COMMISSION REGULATION (EC) No 2738/95

of 28 November 1995

establishing rules for the management and distribution of textile quotas established for the year 1996 under Council Regulation (EC) No 517/94

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 517/94 of 7 March 1994 relating to the common rules for the import of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules [1], as last amended by Regulation (EC) No 1325/95 [2], and in particular Article 17 (3) and (6) and Article 21 (2) and (3) thereof, in relation to Article 25 (3) thereof,

Whereas the Council, by its Regulation (EC) No 517/94, established quantitative restrictions on imports of certain textile products originating in certain third countries and envisaged, in Article 17 (2), that these quotas will be allocated in the chronological reception order of the notifications from the Member States according to the principle of first come, first served;

Whereas past experience has revealed that for certain quotas the established annual quantities were insufficient to cover the quantities subject to requests for import authorizations notified to the Member States; whereas there are serious reasons to believe that, for all the quotas established by Regulation (EC) No 517/94 requests for import authorizations to be notified by the competent Member States' authorities will exceed the quantitative limits established for 1996;

Whereas Regulation (EC) No 517/94, Article 17 (3), stipulates that is is possible, in these circumstances, to make use of allocation methods which differ from the allocation method based exclusively on the chronological reception order of the notifications from Member States, as well as to envisage the division of the quotas in tranches;

Whereas it is advisable, in order not to affect unduly the continuity of trade flows, to adopt before the start of the quota year, rules for management and distribution of the quotas fixed established for 1996 by Regulation (EC) No 517/94;

Whereas it seems appropriate for a large majority of the quotas to adjust the allocation method based on the chronological reception order of the notifications from Member States according to the principle of first come, first served in order to satisfy the greatest number of operators by limiting the quantities to be attributed to each operator, on the basis of this method, to a maximum amount at a level which allows the operators concerned to perform economically justifiable transactions;

Whereas as far as the other quotas are concerned which seem to be even more insufficient it is appropriate to have a method of allocation which takes into account traditional trade flows; whereas to this end it is appropriate to divide the quotas to be allocated into two parts, one reserved for traditional importers, the other for other applicants, and to fix the respective shares reserved for these different categories of operators at levels which, while taking into account traditional trade flows, will nevertheless ensure non-traditional importers significant access to the quotas; whereas it is necessary to define the concept of traditional importers with reference to the year 1992, 1993 not being representative due to certain distortions which characterized imports during this period within the Community;

Whereas with regard to the distribution of the part reserved to other operators, other than traditional importers, past experience has shown that the method based on the reception in chronological order of the notifications from the Member States satisfied only a limited number of operators and that the application of a method of distribution in proportion to the requested quantities on the basis of a simultaneous examination of all quantities notified to the Commission might satisfy a larger number of operators; whereas it is appropriate for the same reasons to envisage, furthermore, that the quantities requested by each individual operator, cannot exceed a predetermined quantity fixed to a level economically significant;

Whereas, it is possible that, in certain cases, for certain categories and countries concerned, quantities in a part reserved remain available after application of quantitative criteria adopted; whereas it is therefore appropriate for an optimum distribution of each quantitative limit to envisage the possibility of a transfer of quantities in between the different parts reserved for the two categories of operators;

Whereas for the purposes of quota allocation, it is appropriate to set a time period for the submission of licence applications by traditional and other importers;

[1] OJ No L 67, 10. 3. 1994, p. 1.
[2] OJ No L 128, 13. 6. 1995, p. 1.

Whereas with a view to making optimal use of the quantities it is appropriate to envisage that quantities still available after distribution according to the rules described above will be distributed to all operators according to the principle of first come, first served within a predetermined maximum amount;

Whereas, for optimum use of the quantities it is appropriate to envisage that each operator, after 50 % utilization of a licence, can introduce a new request for a licence, not exceeding a predetermined quantity, provided quantities are available in the quotas;

Whereas for good management purposes it is appropriate to fix the period of validity of the import authorizations to nine months from the date of issuance, but not beyond the date of 31 December 1996 and to allow their issuance by the Member States, after notification of the Commission decision to the Member States, and provided that the concerned operator can justify the existence of a contract and certifies, except in cases where it is especially foreseen, not to have already benefited under this Regulation for the category and the country concerned of an import authorization within the Community; whereas the national competent authorities are however authorized to extend up to 31 December 1996 upon request from importers concerned, the validity of licences of which the degree of utilization represents at least 60 % at the date of 30 September 1996;

Whereas the measures contained in this Regulation are in conformity with the opinion expressed by the Committee established by Regulation (EC) No 517/94,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation specifies certain rules concerning the management of quantitative limits established by Regulation (EC) No 517/94 and applicable for 1996.

TITLE I

Article 2

The quotas referred to in Article 1 and indicated in Annex I are distributed in chronological order of reception by the Commission of the notifications by the Member States of request from individual operators for quantities not exceeding for each operator the maximum quantities indicated in Annex III, according to the principle of first come, first served.

Operators can introduce their requests to the competent authorities of the Member States from the 10th day following the date of entry into force of the present Regulation.

TITLE II

Article 3

The quantitative limits mentioned in Article 1 and referred to in Annex II are divided into two parts, one reserved for the traditional importers, the other to the other operators for quantities as indicated in the said Annex. These quantities are distributed following the modalities specified in Articles 4 to 7 on the basis of requests for import authorizations introduced by the operators to the competent Member State authorities from the date of entry into force of the present Regulation and at the latest the 10th day following that date.

Article 4

Those to be regarded as traditional importers of a category of products originating in one of the countries referred to in Annex II are importers who furnish proof to the competent Member State authorities of having imported, during 1992, products falling within the same category and originating in the same country.

