Commission Regulation (EC) No 341/2007 of 29 March 2007 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic and certain other agricultural products imported from third countries

COMMISSION REGULATION (EC) No 341/2007

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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)], and in particular Articles 31(2) and 34(1) thereof,

Whereas:

(1) 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 an Agreement in the form of an Exchange of Letters between the European Community and the Argentine Republic 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 the GATT[(2)], approved by Council Decision 2001/404/EC[(3)].

(2) The Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union[(4)], approved by Council Decision 2006/398/EC[(5)], provides, for China, for an increase by 20 500 tonnes of the tariff quota for garlic.

(3) The conditions for the administration of those quotas (hereinafter the 'GATT quota') were set out in Commission Regulation (EC) No 1870/2005 of 16 November 2005 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic imported from third countries[(6)]. For the sake of clarity, that Regulation should be repealed and replaced by a new regulation from 1 April 2007. However, Regulation (EC) No 1870/2005 should continue to apply

with regard to import licences issued in accordance with that Regulation for the import tariff quota period expiring on 31 May 2007.

(4) Garlic may also be imported outside the GATT quota at the normal duty or on preferential terms under agreements concluded between the Community and certain third countries.

(5) Garlic is an important product of the Community's fruit and vegetables sector, with an annual production of around 250 000 tonnes in the Community. The annual import from third countries is also significant, ranging from 60 000 to 80 000 tonnes. The two main third country suppliers are China (30 000 to 40 000 tonnes per year) and Argentina (around 15 000 tonnes per year).

(6) Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences[7] applies to import licences for import tariff quota periods starting from 1 January 2007. Regulation (EC) No 1301/2006 lays down in particular detailed provisions on applications for import licences, the status of applicants and the issue of licences. That Regulation limits the period of validity of licences to the last day of the import tariff quota period. The provisions of Regulation (EC) No 1301/2006 should apply to import tariff quotas under this Regulation without prejudice to additional conditions and derogations concerning the applicants and notifications to the Commission, laid down in this Regulation.

(7) Since there is a specific duty on non-preferential imports outside the GATT quota, the management of the GATT quota requires the introduction of a system of import licences. Such a system should permit the detailed monitoring of all garlic imports. The detailed rules for that system should supplement, and might need to 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[8].

(8) In order to monitor all imports as closely as possible, in particular following recent incidents involving fraud through misdescription of the origin or the product, all imports of garlic and other products likely to be used for the misdescription of garlic should be subject to the issue of an import licence. There should be two categories of import licences, one for imports under the GATT quota, the other for all other imports.

(9) In the interest of existing importers, who normally import substantial quantities of garlic, and also in that of new importers joining the market, who should also have a fair opportunity to apply for import licences for a quantity of garlic under tariff quotas, a distinction should be drawn between traditional importers and new importers. A clear definition of those two categories of importers should be provided and certain criteria relating to the status of the applicants and the use of the import licences allocated should be laid down.

(10) The quantities to be allocated to those categories of importers should be determined on the basis of the quantities actually imported rather than on the basis of the import licences issued.

(11) Special rules should be laid down in order to allow importers in Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia to benefit from the import quotas. Those rules should be replaced by the normal rules as soon as these importers are able to fulfil them.

(12) In order to take account of the different trade patterns in Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia, the competent authorities of those countries should be allowed to choose between two methods for establishing the reference quantity of their traditional importers.

(13) Applications for import licences to import garlic from third countries submitted by importers of both categories should be subject to certain restrictions. Such restrictions are necessary to ensure not only that competition between importers is safeguarded but also that importers genuinely engaged in commercial activity in the fruit and vegetable market are given the opportunity to defend their legitimate trading positions *vis-à-vis* other importers and that no single importer is able to control the market.

(14) In order to safeguard competition between genuine importers and to prevent speculation in the allocation of import licences for garlic under the GATT quota and any abuse of the system that would run contrary to the legitimate trading positions of new and traditional importers, more stringent controls on the correct use of import licences should be put in place. To that end, the transfer of import licences should be prohibited, and a penalty in the event of submission of multiple applications should be introduced.

(15) Measures are also needed to keep to a minimum speculative applications for import licences that may result in the tariff quotas not being fully utilised. Because of the nature and the value of the product, a security should be lodged in respect of each tonne of garlic for which an import licence application is lodged. The security should be of an amount that is high enough to discourage speculative applications but not so high as to discourage importers genuinely engaged in commercial activity in garlic. The most appropriate objective level for the security is 5 % of the average additional duty applicable to imports of garlic falling within CN code 0703 20 00.

