REGULATION (EEC) No 368/74 OF THE COUNCIL

of 4 February 1974

opening, allocating and providing for the administration of a Community tariff quota for men's and boys' outer garments falling within heading No 61.01 of the Common Customs Tariff, originating in Cyprus

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty, establishing the European Economic Community and in particular Article 113 thereof;

Having regard to the proposal from the Commission;

Whereas the Agreement [1] establishing an Association between the European Economic Community and the Republic of Cyprus, hereinafter called 'the Agreement', and the Protocol [2] laying down certain provisions concerning that Agreement as a result of the Accession of new Member States to the European Economic Community, hereinafter called 'the Protocol', provide for the opening of an annual Community tariff quota of 500 metric tons of men's and boys' outer garments falling within heading No 61.01 of the Common Customs Tariff, originating in Cyprus; whereas pursuant to the joint declaration on Article 2 of the Protocol the tariff quota should be allocated among the Member States as follows: 100 metric tons for the Community as originally constituted and 400 metric tons for the new Member States; whereas Article 1 of Annex I to the Agreement provides that the duties applicable to the quota shall be equal to 30% of the Common Customs Tariff duties; whereas, as regards the duties applicable to goods within the limits of the quota by the new Member States, the special provisions of the Protocol and of the Act of Accession [3] should be observed; whereas to comply with the special provisions of the Protocol, separate arrangements should be made for the Member States of the Community as originally constituted on the one hand and for the new Member States on the other hand;

Whereas as regards in particular the Community as originally constituted;

— it is necessary to ensure to all importers equal and uninterrupted access to the quota and uninterrupted application of the rates laid down for the quota to all imports of the products concerned until the quota has been used up;

— in the light of the principles elicited above, the Community nature of the quota may be best preserved by an arrangement allocating it among the Member States; whereas in order to reflect more accurately the actual development of the market in the products concerned, such allocation should be in proportion to the needs of the Member States, assessed by reference to both statistics of each State's imports of the said products originating in Cyprus over a representative reference period and the economic outlook for the quota period concerned;

— however, as during the past three years no such products originating in Cyprus have been imported and as no forecast can be made for 1974, an initial share percentage of 25% allocated to each of the Member States concerned would ensure a fair distribution among them;

— in order to take into account import trends for the products concerned in the different Member States, the quota amount should be divided into two tranches, the first tranche being allocated among the Member States and the second forming a reserve intended ultimately to cover the requirements of those Member States which have used up their initial share; in order to ensure a certain degree of security to importers in each Member State, the first tranche of the quota should be determined at a level which, under present circumstances, may be approximately 75%;

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[1] OJ No L 133, 21. 5. 1973, p. 1.
[2] OJ No L 133, 21. 5. 1973, p. 88.
[3] OJ No L 73, 27. 3. 1972, p. 14.

— the initial share of the Member States may be used up more or less quickly; whereas in order to take this fact into account and to avoid any break in continuity, it is important that a Member State having almost used up its initial share should draw an additional share from the reserve; whereas this must be done by each Member State as and when each of its additional shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial and additional shares must be available for use until the end of the quota period; whereas this method of administration calls for close cooperation between Member States and the Commission which must, in particular, be able to observe the extent to which the quota amount is used and inform Member States thereof;

— if, at a specified date in the quota period, a considerable balance remains in one or other Member State, it is essential that that Member State pays a large amount of it back into the reserve, in order to avoid a part of one or other of the Community quotas remaining unused in one Member State when it could be used in others;

— since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united in and jointly represented by the Benelux Economic Union, all transactions concerning the administration of shares granted to the abovementioned Economic Union may be carried out by any of its members;

Whereas, as regards the new Member States:

— pursuant to the Protocol a gross amount of 400 metric tons is allocated to the new Member States; whereas the same general criteria for allocation as those used for the original Member States should be applied; whereas, however, the United Kingdom has been the sole importer of such goods from Cyprus; whereas in view of these factors and the need to ensure a fair allocation among the Member States, the percentage shares of that quantity may be established as follows:

Denmark	27
Ireland	3
United Kingdom	70

— the quota duties shall be calculated by the new Member States in accordance with Articles 3, 4, 5, 6 and 7 of the Protocol;

— it is necessary to ensure to all importers equal and uninterrupted access to the quota and uninterrupted application of the rates laid down for this quota to all imports of the products concerned, until the quota has been used up,

HAS ADOPTED THIS REGULATION:

Article 1

Until 31 December 1974 a tariff quota of 500 metric tons shall be opened within the Community in respect of men's and boys' outer garments falling within heading No 61.01 of the Common Customs Tariff, originating in Cyprus. This quota shall be allocated and administered in accordance with the provisions set out below.

