COMMISSION REGULATION (EC) No 2044/2003

of 20 November 2003

establishing administrative procedures for the second 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 427/2003 [3], as last amended by Regulation (EC) No 1985/2003 [4], sets forth 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) In view of the enlargement of the European Community on 1 May 2004, the quotas set forth in Annex I to Council Regulation (EC) No 427/2003 have been increased by Council Regulation (EC) No 1985/2003.

(3) Given that on 1 May 2004 the European Community 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.

(4) Commission Regulation (EC) No 1351/2003 [5] established administrative procedures for the first tranche of the 2004 quantitative quotas for certain products originating in the People's Republic of China.

(5) This Regulation shall allocate the quotas relating to quantities for May to December 2004.

(6) The Commission accordingly adopted Regulation (EC) No 738/94 [6], as last amended by Regulation (EC) No 983/96 [7], 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.

(7) 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 period. 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 second tranche of the 2004 quotas should accordingly be adopted before May 2004.

(8) 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.

(9) 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.

(10) The reference period used for allocating the portion of the quota set aside for the traditional importers in the Community 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 imported by the importers in the Community. Traditional importers in the Community must, therefore, prove that they have imported products originating in the People's Republic of China and covered by the quotas in question in the years 1998 or 1999. The years 2001 and 2002 are the most recent years representative of the normal trend of trade flows in the products in question imported by importers in the acceding States. Given that the large majority of importers in the acceding States were not subject to import restrictions and therefore were under no legal requirement to keep import documents for both 1998 and 1999, the provision of evidence concerning 1998 and

[1] OJ L 66, 10.3.1994, p. 1.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 65, 8.3.2003, p. 1.
[4] OJ L 295, 13.11.2003, p. 43.
[5] OJ L 192, 31.7.2003, p. 8.
[6] OJ L 87, 31.3.1994, p. 47.
[7] OJ L 131, 1.6.1996, p. 47.

1999 would impose disproportionate burdens on them. Traditional importers in the acceding States must therefore prove that they have imported in 2001 or 2002 products originating in the People's Republic of China and covered by the quotas in question.

(11) 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.

(12) 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 ([1]) establishing the Community Customs Code, as last amended by Regulation (EC) No 881/2003 ([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.

(13) It is appropriate to set the quota share reserved to traditional importers at 75 % and the share of non-traditional importers at 25 %.

(14) 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.

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

(16) The Member States and acceding States shall 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.

(17) To enable traditional Community importers to continue their business practices of importing the entire amount of their guaranteed quantities early in the quota year and to ensure competitiveness with importers in acceding States who are not subject to licence requirements before 1 May 2004, licences issued by the competent national authorities in the Member States shall be issued as soon as possible after the adoption of the quantitative criteria by the Commission. They shall be valid from the date of issuance until 31 December 2004.

(18) These measures are in accordance with the opinion of the Committee for the administration of quotas set up in accordance with Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down specific provisions for the administration of the quantitative quotas referred to in Annex I to Regulation (EC) No 1985/2003, amending Regulation (EC) No 427/2003 for the quotas relating to quantities for May to December 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 for the second tranche of the 2004 quotas 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 a 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.

([1]) OJ L 253, 11.10.1993, p. 1.
([2]) OJ L 134, 29.5.2003, p. 1.

(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 that of its publication in the *Official Journal of the European Union*, until 15.00 (Brussels time) on 31 December 2003.

Article 4

1. For the purposes of allocating the portion of each quota set aside for the traditional importers, 'traditional' importers shall mean:

— operators established in the Community before 1 May 2004, who can show that they have imported goods in the calendar year 1998 or 1999 into the Community,

— operators established in one of the acceding States before 1 May 2004 who can show that they have imported goods in the calendar year 2001 or 2002 into the acceding States.

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 for traditional importers established in the Community and either calendar year 2001 or 2002 for traditional importers established in the acceding States, 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 either the calendar year 1998 or 1999 (Community Member States) or the calendar year 2001 or 2002 (acceding States) carried out by themselves or, where applicable, by the operator whose activities they have taken over.

Article 5

Member States and acceding States shall inform the Commission no later than 10.00 (Brussels time) on 23 January 2004 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 10 February 2004.

