COUNCIL REGULATION (EEC) No 2920/78

of 12 December 1978

opening, allocating and providing for the administration of a Community tariff quota for processing work in respect of certain textile products under Community outward processing arrangements

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 on 1 August 1969 the Community concluded an arrangement with Switzerland on processing traffic in textiles; whereas under that arrangement the Community undertook to open on 1 September of every year an annual duty-free Community tariff quota for processed goods of 1 870 000 units of account of added value, apportioned as follows:

(a) 1 650 000 units of account for processing work on woven fabrics falling within Chapters 50 to 57 of the Common Customs Tariff;

(b) 143 000 units of account for the twisting or throwing, cabling and texturizing (whether or not combined with other processing work) of yarns, falling within Chapters 50 to 57 of the Common Customs Tariff;

(c) 77 000 units of account for processing work on products falling within heading Nos 58.04, 58.05, 58.07, 58.08, 58.09 and 60.01 of the Common Customs Tariff;

Whereas, in order that the division of the whole quota into the three categories referred to above shall correspond more exactly with the actual movement of trade during the reference year or during previous quota periods as well as with the foreseeable movement of trade during future quota periods, it has been decided to adjust the said allocation between the three categories by giving them 1 520 000, 123 000 and 227 000 units of account respectively;

Whereas, by Regulation (EEC) No 1926/78 [1] the Council has already opened the tariff quota concerned for the period 1 September to 31 December 1978 to cover four-twelfths of the annual amounts; whereas the remainder of the quota in question should therefore be opened for the period 1 January to 31 August 1979, in accordance with the detailed rules laid down in the arrangement referred to above and the amendments thereto, and in accordance with the provisions of Council Regulation (EEC) No 2779/78 of 23 November 1978 on the procedure for applying the European unit of account (EUA) to legal acts adopted in the customs sphere [2], and in particular Article 2 thereof; whereas on this basis the total quota volume and the amounts allocated to each category are 1 246 666, 1 013 333, 82 000 and 151 333 European units of account respectively;

Whereas the Community's commitment is annual while reimports of products after processing are seasonal, and provision should therefore be made for the unused parts of the quota opened for the period 1 September to 31 December 1978 to be carried over with a view to their possible use during the period for which this Regulation is applicable;

Whereas provision should be made in particular to ensure equal and continuous access for those concerned with this quota and consistent application of the rate of duty prescribed for the said quota until the quota is exhausted, to all goods reimported into any of the Member States and which have received one or other of the treatments listed above; whereas in the light of these principles arrangements for the utilization of the quota based on an allocation among the Member States would seem to be consistent with the Community character of the said quota; whereas it therefore seems appropriate to make the allocation on the basis of the amount of the traffic under the previous bilateral agreements, but without precluding participation by Member States not previously involved in such traffic, among which the new Member States are included; whereas, to safeguard the Community character of the quota, provision

(1) OJ No L 225, 16. 8. 1978, p. 11.

(2) OJ No L 333, 30. 11. 1978, p. 5.

should be made to meet requirements which may arise in those Member States in the future permitting them to draw adequate amounts from the Community reserve;

Whereas to take account of future trends in the traffic in question in the various Member States, the total quota volume of 1 246 666 European units of account should be divided into two instalments, the first being allocated among certain Member States and the second held as a reserve to cover the subsequent requirements of Member States when one of their initial shares has been exhausted and also requirements which may arise in certain Member States in respect of processing work for which no initial share of the quota was allocated; whereas in order to give the parties concerned in each Member State some degree of certainty it would seem appropriate to fix the first instalment of the Community quota at a relatively high level, namely 1 093 333 European units af account; whereas the total Community reserve of 153 333 European units of account shall consist of amounts drawn from the allocations in respect of each category, that is 106 666, 8 667 and 38 000 European units of account respectively;

