

COMMISSION REGULATION (EC) No 657/95

of 28 March 1995

establishing administration procedures for the second tranche of the 1995 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⁾, and in particular Article 2 (3) and (4), and Articles 13 and 24 thereof,

Whereas 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⁽²⁾, as amended by Regulation (EC) No 538/95⁽³⁾, introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex II to that Regulation; whereas the provisions of Regulation (EC) No 520/94 are applicable to those quotas;

Whereas the Commission accordingly adopted Regulation (EC) No 738/94 laying down general rules for the implementation of Regulation (EC) No 520/94⁽⁴⁾, as amended by Regulation (EC) No 2597/94⁽⁵⁾; whereas these provisions apply to the administration of the above quotas subject to the provisions of this Regulation;

Whereas in view of certain characteristics of China's economy, the seasonal nature of some of the products and the time needed for transport, and looking ahead to the accession to the European Union of new Member States, Commission Regulation (EC) No 2459/94⁽⁶⁾ opened the procedure for the advance allocation of a first tranche of quantitative quotas applicable in 1995 to certain products originating in the People's Republic of China;

Whereas Council Regulation (EC) No 538/95 adjusted the quotas introduced by Regulation (EC) No 519/94 to take account, *inter alia*, of the trade between the new Member States and the People's Republic of China;

Whereas the difference between the annual quotas introduced by Regulation (EC) No 519/94, as adjusted by Regulation (EC) No 538/95, and the quantities which made up the first 1995 tranche of the quotas in question, including the quantities which could not be allocated, should accordingly be allocated;

Whereas 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; whereas under this method quota tranches are divided into two portions, one of which is reserved for traditional importers and the other for other applicants;

Whereas this method should ensure a smooth transition between the previous system, which was marked by disparities between the Member States' import arrangements for the products concerned, and the uniform system resulting from the introduction of the Community quotas in question;

Whereas this method takes account of the traditional import trade flows formed under the previous system; whereas, however, the introduction of a Community system must ensure progressive access by non-traditional importers; whereas the portion set aside for other applicants must make due allowance for the disparities in the above import arrangements in accordance with Article 6 (4) of Regulation (EC) No 520/94; whereas in the light of all these factors a balance must therefore be sought in determining the portion to be allocated to the two categories of importers;

Whereas quotas from the second tranche should be divided using the same criteria as for the first tranche, with the exception of the quota on radio-broadcast receivers falling within CN code 8527 29 for which, in the light of past experience, the quota should be divided into two equal portions;

Whereas the 1991-92 reference period used for the apportionment of the first tranche of the 1995 quotas, allocated in advance to both Community importers and importers from the new Member States, should again be applied to the allocation of the share set aside for traditional importers, since it continues to reflect the normal trend of traditional trade flows established under the previous arrangements;

⁽¹⁾ OJ No L 66, 10. 3. 1994, p. 1.

⁽²⁾ OJ No L 67, 10. 3. 1994, p. 89.

⁽³⁾ OJ No L 55, 11. 3. 1995, p. 1.

⁽⁴⁾ OJ No L 87, 31. 3. 1994, p. 47.

⁽⁵⁾ OJ No L 276, 27. 10. 1994, p. 3.

⁽⁶⁾ OJ No L 262, 12. 10. 1994, p. 27.

Whereas it is necessary to simplify the formalities to be fulfilled by traditional importers who already hold import licences issued when the 1994 Community quotas or the first tranche of the 1995 quotas were allocated; whereas the competent administrative authorities already possess the requisite evidence for all traditional importers; whereas the latter need only enclose a copy of their previous licences with their new licence applications; whereas, however, use of simplified formalities should not be authorized in respect of import licence applications for products falling within CN code 6402 99 in view of the changes to the structure of the initial quota introduced by Regulation (EC) No 538/95;

Whereas 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 submitted, may not be an appropriate way of allocating that portion of the quota reserved for non-traditional importers; whereas, consequently, in accordance with Article 2 (4) of Regulation (EC) No 520/94, an alternative method of apportioning the quota should be determined; whereas, to this end, 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;

