COMMISSION REGULATION (EC) No 728/97

of 24 April 1997

redistributing unused portions of the 1996 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 Articles 2 (5) and Articles 14 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 [3], as last amended by Regulation (EC) No 1897/96 [4], 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 [5], as amended by Regulation (EC) No 983/96 [6], laying down general rules for the implementation of Regulation (EC) No 520/94; whereas these provisions apply to the administration of the above quotas subject to the provisions of this Regulation;

Whereas, in accordance with Article 20 of Regulation (EC) No 520/94, the competent authorities of the Member States notified the Commission of the quantities of quotas assigned in 1996 and not used;

Whereas the unused quantities could not be redistributed in time to be used before the end of the 1996 quota year;

Whereas examination of the data received for each of the products in question indicates that the quantities not used in the 1996 quota year should be redistributed in 1997, up to a limit of the amounts set out in Annex I to this Regulation;

Whereas, the different administrative methods provided for by Regulation (EC) No 520/94 have been considered, 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 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;

Whereas quantities redistributed under this Regulation should be divided using the same criteria as for the allocation of the 1997 quotas;

Whereas the reference period used for the apportionment of the 1997 quotas, consisting of the year 1994, should again be applied to the allocation of the share set aside for traditional importers, since it continues to reflect the normal trend of trade flows for the products in question; whereas, therefore, traditional importers must prove that they imported products originating in China subject to the relevant quotas in the course of 1994;

Whereas it is necessary to simplify the formalities to be fulfilled by traditional importers who already hold import licences issued when the 1997 Community quotas were allocated; whereas the competent administrative authorities already possess the requisite evidence of 1994 imports for all traditional importers; whereas the latter need therefore only enclose a copy of their previous licences with their new licence applications;

Whereas measures should be taken to provide the best conditions for the allocation of that portion of the quota reserved for non-traditional importers with a view to optimum use of quotas, particularly as examination of the data received from the competent authorities of the Member States reveals that non-traditional importers made less use of the quotas; whereas, to this end, it is appropriate to provide for that portion to be allocated in proportion to the quantities requested, on the basis of a simultaneous examination of import licence applications

[1] OJ No L 66, 10. 3. 1994, p. 1.
[2] OJ No L 21, 27. 1. 1996, p. 6.
[3] OJ No L 67, 10. 3. 1994, p. 89.
[4] OJ No L 250, 2. 10. 1996, p. 1.
[5] OJ No L 87, 31. 3. 1994, p. 47.
[6] OJ No L 131, 1. 6. 1996, p. 47.

actually lodged, and grant access only to importers who can prove that they obtained and made use of at least 80 % of an import licence for the product in question during the 1996 quota year and to importers who did not obtain an import licence for the product in question during the 1996 quota year; whereas the amount that any non-traditional importer may request should also be restricted to a set volume or value;

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], as last amended by Regulation (EC) No 82/97 [2];

Whereas in view of the special nature of transactions concerning products subject to quota, in particular the time needed for transport, and also the need to prevent any excessive accumulation of imports, the import licences should expire on 30 November 1997;

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

This Regulation lays down specific provisions for the redistribution in 1997 of portions of the quantitative quotas referred to in Annex II to Council Regulation (EC) No 519/94 which were not used in the 1996 quota year.

The quantities not used in the 1996 quota year shall be redistributed up to the limit of the volumes or values set out in Annex I to this Regulation.

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 II to this Regulation.

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. Only importers who can prove that they imported at least 80 % of the volume/value of the product for which they were granted an import licence pursuant to Commission Regulations (EC) No 2319/95 [3] and/or (EC) No 899/96 [4] and importers who declare that they did not obtain an import licence pursuant to Commission Regulations (EC) No 2319/95 and/or (EC) No 899/96 shall be entitled to apply for import licences.

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 24 May 1997 at 3 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 set aside for traditional importers, 'traditional' importers shall mean importers who can show that they have imported goods in the calendar year 1994.

2. The evidence referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release for free circulation during calendar year 1994 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 No L 302, 19. 10. 1992, p. 1.
[2] OJ No L 17, 21. 1. 1997, p. 1.
[3] OJ No L 234, 3. 10. 1995, p. 16.
[4] OJ No L 121, 21. 5. 1996, p. 8.

