COMMISSION REGULATION (EC) No 37/2004

of 9 January 2004

amending Council Regulation (EC) No 747/2001 as regards the Community tariff quotas and reference quantities for certain agricultural products originating in Morocco

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 747/2001 of 9 April 2001 providing for the management of Community tariff quotas and of reference quantities for products eligible for preferences by virtue of agreements with certain Mediterranean countries and repealing Regulations (EC) No 1981/94 and (EC) No 934/95 [1], and in particular Article 5(1)(b) thereof,

Whereas:

(1) An Agreement in the form of an Exchange of Letters has been concluded on 22 December 2003 between the European Community and the Kingdom of Morocco concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 3 to the EC-Morocco Association Agreement. That new Agreement applies from 1 January 2004, with the exception of the Articles 2, 4 and 5 of the new agricultural Protocol 1, hereinafter 'the new Protocol 1', concerning the arrangements applicable to imports into the Community of agricultural products originating in Morocco. Those articles apply from 1 October 2003 in relation to the concessions provided for tomatoes.

(2) The new Protocol 1 provides for new tariff concessions and for changes to the existing concessions laid down in Annex II to Regulation (EC) No 747/2001, some of which fall within Community tariff quotas and reference quantities.

(3) For certain agricultural products for which the existing tariff concessions apply within reference quantities, the new Protocol 1 provides for the exemption of customs duties within tariff quotas or for the exemption of customs duties for unlimited volumes.

(4) To implement the tariff concessions provided for in the new Protocol 1, it is necessary to amend Regulation (EC) No 747/2001.

(5) For the purpose of calculating tariff quotas for the first year of application, it should be provided that, except for tomatoes of CN code 0702 00 00, where the quota period starts before the date on which the new Agreement enters into force, the tariff quota volumes are to be reduced in proportion to that part of the period which has already elapsed before that date.

(6) In order to facilitate the management of certain existing tariff quotas provided for in Regulation (EC) No 747/2001, the quantities imported within the framework of those quotas should be taken into account for charging on the tariff quotas opened in accordance with Regulation (EC) No 747/2001, as amended by this Regulation.

(7) The new Agreement provides that tariff quotas for fresh or chilled tomatoes are to be applied from 1 October 2003. The quantities which have been put into free circulation in the Community from 1 October 2003 with the benefit of the existing tariff quotas for fresh or chilled tomatoes by virtue of Regulation (EC) No 747/2001, should therefore be taken into account for charging on the tariff quotas opened in accordance with Regulation (EC) No 747/2001, as amended by this Regulation.

(8) Under the new Protocol 1, the volume of the additional tariff quota for fresh and chilled tomatoes applicable from 1 November to 31 May is to depend each year on the total volume of tomatoes originating in Morocco put into free circulation in the Community during the preceding period from 1 October to 31 May. Consequently, the Commission should, before 1 November each year, review the volumes put into free circulation during the preceding period from 1 October to 31 May, and should adopt provisions to implement any necessary adjustment of the volume of the additional tariff quota.

(9) For the tariff quotas for fresh or chilled tomatoes, it should be provided in accordance with the new Protocol 1 that, during each import season from 1 October to 31 May, unused quantities of the monthly tariff quotas may be transferred on two specific dates to the additional tariff quota applicable for that import season.

(10) In accordance with the new Protocol 1, the volumes of the tariff quotas for certain products should be increased from 1 January 2004 to 1 January 2007, on the basis of four annual and equal instalments, each corresponding to 3 % of those volumes.

(11) Since the provisions provided for in this Regulation should apply from the date of application of the new Agreement, it is appropriate for this Regulation to enter into force as soon as possible.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

[1] OJ L 109, 19.4.2001, p. 2. Regulation as last amended by Commission Regulation (EC) No 209/2003 (OJ L 28, 4.2.2003, p. 30).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 747/2001 is amended as follows:

1. The following *Article 3a* is inserted:

'*Article 3a*

Special provisions for the tariff quotas for tomatoes originating in Morocco

For tomatoes of CN code 0702 00 00 put into free circulation in every period from 1 October to 31 May (hereinafter "import season") drawings on the monthly tariff quotas applicable under order No 09.1104 from 1 October to 31 December and from 1 January to 31 March respectively, shall be stopped each year on 15 January and on the second working day in the Commission following 1 April. On the following working day in the Commission, Commission services shall determine the unused balance of each of these tariff quotas and shall make it available within the additional tariff quota applicable for that import season under the order number 09.1112.

From the dates onwards on which the monthly tariff quotas are stopped, any retroactive drawings from any of the stopped monthly tariff quotas and any subsequent returns of unused volumes to any of the stopped monthly tariff quotas shall be made on the additional tariff quota applicable for that import season.'

2. Annex II is replaced by the text set out in the Annex to this Regulation.

Article 2

1. For the quota period still open on 1 January 2004, the quantities which pursuant to Regulation (EC) No 747/2001 have been put into free circulation in the Community within the tariff quotas with order numbers 09.1115, 09.1122, 09.1130, 09.1133, 09.1135, 09.1136 and 09.1137, shall be taken into account for charging on the respective tariff quotas laid down in Annex II to Regulation (EC) No 747/2001, as amended by this Regulation.

2. The quantities of tomatoes of CN code 0702 00 00 which pursuant to Regulation (EC) No 747/2001 have been put into free circulation in the Community from 1 October 2003 within the tariff quotas with order numbers 09.1116, 09.1189 and 09.1190, shall be taken into account for charging on the tariff quotas opened for those products from that date in accordance with Annex II to Regulation (EC) No 747/2001, as amended by this Regulation.