Whereas in order to ensure that the quotas can be efficiently allocated and used, any speculative applications should be excluded, and it is furthermore necessary to allocate economically significant quantities; whereas to this end the amount that any non-traditional importer may request should be restricted to a set volume/value;

Whereas in the light of the changes to the quota applicable to gloves falling within CN code 4203 29 introduced by Regulation (EC) No 538/95 and in view of the amounts already allocated from the first tranche, the advisability of apportioning a second tranche will be reviewed at the end of the period of validity of the licences already issued for the first tranche;

Whereas the allocation of the first tranche of 1995 quotas to non-traditional importers in respect of products falling within CN codes 6403 51, 6403 59 and 8527 29 was suspended because the quantities to be allocated were not economically significant; whereas the quantities from the second tranche set aside for non-traditional importers should therefore be added to those from the first tranches which could not be allocated and the resulting quantities should be allocated to non-traditional importers, whose requests could not be met from the first tranche; whereas the quantitative criteria for the allocation of the resulting quantities to those importers may therefore be determined; whereas accordingly the procedure for the submission of licence applications should not be opened in respect of products from this portion of the quota;

Whereas for the purposes of quota allocation, a time limit must be set for the submission of licence applications by traditional and other importers;

Whereas with a view to optimum use of quotas, licence applications for imports of footwear under quotas which refer to several CN codes must specify the quantities required for each code;

Whereas 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; whereas the information about traditional importers' previous imports must be broken down by reference year and expressed in the same units as the quota in question; whereas if the quota is set in ecus, the counter-value of the currency in which previous imports are expressed must be calculated in accordance with Article 18 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (1);

Whereas 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 1995;

Whereas 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

1. The second tranche of the 1995 quantitative quotas listed in Annex II to Regulation (EC) No 519/94 shall be assigned to importers in accordance with this Regulation.
2. The volume/value of the second tranche of each quota is shown in Annex I.
3. Regulation (EC) No 738/94 laying down certain rules for the implementation of Regulation (EC) No 520/94 shall be applicable subject to the provisions of this Regulation.

Article 2

1. The second tranche of each quota shall be apportioned using the method based on traditional trade flows referred to in Article 2 (2) (a) of Regulation (EC) No 520/94.

(1) OJ No L 302, 19. 10. 1992, p. 1.

2. The portions reserved respectively for traditional importers and other importers are shown in Annex II.

3. The portion set aside for non-traditional importers shall be apportioned using the method based on allocation in proportion to quantities requested; the volume/value requested by a single importer may not exceed that shown in Annex III.

Article 3

Applications for import licences shall be lodged from the day following the day of publication of this Regulation in the *Official Journal of the European Communities* to 18 April 1995 at 5 p.m., Brussels time, with the competent authorities listed in Annex I to Regulation (EC) No 738/94.

Article 4

1. For the purposes of allocating the portion of each quota tranche set aside for traditional importers, 'traditional' importers shall mean importers who can show that they have imported goods in the calendar years 1991 and 1992.

2. The evidence referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release for free circulation during calendar years 1991 and 1992 of products originating in the People's Republic of China which are covered by the quota tranche for which the application is made.

3. Instead of the evidence 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 calendar years 1991 and 1992 carried out by themselves or, where applicable, by the operator whose activities they have taken over;

— except in the case of import licence applications for products falling within CN code 6402 99, applicants already holding import licences issued under Commission Regulation (EC) No 1012/94⁽¹⁾ or Commission Regulation (EC) No 2801/94⁽²⁾ for products covered by the licence application may enclose a copy of their previous licences with their licence applications. In that case they shall indicate in their licence application the aggregate value of

imports of the product in question in each of the years in the reference period.

4. Article 18 of Regulation (EEC) No 2913/92 shall apply where evidence is expressed in foreign currency.

Article 5

Member States shall inform the Commission no later than 3 May 1995 at 5 p.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 each year of the reference period referred to in Article 4 (1) of this Regulation.

Article 6

No later than 10 May 1995 the Commission shall adopt the quantitative criteria to be used by the competent national authorities for the purpose of meeting importers' applications.

Article 7

The portion of the second tranche set aside for non-traditional importers in respect of products falling within CN codes 6403 51, 6403 59 and 8527 29 shall be set aside for non-traditional importers who submitted an import licence application for the first tranche of the 1995 quota.

