REGULATION (EEC) No 3159/75 OF THE COUNCIL

of 24 November 1975

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 (1976)

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 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;

Whereas it is in particular necessary to ensure to all Community importers equal and uninterrupted access to the abovementioned quota and uninterrupted application of the rate laid down for that quota to all imports of the product concerned into all Member States until the quota has been used up; whereas, having regard to the principles mentioned above, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect more accurately the actual development of the market in the product concerned, such allocation should be in proportion to the needs of the Member States, assessed by reference to both the statistics of each State's imports of the said goods from Cyprus over a representative period and the economic outlook for the quota period concerned;

Whereas during the past three years no such products originating in Cyprus have been imported into the Community as originally constituted and whereas a minimal amount has been imported into only one of the new Member States; whereas no forecast can be made for 1976; whereas to ensure fair distribution of the two quota amounts between the Member States concerned each Member State should make a significative contribution to the relevant quota amount; whereas such contributions may approximately correspond to the following percentages:

Benelux	28
Germany	19
France	28
Italy	25
Denmark	45
Ireland	5
United Kingdom	50

Whereas, in order to take account of import trends for the products in question in the Member States concerned, the quota amount should be divided into two instalments, the first instalment being allocated among the same Member States, the second instalment constituting a reserve intended to cover the later requirements of Member States which have used up their initial quota shares; whereas in order

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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.

to ensure a certain degree of security to importers in each Member State, the first instalment of the quota should be fixed in this case at approximately 75 and 50% respectively;

Whereas the initial quota shares of the Member States may be used up at different times; whereas, in order to take this fact into account and avoid any break in continuity, it is important that any Member State having used up almost the whole of its initial quota 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 quota shares is almost entirely used up, and repeated as many times as the reserves allow; whereas the initial and additional quota 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 amounts are used and inform Member States thereof;

Whereas 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 the Community tariff quotas remaining unused in one Member State when it could be used in others;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united in and represented by the Benelux Economic Union, any measure concerning the administration of the quota shares allocated to that economic union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 January to 31 December 1976 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.

Article 2

1. 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.

2. Within the limits of 400 metric tons 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 3

1. A first instalment, amounting to 72 metric tons of the amount specified in Article 2 (1), shall be allocated among the Member States of the Community as originally constituted; the shares, which subject to Article 6 are valid until 31 December 1976, shall be as follows:

Germany	20 metric tons,
Benelux	14 metric tons,
France	20 metric tons,
Italy	18 metric tons.

The second instalment of 28 metric tons shall constitute the relevant reserve.

2. A first instalment, amounting to 200 metric tons of the amount mentioned in Article 2 (2), shall be distributed between the new Member States; the shares, which subject to Article 6 are valid until 31 December 1976, shall be as follows:

Denmark	90 metric tons,
Ireland	5 metric tons,
United Kingdom	105 metric tons.

The second instalment of 200 metric tons shall constitute the relevant reserve.

Article 4

1. If 90% or more of the initial share of a Member State, as laid down in Article 3, or 90% of that share less the amount returned into the relevant 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 relevant 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 relevant 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 1976.

Article 6

The Member States shall return to the reserve, not later than 1 October 1976, the unused portion of their initial share which, on 15 September 1976, is in excess of 20% of the initial amount. They may return a greater portion if there are grounds for believing that such portion may not be used in full.

The Member States shall, not later than 1 October 1976, notify the Commission of the total imports of the said goods effected up to and including 15 September 1976, and charged against the Community quota and, where appropriate, the proportion of their initial share that is being returned to the relevant reserve.

Article 7

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

The Commission shall, not later than 5 October 1976, notify the Member States of the amounts in the reserves after the return of shares pursuant to Article 6.

The Commission shall ensure that any drawing which uses up one or the other 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

1. 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.

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

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

4. 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 3.

Article 9

On receipt of a request from the Commission, Member States shall inform it of imports actually charged against their shares.

Article 10

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

Article 11

This Regulation shall enter into force on 1 January 1976.

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

Done at Brussels, 24 November 1975.

For the Council

The President

B. VISENTINI