COUNCIL REGULATION (EEC) No 3044/76

of 9 December 1976

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 Malta (1977)

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 between the European Economic Community and Malta [1], signed on 5 December 1970, and the Protocol laying down certain provisions concerning that Agreement as a result of the accession of new Member States to the European Economic Community [2], provide for the opening by the Community of an annual Community tariff quota of 730 metric tons of men's and boys' outer garments falling within heading No 61.01 of the Common Customs Tariff, originating in Malta; whereas, pursuant to the joint declaration annexed to this Protocol, the tariff quota should be allocated among the Member States as follows: 300 metric tons for the Community as originally constituted and 430 metric tons for the new Member States; whereas the first stage of the Agreement ends on 30 June 1977 and, pursuant to Annex I to the Agreement the *pro rata temporis* clause would apply to the volume of the quota; whereas the Community intends to maintain its trading relations with Malta; whereas the provisions governing the second stage should not be less favourable than those laid down for the first; whereas in order not to disrupt trading patterns for the products in question, the Community tariff quota should be opened for the whole of 1977; whereas, pursuant to Annex I to the said Agreement, the quota duty is equal to 30% of the Common Customs Tariff duty in respect of the products concerned; whereas to comply with the special provisions of the said Protocol, separate arrangements should be made for Member States of the Community as originally constituted on the one hand, and for the new Member States on the other;

Whereas, since 1 January 1974, Malta has been granted treatment no less favourable than that enjoyed by countries eligible for the generalized tariff preferences; whereas to this end therefore the duty rates should be totally suspended and the quota volume increased to 815 metric tons for the year 1977, of which 364 metric tons should be allocated to the Member States of the Community as originally constituted and 451 metric tons to the new Member States;

Whereas it is in particular necessary to ensure for 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 products 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 may 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 products 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 Malta over a representative reference period and the economic outlook for the quota period concerned;

Whereas during the last three years for which statistics are available, the corresponding imports by each of the Member States represent the following percentages of the imports into the Community from Malta of the products concerned:

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[1] OJ No L 61, 14. 3. 1971, p. 2.
[2] OJ No L 111, 28. 4. 1976, p. 3.

	1973	1974	1975
Germany	31·0	16·2	42·9
Benelux	35·1	45·5	12·1
France	11·9	22·9	38·8
Italy	22·0	15·4	6·2
Denmark	77·4	60·9	45·4
Ireland	0·5	0·7	2·3
United Kingdom	22·1	38·4	52·3

Whereas in view of these factors, of the foreseeable development during 1977 of the market for the products in question and in particular of the estimates submitted by certain Member States, initial percentage shares in the quota volumes may consequently be fixed approximately as follows:

Germany	65
Benelux	18
France	13
Italy	4
Denmark	35
Ireland	1
United Kingdom	64

Whereas, in order to take into account import trends for the products concerned in the different Member States, the quota amounts should be divided into two instalments, the first instalments being allocated among the Member States and the second forming reserves intended ultimately to cover the requirements of the Member States which have used up their initial quota shares; whereas, in order to ensure a certain degree of security for importers in each Member State, the first instalments of the quotas should be determined at levels which, under present circumstances, may be approximately 67% of the quota amounts;

Whereas the initial 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 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 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 amount is 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 quota 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

1. From 1 January until 31 December 1977, a tariff quota of 815 metric tons shall be opened in the Community for men's and boys' outer garments from Malta falling within heading No 61.01 of the Common Customs Tariff.

2. Within the limits of this tariff quota the Community customs Tariff duties shall be totally suspended.

This suspension shall be fully applied in the new Member States.

3. An amount of 364 metric tons shall be allocated to the Member States of the Community as originally constituted.

4. An amount of 451 metric tons shall be allocated to the new Member States.

Article 2

1. A first instalment, amounting to 243 metric tons of the amount specified in Article 1 (3), shall be allocated among the Member States of the Community as originally constituted; the shares, which subject to Article 5 are valid until 31 December 1977, shall be as follows:

Benelux	44	metric tons,
Germany	158	metric tons,
France	31	metric tons,
Italy	10	metric tons.

The second instalment of 121 metric tons shall constitute the relevant reserve.

2. A first instalment, amounting to 300 metric tons of the amount mentioned in Article 1 (4), shall be allocated among the new Member States; the shares, which subject to Article 5 are valid until 31 December 1977, shall be as follows:

Denmark	105	metric tons,
Ireland	3	metric tons,
United Kingdom	192	metric tons.

The second instalment of 151 metric tons shall constitute the relevant reserve.

Article 3

1. If 90% or more of the initial share of a Member State, as laid down in Article 2, or 90% of that share less the amount returned into the reserve, where the provisions of Article 5 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 amount in the relevant reserve allows.

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, in accordance with the conditions laid down in paragraph 1, proceed to draw a third share equal to 7·5% of its initial share, rounded up to the next unit where appropriate, to the extent that the amount in the reserve allows.

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 reserves are exhausted.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, the Member States 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 4

Each of the additional shares drawn pursuant to Article 3 shall be valid until 31 December 1977.

Article 5

Member States shall return to the reserve, not later than 1 October 1977, the unused portion of their initial share which, on 15 September 1977, 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.

Member States shall, not later than 1 October 1977, notify the Commission of the total imports of the product concerned effected up to 15 September 1977 inclusive, and charged against the Community quota and, where appropriate, the proportion of their initial share that is being returned to the reserve.

Article 6

The Commission shall keep account of the shares opened by Member States in accordance with Articles 2 and 3 and shall inform each of them of the extent to which the reserves have been used as soon as it receives the notifications.

The Commission shall, not later than 5 October 1977, notify Member States of the amount in the reserves after the return of shares pursuant to Article 5.

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

Article 7

1. Member States shall take all appropriate measures to ensure that, when additional shares are drawn pursuant to Article 3, it is possible for charges to be made without interruption against their accumulated shares of the Community quota.

2. Member States shall ensure that importers of the product concerned established in their territory have free access to the shares allocated to them.

3. 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 has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 8

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

Article 9

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

Article 10

This Regulation shall enter into force on 1 January 1977.

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

Done at Brussels, 9 December 1976.

For the Council

The President

P. J. J. MERTENS