The competent national authorities shall meet non-traditional importers applications on a *pro rata* basis by assigning the following percentages of the amounts applied for, within the limits set by Regulation (EC) No 2459/94:

footwear falling within CN codes	6403 51 6403 59	86,32 %
car radios falling within CN code	8527 29	87,87 %

Article 8

Import licences shall be valid until 31 December 1995.

Article 9

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

⁽¹⁾ OJ No L 111, 30. 4. 1994, p. 100.

⁽²⁾ OJ No L 297, 18. 11. 1994, p. 13.

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

Done at Brussels, 28 March 1995.

For the Commission

Leon BRITTAN

Vice-President

ANNEX I

AMOUNT/VALUE OF THE SECOND TRANCHE OF THE 1995 QUOTAS

Product description	CN code	Second tranche
Footwear falling within HS/CN codes	ex 6402 99 ⁽¹⁾	12 901 481 pairs
	6403 51 6403 59	1 240 116 pairs
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	4 437 463 pairs
	ex 6404 11 ⁽¹⁾	5 591 280 pairs
	6404 19 10	10 195 512 pairs
Tableware, kitchenware of porcelain or china	6911 10	14 369 tonnes
Ceramic tableware or kitchenware	6912 00	10 725 tonnes
Glassware of a kind used for table, etc.	7013	5 960 tonnes
Car radios falling within HS/CN codes	8527 21	663 899 units
	8527 29	211 564 units
Toys falling within HS/CN codes	9503 41	ECU 124 165 743
	9503 49	ECU 69 878 927
	9503 90	ECU 281 271 189

⁽¹⁾ 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 ECU 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 neutralize impact or materials such as low-density polymers.

ANNEX II

ALLOCATION OF THE SECOND TRANCHE OF THE QUOTAS

Product description	CN code	Portion reserved for traditional importers	Portion reserved for other importers
Footwear falling within HS/CN codes	ex 6402 99 ⁽¹⁾	10 321 185 pairs (80 %)	2 580 296 pairs (20 %)
	6403 51 6403 59	692 093 pairs (80 %)	548 023 pairs ⁽²⁾ (20 %)
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	3 549 970 pairs (80 %)	887 493 pairs (20 %)
	ex 6404 11 ⁽¹⁾	4 473 024 pairs (80 %)	1 118 256 pairs (20 %)
	6404 19 10	8 156 410 pairs (80 %)	2 039 102 pairs (20 %)
Tableware, kitchenware of porcelain or china	6911 10	11 495 tonnes (80 %)	2 874 tonnes (20 %)
Ceramic tableware or kitchenware	6912 00	8 580 tonnes (80 %)	2 145 tonnes (20 %)
Glassware of a kind used for table, etc.	7013	4 768 tonnes (80 %)	1 192 tonnes (20 %)
Car radios falling within HS/CN codes	8527 21	531 119 units (80 %)	132 780 units (20 %)
	8527 29	62 082 units (50 %)	149 482 units ⁽³⁾ (50 %)
Toys falling within HS/CN codes	9503 41	ECU 93 124 307	ECU 31 041 436
	9503 49	ECU 52 409 195	ECU 17 469 732
	9503 90	ECU 210 953 392 (75 %)	ECU 70 317 797 (25 %)

⁽¹⁾ 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 ECU 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 neutralize impact or materials such as low-density polymers.

⁽²⁾ Of which 375 000 pairs not allocated from the first 1995 tranche.

⁽³⁾ Of which 87 400 units not allocated from the first 1995 tranche.

ANNEX III

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

Product description	CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 ⁽¹⁾	4 000 pairs
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	4 000 pairs
	ex 6404 11 ⁽¹⁾	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china	6911 10	4 tonnes
Ceramic tableware or kitchenware	6912 00	4 tonnes
Glassware of a kind used for table, etc.	7013	3 tonnes
Car radios falling within HS/CN code	8527 21	4 000 units
Toys falling within HS/CN codes	9503 41	ECU 30 000
	9503 49	ECU 30 000
	9503 90	ECU 30 000

⁽¹⁾ 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 ECU 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 neutralize impact or materials such as low-density polymers.