Article 7

Import licences issued by the competent national authorities in acceding States shall be valid from 1 May 2004 to 31 December 2004. Import licences issued by the competent national authorities in the Member States shall be issued as soon as possible after the adoption of the quantitative criteria by the Commission. They shall be valid from the date of issuance until 31 December 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, 20 November 2003.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX I

Allocation of the 2004 quotas — second tranche

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)	43 904 228 pairs	14 634 742 pairs
	6403 51 6403 59	2 387 593 pairs	795 864 pairs
	ex 6403 91 (1) ex 6403 99 (1)	10 494 678 pairs	3 498 226 pairs
	ex 6404 11 (2)	14 176 498 pairs	4 725 500 pairs
	6404 19 10	25 126 810 pairs	8 375 603 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	50 929 tonnes	16 976 tonnes
Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china falling within HS/CN code	6912 00	43 593 tonnes	14 531 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 in the Member States

1. BELGIQUE/BELGIË

Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie
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
Generaal Lemanstraat 60, Rue Général-Leman 60
B-1040 Brussel/Bruxelles
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. ΕΛΛΑΔΑ

Ministry of Economy & Finance
General Directorate of Policy Planning & Implementation
Directorate of International Economic Issues
1, Kornarou Street
G-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
Licencing 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 Attività Produttive
Direzione Generale Politica Commerciale
Div. VII
Viale Boston 25
I-00144 Roma
Tel. 39 06 599 32 489
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
NL 9700 R Groningen,
Tel. (31-50) 523 91 11
Fax (31-50) 523 22 10

11. ÖSTERREICH

Bundesministerium für Wirtschaftliche 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, Edificio da Alfândega de Lisboa
Largo do Terreiro do Trigo
P-1100 Lisboa
Tel. (351-21) 881 4263
Fax (351-21) 881 4261

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
BillinghamTS23 2NF
United Kingdom
Tel. (44-1642) 36 43 33/36 43 34
Fax (44-1642) 53 35 57

List of the competent national authorities in the acceding countries

1. CYPRUS

Ministry of Commerce, Industry and Tourism
Trade Department
6 Andrea Araouzou Str.
1421 Nicosia
Tel. ++357 2 867100
Fax ++357 2 375120

2. CZECH REPUBLIC

Ministerstvo prumyslu a obchodu
Licencní správa
Na Frantisku 32
110 15 Praha 1
Tel. (420) 22406 2206
Fax (420) 22421 2133

3. ESTONIA

Majandus- ja Kommunikatsiooniministeerium
Harju 11
15072 Tallinn
Estonia
Tel. (372) 6256 400
Fax (372) 6313 660

4. HUNGARY

Gazdasági és Közlekedési Minisztérium
Engedélyezési és Közigazgatási Hivatala
1024 Budapest Margit krt. 85. Postafiók: 1537
Budapest
Pf. 345.
Tel. 0036(1) 336 7300
Fax 0036(1)336 7302

5. LATVIA

Ekonomikas Ministrija
Brivibas iela 55
LV-1519 Riga
Tel. 00 371 701 3006
Fax 00 371 728 0882

6. LITHUANIA

Lietuvos Respublikos ûkio Ministerija
Gedimino Ave 38/2
LT-2600 Vilnius
Tel. 00 370 5 262 50 30/00 370 5 262 87 50
Fax 00 370 5 262 39 74

7. MALTA

Ministry for Economic Services
Commerce Division
Lascaris
Valletta CMR02
Tel. 00 356 21 243 286
Fax 00 356 21 231 919

8. POLAND

Ministerstwo Gospodarki, Pracy i Polityki Spolecznej
Pl.Trzech Krzyzy 3/5
00-950 Warszawa
Tel. 0048/22/693 55 53
Fax 0048/22/693 40 21

9. SLOVAKIA

Ministerstvo Hospodárstva SR
Odbor výkonu obchodno-politických opatrení
Mierová 19
827 15 Bratislava
Tel. 00 421 2 434 23 913/00 421 2 485 42 160
Fax 00 421 2 4342 3919

10. SLOVENIA

Ministrstvo za gospodarstvo
Področje ekonomskih odnosov s tujino
Kotnikova 5
1000 Ljubljana
Tel. +386(0)1/478 3600
Fax +386(0)1/478 3611