Whereas the Member States may exhaust their initial shares at different rates; whereas to avoid disruption of supplies on this account it should be provided that any Member State which has almost used up one of its initial shares should draw an additional share from the reserve; whereas each time its additional share is almost exhausted a Member State should draw a further share, and so on, as many times as the reserve allows; whereas the initial and additional shares should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must be in a position to keep account of the extent to which the quota has been used up and to inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused it is essential that such State should return a significant proportion thereof to the reserve, in order to prevent a part of the Community tariff quota from remaining 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 within and jointly represented by the Benelux Economic Union, any measure concerning the administration of the shares allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January until 31 August 1979, a Community tariff quota of 1 246 666 European units of account (EUA) of value added shall be opened in the European Economic Community in respect of goods resulting from processing work as provided for in the arrangement with Switzerland on processing traffic in textiles. Such quota shall be apportioned as follows:

(a) 1 013 333 EUA for processing work on woven fabrics falling within Chapters 50 to 57 of the Common Customs Tariff;

(b) 82 000 EUA for twisting or throwing, cabling and texturizing (whether or not combined with other processing work) of yarns falling within Chapters 50 to 57 of the Common Customs Tariff;

(c) 151 333 EUA for processing work on articles falling within the following headings of the Common Customs Tariff:

58.04 Woven pile fabrics and chenille fabrics (other than terry towelling or similar terry fabrics of cotton falling within heading No 55.08 and fabrics falling within heading No 58.05);

58.05 Narrow woven fabrics, and narrow fabrics (bolduc) consisting of warp without weft assembled by means of an adhesive, other than goods falling within heading No 58.06;

58.07 Chenille yarn (including flock chenille yarn), gimped yarn (other than metallized yarn of heading No 52.01 and gimped horsehair yarn); braids and ornamental trimmings in the piece; tassels, pompons and the like;

58.08 Tulle and other net fabrics (but not including woven, knitted or crocheted fabrics), plain;

58.09 Tulle and other net fabrics (but not including woven, knitted or crocheted fabrics), figured; hand or mechanically made lace, in the piece, in strips or in motifs;

60.01 Knitted or crocheted fabric, not elastic or rubberized.

2. For the purposes of this Regulation:

(a) 'processing work' means:

— for the purposes of paragraph 1 (a) and (c): bleaching, dyeing, printing, flocking, impregnating, dressing and other work which changes the appearance or quality of the goods, without however changing their nature,

— for the purposes of paragraph 1 (b): twisting or throwing, cabling and texturizing, whether or not combined with reeling, dyeing or other

work which changes the appearance, quality or finish of the goods, without however changing their nature;

(b) 'value added' means the difference between the value for customs purposes as defined in Regulation (EEC) No 803/68 [1] at the time of reimportation and the value for customs purposes as it would be if the products were reimported in the state in which they were exported.

3. Each portion as laid down in paragraph 1 shall be divided into two instalments, the first being allocated among certain Member States in accordance with Article 2 (1) and the second being used to constitute a reserve which shall be common to the three categories of processing.

4. Within this tariff quota the Common Customs Tariff duties shall be totally suspended.

5. Reimports of products resulting from this processing work may not be charged to the tariff quota if they are already free of customs duties under other preferential tariff arrangements.

Article 2

1. A first instalment of each portion of the quota as laid down in Article 1 (1) shall be allocated among the Member States listed in the above arrangement; the shares, which subject to Article 6 shall be valid from 1 January until 31 August 1979, shall be as follows:

(a) Germany:

720 000 EUA, apportioned as follows:

— 566 666 EUA for processing work on woven fabrics falling within Chapters 50 to 57 of the Common Customs Tariff,

— 66 667 EUA for twisting or throwing, cabling and texturizing (whether or not combined with other processing work), of yarns falling within Chapters 50 to 57 of the Common Customs Tariff,

— 86 667 EUA for processing work on products falling within heading Nos 58.04, 58.05, 58.07, 58.08, 58.09 and 60.01 of the Common Customs Tariff;

