***Maximum quantity for A licences**

1. For each of the three origins and for each of the quarters indicated in Annex I, A 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; and
 - (c) the unused quantities notified to the Commission from licences previously issued.

However, quantities not applied for or not used during an annual period defined as running from 1 June to the following 31 May may not be transferred to the following annual 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 day of the third month of each quarter.

3. Agricultural traders within the meaning of Article 3 who have imported garlic during at least two of the three previous calendar years shall be deemed to be traditional importers.
4. Agricultural traders within the meaning of Article 3 other than those defined in paragraph 3 shall be deemed to be new importers.
5. Applications for A licences lodged by traditional importers shall be accompanied by information permitting verification to the satisfaction of the competent national authorities that they meet the conditions indicated in paragraph 3.

*Article 7***Member State communications to the Commission**

1. The Member States shall notify the Commission of:
 - (a) the quantities covered by import licence applications; that information shall be notified as follows:
 - each Wednesday for applications lodged on the Monday and Tuesday of that week,
 - each Friday for applications lodged on the Wednesday and Thursday of that week,
 - each Monday for applications lodged on the previous Friday;
 - (b) the quantities covered by unused or partly used import licences, corresponding to the difference between the quantities entered on the back of the licences and the quantities for which they were issued;
 - (c) the quantities relating to applications for A licences withdrawn pursuant to Article 8(3).

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

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

2. The communications referred to in this Article
 - shall be broken down by day of licence application, by third country of origin, by type of licence, A or B, and by type of importer within the meaning of Article 6(2),

— shall be effected by electronic means on the form sent for that purpose by the Commission to the Member States.

Article 8

Issue of A licences

1. Where the Commission finds, on the basis of the information notified by the Member States pursuant to Article 7, that applications for A licences exceed the available balance of one of the maximum quantities established in accordance with Article 6(1) and (2), it shall if necessary adopt a single reduction percentage for the applications in question and shall stop the issue of A licences until the date referred to in the second subparagraph of Article 6(2) or for the rest of that quarter for subsequent applications.

2. For the purposes of the examination referred to in paragraph 1 the Commission shall take account of the A licences already issued or to be issued for the quarter and the origin in question.

3. Where, pursuant to paragraph 1, the quantity for which an A licence is issued is less than the quantity requested, the licence application may be withdrawn within three working days from publication of the Regulation adopted pursuant to paragraph 1. In the event of such a withdrawal the security shall be released immediately.

4. Article 8(4) of Regulation (EC) No 1291/2000 shall not apply to A licences.

TITLE 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 is transported directly 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 third countries other than the country of origin, with or without transshipment or temporary warehousing in those countries, provided that such passage is justified for geographical reasons or exclusively on account of transport requirements and that the products:

- 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 there, and
- 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 provided by supplying the Commission authorities with either:

- (a) a single transport document issued in the country of origin covering passage through the country of transit;
- (b) a certificate issued by the customs authorities of the country of transit containing:
 - a precise description of the goods,
 - the dates of their unloading and reloading or their lading or unloading, identifying the vessels used,
 - certification of the conditions in which they were kept;
- (c) or, failing these, any substantiating documents.

Article 11

Administrative cooperation

As soon as it has been forwarded by each third country listed in Annex II, the information needed to set up an administrative cooperation procedure pursuant to 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*.

TITLE III

FINAL PROVISIONS

Article 12

Regulations (EEC) No 1859/93 and (EC) No 544/97 shall be repealed on the date referred to in the second paragraph of Article 13.

Article 13

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

It shall apply from 1 June 2001. However, it shall not apply to releases into free circulation under import licences issued in accordance with Regulation (EC) No 1104/2000 before that date. The Regulations referred to in Article 12 shall continue to apply to such releases.

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

Done at Brussels, 30 May 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

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

Origin	Serial number	Contingentes				
		1st quarter (June/August)	2nd quarter (September/November)	3rd quarter (December/February)	4th 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

ANNEX II

List of third countries referred to in Article 9

Lebanon
Iran
United Arab Emirates
Vietnam
Malaysia
