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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1374/78

of 20 June 1978

on the opening, allocation and administration of the Community tariff quota of 38 000 head of heifers and cows other than those intended for slaughter, of certain mountain breeds, falling within subheading ex 01.02 A II b) of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas the European Economic Community undertook within the framework of the GATT to open an annual Community tariff quota of 20 000 head at a duty of 6 % for heifers and cows other than those intended for slaughter of certain mountain breeds falling within subheading ex 01.02 A II b) of the Common Customs Tariff ; whereas eligibility for such quota is subject to conditions to be determined by the competent authorities of the Member State of destination ; whereas, in an exchange of letters with Austria dated 21 July 1972, the Community has undertaken unilaterally to increase the size of the tariff quota from 20 000 to 30 000 head and to lower the quota duty from 6 % to 4 % ; whereas subsequently this quota was increased unilaterally to 38 000 head ; whereas the abovementioned tariff quota for the period 1 July 1978 to 30 June 1979 should therefore be opened at a duty of 4 % in relation to a quantity of 38 000 head ;

Whereas it is in particular necessary to ensure equal and continuous access for all Community importers to the abovementioned quota, and the uninterrupted application of the quota duties, to all imports of the animals in question until the quota is exhausted ; whereas, having regard to the principles defined above, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States ; whereas possibilities for the use of such mountain breeds are, however, limited by special factors, both geographical and zootechnical ; whereas Denmark does not have regions suitable for breeding this kind of cattle ; whereas, however, in view of such special factors, the Community nature of the tariff quota in question should be preserved by making provisions for requirements which may arise in this Member State ; whereas, to this end, this Member State may proceed to draw adequate shares from the Community reserve which has been set up ; whereas, in order to reflect as closely as possible the actual trend of the market in question, the initial allocation must be made in proportion to the requirements of each of the Member States concerned, calculated in accordance with statistical data concerning imports from third countries during a representative reference period and with economic prospects for the quota period in question ;

Whereas, since the animals in question belong to certain specific breeds which are not specified as such in the statistical nomenclatures of the Member States, no data on imports provided by the Member States could be considered to be sufficiently accurate and representative to be used as a basis for the allocation in question ; whereas the extent to which Community tariff quotas for those animals in the Community as originally constituted have been exhausted, and the estimates made by certain Member States enable the requirements of each of them as regards imports from third countries for the quota period envisaged to be assessed as follows :

Benelux	1 500 head,
Germany	10 000 head,
France	3 900 head,
Italy	6 100 head ;

whereas, in the absence of precise information the needs of the United Kingdom and Ireland may be assessed at 300 and 200 head ;

(1) Opinion delivered on 17. 6. 1978 (not yet published in the Official Journal).

Whereas, in order to take into account the possible trend of imports of the aforementioned animals into the said Member States, the quota amount of 38 000 head should be divided into two parts, the first being allocated among certain Member States, the second forming a reserve intended subsequently to cover the requirements of those Member States when their initial shares are exhausted and requirements which may arise within other Member States; whereas in order to ensure a certain degree of security for importers in the aforementioned Member States, the first part of the Community quota should be determined at a level which, under the present circumstances, may be approximately 50 % of the quota amount;

Whereas the initial shares of those Member States may be used up more or less rapidly; whereas, in order to take this fact into account and avoid any break in continuity, it is important that that 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 of these Member States 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 until the end of the quota period; whereas such 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 within the quota period, a considerable balance of the initial share of one or other of the Member States is left over, it is essential that that State should return a considerable part of such balance to the reserve in order that part of the Community tariff quota should not remain unused in one Member State while 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 shares allocated to that Economic Union may be carried out by one of its Members,

HAS ADOPTED THIS REGULATION:

Article 1

1. During the period from 1 July 1978 to 30 June 1979, a Community tariff quota of 38 000 head shall be opened within the European Economic Community in respect of the imports from third countries of cows and heifers, other than those intended for slaughter, of the following mountain breeds: grey, brown, yellow and mottled Simmental breed and mottled Pinzgau breed, falling within subheading ex 01.02 A II b) of the Common Customs Tariff.

2. For the purposes of this Regulation, the abovementioned cows and heifers shall be considered not intended for slaughter if they are not slaughtered within four months following the date of their importation.

Derogations may, however, be granted in the event of an act of God (disease, accident) duly attested by a local authority certificate setting out the reasons for the slaughter.