(b) France:

346 666 EUA, apportioned as follows:

— 333 333 EUA for processing work on fabrics falling within Chapters 50 to 57 of the Common Customs Tariff,

— 13 333 EUA for processing work on products falling within heading Nos 58.04, 58.05, 58.07, 58.08, 58.09 and 60.01 of the Common Customs Tariff;

(c) Italy:

13 334 EUA, i.e. half for twisting or throwing, cabling and texturizing (whether or not combined with other processing work), of yarns falling within Chapters 50 to 57 of the Common Customs Tariff, and half for processing work on products falling within heading Nos 58.04, 58.05, 58.07, 58.08, 58.09 and 60.01 of the Common Customs Tariff;

(d) Benelux:

13 333 EUA for processing work on threads and woven fabrics falling within Chapters 50 to 57 or for products falling within heading Nos 58.04, 58.05, 58.07, 58.08, 58.09 and 60.01 of the Common Customs Tariff.

2. The second instalment of 153 333 EUA shall constitute the Community reserve which may be used for the three categories of processing.

To these amounts shall be added, without prejudice to Article 6, any portions of the shares allocated to Member States or of the reserve set up under Article 2 of Regulation (EEC) No 1926/78 remaining unused on 31 December 1978.

Member States shall notify the Commission, not later than 1 February 1979, of any portions of the shares allocated to them under the above Regulation remaining unused on 31 December 1978.

Article 3

In case of need, either in France in respect of the processing work referred to in Article 1 (1) (b), or in any of the new Member States in respect of any of the categories of processing work, the State concerned shall, to the extent that the reserve so permits, draw from such reserve a sufficient share of the quota.

Article 4

1. If a Member State has used 90% or more of one of its initial shares as fixed in Article 2 (1), or of that share minus any portion returned to the reserve pursuant to Article 6, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the relevant reserve so permits, equal to 10% of its initial share, rounded up as necessary to the next whole number.

2. If a Member State, after exhausting its initial share, has used 90% or more of the second share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a third share

[1] OJ No L 148, 28. 6. 1968, p. 1.

equal to 5% of its initial share, rounded up as necessary to the next whole number.

3. If a Member State, after exhausting its second share, has used 90% or more of the third share drawn by it, that Member State shall, in the manner and to the extent provided in paragraph 1, draw a fourth share equal to the third.

This process shall apply until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State may draw shares lower than those specified in those paragraphs if there are grounds for believing that those specified may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

Article 5

Additional shares drawn pursuant to Article 3 shall be valid until 31 August 1979.

Article 6

The Member States referred to in Article 2 shall, not later than 1 July 1979, return to the reserve the unused portion of their initial share which, on 15 June 1979, is in excess of 20% of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 1 July 1979, notify the Commission of the total quantities of the product in question reimported up to and including 15 June 1979 and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 7

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2, 3 and 4 and shall, as soon as the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 5 July 1979, inform the Member States of the amounts still in reserve, following any return of shares pursuant to Article 6.

It shall ensure that when an amount exhausting this reserve is drawn the amount so drawn does not exceed the balance available, and to this end shall notify the amount of that balance to the Member State making the last drawing.

Article 8

1. The Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 4 are opened in such a way that reimportation may be charged without interruption against their accumulated shares of the Community quota.

2. The Member States shall ensure that all persons established in its territory involved in the processing traffic have free access to the shares allocated to it.

3. The extent to which a Member State has used up its shares shall be determined on the basis of the value added, as established when upon reimportation the products concerned are entered with the customs authorities for home use.

Article 9

At the request of the Commission, the Member States shall inform it of reimportations charged against their shares.

Article 10

Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 11

This Regulation shall enter into force on 1 January 1979.

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

Done at Luxembourg, 12 December 1978.

For the Council

The President

M. LAHNSTEIN