

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

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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 For the sake of clarity, that Regulation should be repealed and replaced by a new regulation from 1 April 2007.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

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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.

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- (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.

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(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:

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- (1) [OJ L 297, 21.11.1996, p. 1](#). Regulation as last amended by Commission Regulation (EC) No 47/2003 ([OJ L 7, 11.1.2003, p. 64](#)).
- (2) [OJ L 142, 29.5.2001, p. 8](#).
- (3) [OJ L 142, 29.5.2001, p. 7](#).
- (4) [OJ L 154, 8.6.2006, p. 24](#).
- (5) [OJ L 154, 8.6.2006, p. 22](#).
- (6) [OJ L 300, 17.11.2005, p. 19](#). Regulation as last amended by Regulation (EC) No 2000/2006 ([OJ L 379, 28.12.2006, p. 37](#)).
- (7) [OJ L 238, 1.9.2006, p. 13](#). Regulation as amended by Regulation (EC) No 289/2007 ([OJ L 78, 17.3.2007, p. 17](#)).
- (8) [OJ L 152, 24.6.2000, p. 1](#). Regulation as last amended by Regulation (EC) No 1913/2006 ([OJ L 365, 21.12.2006, p. 52](#)).
- (9) [OJ L 253, 11.10.1993, p. 1](#). Regulation as last amended by Regulation (EC) No 214/2007 ([OJ L 62, 1.3.2007, p. 6](#)).

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