(16) To improve controls and prevent any risk of 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 such garlic to be transported direct from the third country of origin to the Community should be maintained and the list of countries extended in the light of additional information. Such certificates of origin should be issued by the competent national authorities in accordance with Articles 55 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[9].

(17) In addition to those provided for in Regulation (EC) No 1301/2006, the necessary communications between Member States and the Commission should be specified, in particular for the purpose of administering tariff quotas, taking measures against fraud and monitoring the market.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 341/2007. (See end of Document for details)*

(18) 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

GENERAL PROVISIONS

Article 1

Opening of tariff quotas and applicable duties

1 In accordance with the agreements approved by Decisions 2001/404/EC and 2006/398/EC, tariff quotas are hereby opened for imports into the Community of fresh or chilled garlic falling within CN code 0703 20 00 (hereinafter referred to as 'garlic'), subject to the conditions laid down in this Regulation. The volume of each tariff quota, the import tariff quota period and subperiods for which it applies and the order number are specified in Annex I to this Regulation.

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

Article 2

Application of Regulations (EC) No 1291/2000 and (EC) No 1301/2006

Regulations (EC) No 1291/2000 and (EC) No 1301/2006 shall apply, save as otherwise provided for in this Regulation.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'import tariff quota period' means the period from 1 June to the following 31 May;

2. 'competent authorities' means the body or bodies designated by the Member State for the implementation of this Regulation.

Article 4

Categories of importers

1 By way of derogation from Article 5 of Regulation (EC) No 1301/2006, applicants for 'A' licences within the meaning of Article 5(2) shall comply with the relevant requirements laid down in paragraphs 2, 3 and 4 of this Article.

2 'Traditional importers' shall mean importers who can prove that they have:

a obtained and used import licences for garlic pursuant to Commission Regulation (EC) No 565/2002, or 'A' licences under Regulation (EC) No 1870/2005 or this Regulation in each of the previous three completed import tariff quota periods; and

[[F1]b imported into the Union at least 50 tonnes of fruits and vegetables as referred to in Article 1(1)(i) of Council Regulation (EC) No 1234/2007[10] or exported to third countries at least 50 tonnes of garlic during the last completed import tariff quota period preceding the submission of their application.**]**

For the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, for the 2007/2008 import tariff quota period:

a point (a) of the first subparagraph shall not apply; and

b 'import into the Community' shall be understood as import from countries of origin other than the Member States of the Community as constituted at 31 December 2006.

For Bulgaria and Romania, for the 2007/2008, 2008/2009, 2009/2010 and 2010/2011 import tariff quota periods:

a point (a) of the first subparagraph shall not apply; and

b 'import into the Community' shall be understood as import from countries of origin other than the Member States of the Community as constituted at 1 January 2007.

[[F2]For Croatia, for the 2013/2014, 2014/2015 and 2015/2016 import tariff quota periods:

a point (a) of the first subparagraph shall not apply; and

b 'import into the Union' shall be understood as import from countries of origin other than the Member States of the Union as constituted at 1 July 2013.**]**

3 **[**[F1]New importers shall mean operators other than those referred to in paragraph 2, who have imported into the Union at least 50 tonnes of fruit and vegetables as referred to in Article 1(1)(i) of Regulation (EC) No 1234/2007 or have exported to third countries at least 50 tonnes of garlic in each of the previous two completed import tariff quota periods, or in each of the previous two calendar years preceding the submission of their application.**]**

The Member States shall choose and apply one of the two methods referred to in the first subparagraph to all new importers, in accordance with objective criteria and in such a way as to ensure equal treatment between operators.

4 Traditional and new importers shall submit, at the time of their first application for import licences for a given import tariff quota period, to the competent authorities of the Member State in which they are established and in which they are registered for VAT purposes, the proof that the criteria laid down in paragraphs 2 or 3 are met.

[[F1]Proof of trade with third countries shall be furnished exclusively either by means of the customs documents of release for free circulation, duly endorsed by the customs authorities and containing a reference to the applicant concerned as being the consignee, or by means of the customs document of exportation duly endorsed by the customs authorities.**]**

[[F3]Customs agents or their representatives shall not apply for import licences under the quotas falling within the scope of this Regulation.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 328/2010 of 21 April 2010 amending Regulation (EC) No 341/2007 opening and providing for the administration of tariff quotas and introducing a