COMMISSION REGULATION (EC) No 1498/2002

of 21 August 2002

establishing administrative procedures for the 2003 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 138/96 [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 1138/98 [4], introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex I to that Regulation.

(2) The Commission has adopted a proposal for a Council Regulation on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China and amending Council Regulation (EC) No 519/94 on common rules for imports from certain third countries (com (2002) 342 final). This proposal for a Council Regulation, which, *inter alia*, provides for an increase in the quotas for 2002 and 2003 reflecting the phasing out table provided for in China's Protocol of Accession to the WTO, has not yet been adopted by the Council. Therefore, the quota allocation in this Commission Regulation has still been based on Annex II to Regulation (EC) No 519/94. Following the adoption of the abovementioned Council Regulation the Commission envisages to increase the quota share accordingly.

(3) The provisions of Regulation (EC) No 520/94 are applicable to those quotas.

(4) 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.

(5) 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 2003 quotas should accordingly be adopted before the start of the quota year.

(6) 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.

(7) 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.

(8) 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. The years 1998 or 1999 are 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.

(9) 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 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(4) 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.

[1] OJ L 66, 10.3.1994, p. 1.
[2] OJ L 21, 27.1.1996, p. 1.
[3] OJ L 67, 10.3.1994, p. 89.
[4] OJ L 159, 3.6.1998, p. 1.
[5] OJ L 87, 31.3.1994, p. 47.
[6] OJ L 131, 1.6.1996, p. 47.

(10) As explained in recital 8 in Commission Regulation (EC) No 1394/2001 [1], 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 [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.

(11) In order to take account of the fact that the number of traditional importers has increased in relation to non-traditional importers, it is appropriate to increase the quota share reserved to traditional importers from 70 % to 75 % and to decrease the share of non-traditional importers from 30 % to 25 %.

(12) 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.

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

(14) 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.

(15) 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 2003.

(16) 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 2003 specific provisions for the administration of the quantitative quotas referred to in Annex II to Regulation (EC) No 519/94.

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 other 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 I.

(b) Operators that are deemed to be related persons as defined by Article 143 of Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Customs Code may only submit single license 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 Commission Regulation (EC) No 738/94, as amended by Article 1 of Commission Regulation (EC) No 983/96, the license 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 Communities* until 15.00, Brussels time, on 21 October 2002.

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.

[1] OJ L 187, 10.7.2001, p. 31.
[2] OJ L 253, 11.10.1993, p. 1.

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 at 4 November 2002 10 a.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 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 25 November 2002.

Article 7

Import licences shall be valid for one year, starting on 1 January 2003.

Article 8

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

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

Done at Brussels, 21 August 2002.

For the Commission

Pascal LAMY

Member of the Commission