3. The said quota shall be administered in accordance with the following Articles.

4. For the purpose of applying this Regulation, the levy fixed in accordance with Article 12 of Regulation (EEC) No 805/68 [1] shall, as regards imports effected under the conditions laid down in Article 2 (4) of Regulation (EEC) No 193/75 [2], be applied to any quantities exceeding those indicated in the import licence.

Article 2

Within the framework of the quota referred to in Article 1 (1), the Common Customs Tariff duty for the animals referred to in the said paragraph shall be suspended at 4 %.

Article 3

1. A first part of 19 000 head shall be allocated among the Member States listed below. The shares shall apply from 1 July 1978 to 30 June 1979, subject to Article 7, and shall be as follows:

Benelux	1 000 head,
Germany	8 800 head,
France	3 400 head,
Ireland	200 head,
Italy	5 300 head,
United Kingdom	300 head.

2. The second part of 19 000 head shall be held as a Community reserve.

3. Imports of the animals concerned shall be subject to the provisions adopted under Regulation (EEC) No 974/71 [3], as last amended by Regulation (EEC) No 557/76 [4], as regards the fluctuation of the currencies of certain Member States.

Article 4

If requirements arise in Denmark for cattle referred to in Article 1 (1), this Member State shall draw an adequate share from the reserve, in so far as the reserve permits.

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(1) OJ No L 148, 28. 6. 1968, p. 24.
(2) OJ No L 25, 31. 1. 1975, p. 10.
(3) OJ No L 106, 12. 5. 1971, p. 1.
(4) OJ No L 67, 15. 3. 1976, p. 1.

Article 5

1. If 90 % or more of the initial quota share of one of the Member States referred to in Article 3, or of that share less the amount returned to the reserve, where Article 7 has been applied, has been used up, that Member State shall immediately, by notifying the Commission, draw a second share, in so far as the reserve permits, equal to 15 % of its initial share, rounded off upwards, if necessary, to the next unit.

2. If, after the initial share has been exhausted, 90 % or more of the second share drawn by one of these Member States has been used up, that Member State shall, in accordance with paragraph 1, immediately draw a third share equal to 7·5 % of its initial share, rounded off upwards, if necessary, to the next unit.

3. If, after the second share has been exhausted, 90 % or more of the third share drawn by one of these Member States has been used up, that Member State shall, in accordance with paragraph 1, draw a fourth share equal to the third.

The same method shall be applied until the reserve is exhausted.

4. By way of derogation from paragraphs 1, 2 and 3, each of these Member States may draw shares lower than those fixed in these paragraphs if there are reasons to consider that such shares might not be exhausted. They shall inform the Commission of the grounds which led them to apply this paragraph.

Article 6

The additional shares drawn in pursuance of Article 5 shall apply until 30 June 1979.

Article 7

Member States shall return to the reserve, not later than 25 March 1979, the unused portion of their initial share in excess, on 5 March 1979, of 20 % of the initial amount. They may return a larger quantity if there are reasons to consider that such quantity may not be used.

However, amounts for which import certificates have been issued but not used shall not be returned to the reserve.

The Member States shall, not later than 25 March 1979, notify the Commission of the total imports of the animals in question effected up to 5 March 1979 inclusive and charged against the tariff quota, the amounts referred to in the second subparagraph and, where appropriate, the proportion of their initial share that they return to the reserve.

Article 8

The Commission shall keep account of the amounts of the shares opened by Member States in accordance with Articles 3, 4 and 5 and shall inform each of them of the extent to which the reserve has been exhausted as soon as it receives the notifications.

The Commission shall, not later than 1 April 1979, notify Member States of the amount in the reserve after the return of shares pursuant to Article 7.

The Commission shall ensure that any drawing which exhausts the reserve is limited to the balance available and, to this end, shall specify the amount thereof to the Member State making the last drawing.

Article 9

Member States shall take all measures necessary to ensure that when additional shares are drawn pursuant to Article 4 or 5 it is possible for imports to be counted without interruption against their accumulated shares of the Community quota.

Article 10

1. Member States shall take all measures necessary to ensure that access to the tariff quota in question is restricted to cattle as specified in Article 1 (1) and (2).

2. They shall ensure free access to the shares allocated to them for importers established in their territory.

3. The extent to which the shares of the Member States have been used up shall be recorded on the basis of imports submitted for customs clearance under cover of declarations that they have been made available for consumption.

Article 11

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

Article 12

Member States and the Commission shall cooperate closely to ensure that the provisions of this Regulation are observed.

Article 13

This Regulation shall enter into force on 1 July 1978.

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

Done at Luxembourg, 20 June 1978.

For the Council

The President

P. DALSAGER