

**COMMISSION REGULATION (EC) No 1351/2003
of 30 July 2003**

**establishing administrative procedures for the first tranche of the 2004 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 806/2003 ⁽²⁾, and in particular Article 2(3) and (4), Article 6(3) and 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 third 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 427/2003 ⁽⁴⁾, introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex I 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 first tranche of the 2004 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 years 2000 and 2001 were 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. In 2002, there was a significant increase in applications by non-traditional importers from United Kingdom companies to other Member States suggesting an effort to circumvent the related persons test. Also, investigations are ongoing into a number of 2002 and 2003 licence holders that may have breached the related persons test. The years 1998 or 1999 are therefore 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 12 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(2)(c) 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) The Commission 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 (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) 2913/92 establishing the Community Customs Code ⁽⁷⁾, as last amended by Regulation (EC) No 881/2003 ⁽⁸⁾, 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.

⁽¹⁾ OJ L 66, 10.3.1994, p. 1.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 67, 10.3.1994, p. 89.

⁽⁴⁾ OJ L 65, 8.3.2003, p. 1.

⁽⁵⁾ OJ L 87, 31.3.1994, p. 47.

⁽⁶⁾ OJ L 131, 1.6.1996, p. 47.

⁽⁷⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁸⁾ OJ L 134, 29.5.2003, p. 1.

- (9) It is appropriate to set the quota share reserved to traditional importers at 75 % and the share of non-traditional importers at 25 %.
- (10) It also appears appropriate to transfer quantities not taken up by non-traditional importers to traditional importers, in order to ensure that these quantities can still be allocated in the year in which they were attributed.
- (11) For the purposes of quota allocation, a time limit must be set for the submission of licence applications by traditional and non-traditional importers.
- (12) 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.
- (13) Given that on 1 May 2004 the European Union will be enlarged, it is appropriate to allocate the 2004 quota in two tranches, the first one from January to April 2004 to importers in the current Member States and the second one from May to December 2004 to importers in all countries that will be Member States from May 2004 onwards.
- (14) 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 2004 specific provisions for the administration of the quantitative quotas referred to in Annex I to Regulation (EC) No 427/2003 amending Regulation (EC) No 519/94.

Given the enlargement of the European Union in May 2004, the 2004 quotas shall be allocated in two separate tranches. This Regulation shall allocate the quotas for January to April 2004.

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 non-traditional 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 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, as amended by Article 1 of Regulation (EC) No 983/96, 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.
- (c) Those proportions of the quantities reserved for non-traditional importers and not allocated will be added to the quantities reserved for traditional importers.

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 Union* until 15.00, Brussels time, 19 September 2003.

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.

Article 5

Member States shall inform the Commission no later than 15 October 2003, 10.00, 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 15 November 2003.

Article 7

Import licences shall be valid for one year, starting on 1 January 2004.

Article 8

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

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

Done at Brussels, 30 July 2003.

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 75 % | Portion reserved for non-traditional importers 25 % |
|--|--|--|--|
| Footwear falling within HS/CN codes | ex 6402 99 ⁽¹⁾ | 13 650 776 pairs | 4 550 259 pairs |
| | 6403 51 6403 59 | 1 067 332 pairs | 355 777 pairs |
| | ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾ | 4 225 827 pairs | 1 408 609 pairs |
| | ex 6404 11 ⁽²⁾ | 6 355 749 pairs | 2 118 583 pairs |
| | 6404 19 10 | 11 121 637 pairs | 3 707 212 pairs |
| Tableware, kitchenware of porcelain or china falling within HS/CN code | 6911 10 | 21 027 tonnes | 7 009 tonnes |
| Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code | 6912 00 | 15 909 tonnes | 5 303 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, bars 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 non-traditional importer

| 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, bars 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

Service public fédéral 'Économie, PME, classes moyennes et Énergie'

Administration du potentiel économique
Politiques d'accès aux marchés, Service 'Licences'

Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie

Bestuur Economisch Potentieel
Markttoegangsbeleid, Dienst Vergunningen
Rue Général-Leman 60, Generaal Lemanstraat 60
B-1040 Bruxelles/Brussel
Tel. (32-2) 206 58 16
Fax (32-2) 230 83 22/231 14 84

2. DANMARK

Erhvervs- og Boligstyrelsen

Vejlsøvej 29
DK-8600 Silkeborg
Tel. (45) 35 46 60 30
Fax (45) 35 46 64 01

3. DEUTSCHLAND

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)

Frankfurter Straße 29-35
D-65760 Eschborn
Tel. (49) 619 69 08-0
Fax (49) 619 69 42 26/(49) 6196 908-800

4. GREECE

**Ministry of Economy & Finance
General Directorate of Policy Planning & Implementation****Directorate of International Economic Issues**

1, Kornarou Street
GR-Athens 105-63
Tel. (30-210) 328-60 31/328 60 32
Fax (30-210) 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
Tel. (33-1) 55 07 46 69/95
Fax (33-1) 55 07 48 32/34/35

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

Direzione Generale per la Politica commerciale e la gestione del regime degli scambi — Disivione VII
Viale America, 341
I-00144 Roma
Tel. (39) 06 599 31 06 59 93 24 19 06 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
Tel. (352) 22 61 62
Fax (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) 523 22 10

11. ÖSTERREICH

**Bundesministerium für Wirtschaft und Arbeit
Außenwirtschaftsadministration**

Abteilung C2/2
Stubenring 1
A-1011 Wien
Tel. (43) 1 711 00 0
Fax (43) 1 711 00 83 86

12. PORTUGAL

Ministério das Finanças

Direcção-Geral das Alfândegas e dos Impostos Especiais sobre o Consumo, Edifício da Alfândega de Lisboa
Largo do Terreiro do Trigo
P-1100 Lisboa
Tel. (351-21) 881 42 63
Fax (351-21) 881 42 61

13. SUOMI/FINLAND

Tullihallitus/Tullstyrelsen
Erottajankatu/Skillnadsgatan 2
FIN-00101 Helsinki/Helsingfors
Tel. (358-9) 6141
Fax (358-9) 614 28 52

14. SVERIGE

Kommerskollegium
Box 6803
S-113 86 Stockholm
Tel. (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