SECTION I

Provisions applicable to the Community as originally constituted

Article 2

The Common Customs Tariff duty shall be partially suspended at the rate of 5·1% in respect of 100 metric tons of the quota referred to in Article 1.

Article 3

1. A first tranche, amounting to 72 metric tons of the amount specified in Article 2, shall be allocated among the Member States; the shares which, subject to Article 6, are valid until 31 December 1974, shall be as follows:

Benelux	18 metric tons
Germany	18 metric tons
France	18 metric tons
Italy	18 metric tons

2. The second tranche of 28 metric tons shall constitute the reserve.

Article 4

1. If 90% or more of the initial share of a Member State laid down in Article 3 (1), or 90% of that share less the amount returned into the reserve where

the provisions of Article 6 have been applied, has been exhausted, that Member State shall proceed without delay, by notifying the Commission, to draw a second share, equal to 15% of its initial share, rounded up to the next unit where appropriate, to the extent that the reserve is sufficient.

2. If, after its initial share has been exhausted, 90% or more of the second share drawn by a Member State has been used, that Member State shall proceed, in accordance with the conditions laid down in paragraph 1, to draw a third share, equal to 7·5% of its initial share, rounded up to the next unit.

3. If, after its second share has been exhausted, 90% or more of the third share drawn by a Member State has been used, that Member State shall proceed, in the same way, to draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. Notwithstanding paragraphs 1, 2 and 3, a Member State may proceed to draw shares smaller than those fixed in those paragraphs if there is reason to believe that they might not be used up. They shall inform the Commission of the reasons which led them to apply this paragraph.

Article 5

Each of the additional shares drawn pursuant to Article 4 shall be valid until 31 December 1974.

Article 6

If, by 15 September 1974, a Member State has not used up its initial share, it shall, not later than 10 October 1974, return to the reserve the unused portion of this share in excess of 20% of the initial amount. It may return a larger quantity if there is reason to believe that such quantity might not be used.

The Member States shall, not later than 10 October 1974, notify the Commission of the total imports of the said goods effected up to and including 15 September 1974 and charged against the Community quota and, where appropriate, the proportion of their initial share that is being returned to the reserve.

Article 7

The Commission shall keep an account of the shares opened by the Member States in accordance with Articles 3 and 4 and shall inform each state of the extent to which the reserve has been used up as soon as it receives the notifications.

The Commission shall, not later than 15 October 1974, notify the Member States of the amount in the reserve after the return of shares pursuant to Article 6.

The Commission shall ensure that any drawing which uses up the reserve is limited to the balance available and for this purpose shall specify the amount thereof to the Member State which makes the last drawing.

Article 8

The Member States shall take all appropriate measures to ensure that when additional shares are drawn pursuant to Article 4 it is possible for changes to be made without interruption against their accumulated shares of the Community quota.

SECTION II

Provisions applicable to the new Member States

Article 9

Within the limits of the tariff quota referred to in Article 1, the new Member States shall apply the duties laid down in the relevant provisions of the Act of Accession, the Agreement and the Protocol.

Article 10

Within the quota, 400 metric tons shall be allocated to the new Member States as follows:

Denmark	110 metric tons
Ireland	10 metric tons
United Kingdom	280 metric tons

SECTION III

General provisions

Article 11

1. The Member States shall ensure that importers of the said goods established in their territory have free access to the share allocated to them.

2. The Member States shall charge imports of the said goods against their share as and when: he goods are entered for home use.

3. The extent to which a Member State used up its share shall be determined on the basis of the imports charged in accordance with paragraph 2.

Article 12

Member States shall inform the Commission at regular intervals of imports of the said products actually charged against their shares.

Article 13

The Member States and the Commission shall co-operate closely in order to ensure that this Regulation is observed.

Article 14

The tariff quota laid down in this Regulation shall be opened for 1974.

This Regulation shall enter into force on the third day following 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, 4 February 1974.

For the Council

The President

W. SCHEEL