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 year 1994 carried out by themselves or, where applicable, by the operator whose activities they have taken over,

— applicants already holding import licences issued for 1997 under Commission Regulation (EC) No 1657/96 [1], 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 during the reference period year.

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

Article 5

Member States shall inform the Commission no later than 7 June 1997 at 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 year of the reference period referred to in Article 4 (1) of this Regulation.

Article 6

No later than 12 June 1997 the Commission shall adopt the quantitative criteria to be used by the competent national authorities for the purpose of meeting importers' applications.

Article 7

Import licences shall be valid up to 30 November 1997. The validity shall not be extendable.

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, 24 April 1997.

For the Commission

Leon BRITTAN

Vice-President

[1] OJ No L 210, 20. 8. 1996, p. 12.

ANNEX I

Volumes/values of quantities to be redistributed

Product description	HS/CN code	Quantities redistributed
Footwear falling within HS/CN codes	ex 6402 99 (1)	9 242 791 pairs
	6403 51 6403 59	1 337 516 pairs
	ex 6403 91 (1) ex 6403 99 (1)	2 928 143 pairs
	ex 6404 11 (2)	6 804 272 pairs
	6404 19 10	16 239 641 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	10 756,07 tonnes
Ceramic tableware, kitchenware, other than of porcelain or china falling within HS/CN code	6912 00	7 823,54 tonnes
Glassware of a kind used for table, kitchen, toilet, etc., falling within HS/CN code	7013 (3)	5 863,69 tonnes
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 319 850 908

(1) Excluding 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) Excluding:

(a) footwear which is designed for a sporting activity and has, or has a provision for the attachment of, spikes, sprigs, stops, clips, bats 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.

(3) Excluding glass-fronted clip-frames, consisting of a mechanically-gathered glass sheet with worked edges, a printed paper sheet and a piece of hardboard to support the picture, held together by clips of base metal.

ANNEX II

Allocation of the quotas

Product description	HS/CN code	Portion reserved for traditional importers	Portion reserved for other importers
Footwear falling within HS/CN codes	ex 6402 99 (1)	7 856 372 pairs (85 %)	1 386 419 pairs (15 %)
	6403 51 6403 59	1 136 889 pairs (85 %)	200 627 pairs (15 %)
	ex 6403 91 (1) ex 6403 99 (1)	2 488 922 pairs (85 %)	439 221 pairs (15 %)
	ex 6404 11 (2)	5 783 631 pairs (85 %)	1 020 641 pairs (15 %)
	6404 19 10	13 803 695 pairs (85 %)	2 435 946 pairs (15 %)
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	9 142,66 tonnes (85 %)	1 613,41 tonnes (15 %)
Ceramic tableware, kitchenware, other than of porcelain or china falling within HS/CN code	6912 00	6 650,01 tonnes (85 %)	1 173,53 tonnes (15 %)
Glassware of a kind used for table, kitchen, toilet, etc., falling within HS/CN code	7013 (3)	4 984,14 tonnes (85 %)	879,55 tonnes (15 %)
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 255 880 727 (80 %)	ECU 63 970 182 (20 %)

(1) Excluding 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) Excluding:

(a) footwear which is designed for a sporting activity and has, or has a provision for the attachment of, spikes, sprigs, stops, clips, bats 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.

(3) Excluding glass-fronted clip-frames, consisting of a mechanically-gathered glass sheet with worked edges, a printed paper sheet and a piece of hardboard to support the picture, held together by clips of base metal.

ANNEX III

Maximum quantity which may be requested by each importer other than traditional

Product description	HS/CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 (1)	4 000 pairs
	6403 51 6403 59	4 000 pairs
	ex 6403 91 (1) ex 6403 99 (1)	4 000 pairs
	ex 6404 11 (2)	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	4 tonnes
Ceramic tableware, kitchenware, other than of porcelain or china falling within HS/CN code	6912 00	4 tonnes
Glassware of a kind used for table, kitchen, toilet, etc. falling within HS/CN code	7013 (3)	3 tonnes
Toys falling within HS/CN codes	9503 41 9503 49 9503 90	ECU 90 000

(1) Excluding 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) Excluding:

(a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats 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.

(3) Excluding glass-fronted clip-frames, consisting of a mechanically-gathered glass sheet with worked edges, a printed paper sheet and a piece of hardboard to support the picture, held together by clips of base metal.