Article 3

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

It shall apply from 1 January 2004, with exception of the tariff quotas indicated in the third and fourth paragraph.

The tariff quotas under order No 09.1104 for tomatoes of CN code 0702 00 00 shall apply from 1 October 2003.

The tariff quota under order No 09.1112 for tomatoes of CN code 0702 00 00 shall apply from 1 November 2003.

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

Done at Brussels, 9 January 2004.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

ANNEX

'ANNEX II

MOROCCO

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of the current regulation. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Tariff quotas

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1135			Fresh cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes:	from 15.10.2003 to 31.5.2004	3 000	Exemption
	0603 10 10		— Roses			
	0603 10 20		— Carnations			
	0603 10 40		— Gladioli			
	0603 10 50		— Chrysanthemums	from 15.10.2004 to 31.5.2005	3 090	
				from 15.10.2005 to 31.5.2006	3 180	
				from 15.10.2006 to 31.5.2007	3 270	
				from 15.10.2007 to 31.5.2008 and for each period thereafter from 15.10 to 31.5	3 360	
09.1136			Fresh cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes:	from 15.10.2003 to 14.5.2004	2 000	Exemption
	0603 10 30		— Orchids			
	0603 10 80		— Other	from 15.10.2004 to 14.5.2005	2 060	
				from 15.10.2005 to 14.5.2006	2 120	
				from 15.10.2006 to 14.5.2007	2 180	
				from 15.10.2007 to 14.5.2008 and for each period thereafter from 15.10 to 14.5	2 240	
09.1115	ex 0701 90 50		New potatoes and so-called "new potatoes", fresh or chilled	from 1.12.2003 to 30.4.2004	120 000	Exemption
	ex 0701 90 90	10		from 1.12.2004 to 30.4.2005	123 600	
				from 1.12.2005 to 30.4.2006	127 200	
				from 1.12.2006 to 30.4.2007	130 800	
				from 1.12.2007 to 30.4.2008 and for each period thereafter from 1.12 to 30.4	134 400	

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.10 to 31.10	10 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.11 to 30.11	26 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.12 to 31.12	30 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.1 to 31.1	30 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.2 to 28/29.2	30 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.3 to 31.3	30 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.4 to 30.4	15 000	Exemption (1) (2)
09.1104	0702 00 00		Tomatoes, fresh or chilled	from 1.5 to 31.5	4 000	Exemption (1) (2)
09.1112	0702 00 00		Tomatoes, fresh or chilled	from 1.11.2003 to 31.5.2004	15 000	Exemption (1) (2)
				from 1.11.2004 to 31.5.2005	25 000 (3)	Exemption (1) (2)
				from 1.11.2005 to 31.5.2006	35 000 (4)	Exemption (1) (2)
				from 1.11.2006 to 31.5.2007 and for each period thereafter from 1.11 to 31.5	45 000 (5)	Exemption (1) (2)
09.1127	0703 10 11 0703 10 19		Onions, including wild onions of the species *Muscari comosum*, fresh or chilled	from 15.2 to 15.5.2004	8 240	Exemption
	ex 0709 90 90	50		from 15.2 to 15.5.2005	8 480	
				from 15.2 to 15.5.2006	8 720	
				from 15.2 to 15.5.2007 and for each period thereafter from 15.2 to 15.5	8 960	
09.1102	0703 10 90 0703 20 00 0703 90 00		Shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled	from 1.1. to 31.12.2004	1 030	Exemption
				from 1.1. to 31.12.2005	1 060	
				from 1.1. to 31.12.2006	1 090	
				from 1.1. to 31.12.2007 and for each year thereafter	1 120	

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes net weight)	Quota duty
09.1106	ex 0704		Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled, excluding Chinese cabbage	from 1.1. to 31.12.2004	515	Exemption
				from 1.1. to 31.12.2005	530	
				from 1.1. to 31.12.2006	545	
				from 1.1. to 31.12.2007 and for each year thereafter	560	
09.1109	ex 0704 90 90	20	Chinese cabbage, fresh or chilled	from 1.1. to 31.12.2004	206	Exemption
				from 1.1. to 31.12.2005	212	
				from 1.1. to 31.12.2006	218	
				from 1.1. to 31.12.2007 and for each year thereafter	224	
09.1108	0705 11 00		Cabbage lettuce (head lettuce), fresh or chilled	from 1.1. to 31.12.2004	206	Exemption
				from 1.1. to 31.12.2005	212	
				from 1.1. to 31.12.2006	218	
				from 1.1. to 31.12.2007 and for each year thereafter	224	
09.1110	0705 19 00		— Lettuce (*Lactuca sativa*), fresh or chilled, other than cabbage lettuce	from 1.1. to 31.12.2004	618	Exemption
	0705 29 00		— Chicory (*Cichorium* spp.), fresh or chilled, other than witloof chicory	from 1.1. to 31.12.2005	636	
	0706		— Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled	from 1.1. to 31.12.2006	654	
				from 1.1. to 31.12.2007 and for each year thereafter	672	
09.1137	0707 00 05		Cucumbers, fresh or chilled	from 1.11.2003 to 31.5.2004	5 429	Exemption [1] [6]
				for each period thereafter from 1.11 to 31.5	5 600	
09.1113	0707 00 90		Gherkins, fresh or chilled	from 1.1. to 31.12.2004	103	Exemption
				from 1.1. to 31.12.2005	106	
				from 1.1. to 31.12.2006	109	
				from 1.1. to 31.12.2007 and for each year thereafter	112	
09.1138	0709 10 00		Globe artichokes, fresh or chilled	from 1.11 to 31.12	500	Exemption [1] [7]