Article 5

Member States will inform the Commission, at the latest 15 days after the date of entry into force of the present Regulation, by category and countries concerned as mentioned in Annex II, of the quantities required as well as the number of operators indicating, if necessary, for those demands introduced by traditional importers within the meaning of Article 4, the quantities imported by each one of them during 1992.

On the basis of the total amounts transmitted, the Commission will adopt the quantitative criteria on the basis of which, in application of the present Title, the competent authorities of the Member States can issue the import authorizations.

Article 6

1. The amount which can be allocated to any individual traditional importer for each of the categories and countries concerned will not exceed the quantities actually imported in 1992 by each one of them for these categories and countries.

If all quantities to be allocated to traditional importers, on the basis of the quantities notified by Member States exceed the amount which is reserved for them, the quantities allocated to each one of them will be reduced proportionally.

2. The quantities reserved for importers other than those referred to in Article 4 are allocated by application of the method of distribution in proportion to the

requested quantities, the quantities susceptible to requests by each importer may not exceed the quantities indicated in Annex III.

3. If the quantities for a product and a country concerned are still available within the part reserved for a category of operators, the Commission can, in accordance with the procedure of Article 25 of Regulation (EC) No 517/94, transfer these quantities to the part reserved for the other category of importers with a view to distribution in conformity with the quantitative criteria applicable to this category of operators.

Article 7

The quantities which remain available after allocation on the basis of the provisions of Articles 4, 5 and 6 are allocated within the limits of the maximum quantities indicated in Annex III, in chronological order of reception by the Commission of Member States' notifications following the principle of first come, first served, as from 2 January 1996 at 10 a.m., Brussels time, irrespective of the type of operator concerned.

TITLE III

Article 8

Notwithstanding the provisions of Titles I and II, every importer having utilized a licence to a level equal or superior to 50 % of the quantity which has been attributed to him according to this Regulation can apply for a new licence, for the same category and the same country of origin, for quantities not exceeding the maximum quantities referred to in Annex III, provided quantities are still available within the quantitative limits.

Article 9

Import authorizations issued under the present Regulation by the national authorities of the Member States are not valid before 1 January 1996. The duration of validity for import authorizations is nine months as from the date of issuance or from 1 January 1996 if issued before this date. The competent national authorities are however authorized to extend up to 31 December 1996, upon request of importers concerned, the validity of licences of which the level of utilization is at least 60 % on 30 September 1996.

Import authorizations will be granted by the competent Member State only after notification of the decision of the Commission as from 1 January 1995 and in as far as the operator concerned can prove the existence of a contract and certifies by a written declaration not to have already benefited inside the Community from an import authorization issued pursuant to this Regulation for the category and the country concerned.

Article 10

This Regulation shall enter into force on the day of 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, 28 November 1995.

For the Commission

Leon BRITTAN

Vice-President

ANNEX I

Quantitative restrictions specified in Article 2 for 1996

Third country	Category	Unit	Quantity
North Korea	1	tonnes	128
	2	tonnes	145
	3	tonnes	49
	5	1 000 pieces	123
	6	1 000 pieces	144
	7	1 000 pieces	93
	9	tonnes	71
	12	1 000 pairs	1 290
	13	1 000 pieces	1 509
	14	1 000 pieces	96
	15	1 000 pieces	108
	16	1 000 pieces	55
	17	1 000 pieces	38
	18	tonnes	61
	20	tonnes	142
	24	1 000 pieces	263
	26	1 000 pieces	173
	27	1 000 pieces	179
	28	1 000 pieces	285
	29	1 000 pieces	75
	31	1 000 pieces	293
	36	tonnes	91
	37	tonnes	356
	39	tonnes	51
	59	tonnes	466
	61	tonnes	40
	68	tonnes	75
	69	1 000 pieces	184
	70	1 000 pieces	270
	73	1 000 pieces	93
	74	1 000 pieces	133
	75	1 000 pieces	39
	76	tonnes	75
	78	tonnes	115
	83	tonnes	34
	117	tonnes	51
	118	tonnes	23
	142	tonnes	10
	151 A	tonnes	10
	151 B	tonnes	10
	161	tonnes	152
Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia	1	tonnes	6 926
	2	tonnes	8 545
	2 a	tonnes	1 931
	3	tonnes	935
	9	tonnes	877
	15	1 000 pieces	772

ANNEX II

Quantitative restrictions specified in Article 3 for 1996

Third country	Category	Unit	Quantities reserved for traditional importers	Quantities reserved for other importers	Total
North Korea	4	1 000 pieces	213,8	71,3	285,1
	8	1 000 pieces	150,8	50,3	201,1
	19	1 000 pieces	308,3	102,8	411,1
	21	1 000 pieces	2 220,8	740,3	2 961,1
	77	tonnes	6,8	2,3	9,1
Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia	5	1 000 pieces	1 489,5	496,5	1 986,0
	6	1 000 pieces	786,0	262,0	1 048,0
	7	1 000 pieces	453,8	151,3	605,1
	8	1 000 pieces	1 998,0	666,0	2 664,0
	16	1 000 pieces	435,0	145,0	580,0
	67	tonnes	541,5	180,5	722,0

ANNEX III

Maximum amounts for 1996 to be allocated to operators other than traditional importers for the category and country concerned

Third country	Category	Unit	Maximum amount
North Korea	1	kilograms	1 000
	2	kilograms	1 000
	3	kilograms	1 000
	4	pieces	5 000
	5	pieces	5 000
	6	pieces	5 000
	7	pieces	1 000
	8	pieces	5 000
	9	kilograms	5 000
	12	pairs	5 000
	13	pieces	5 000
	14	pieces	5 000
	15	pieces	1 000
	16	pieces	5 000
	17	pieces	5 000
	18	kilograms	1 000
	19	pieces	5 000
	20	kilograms	1 000
	21	pieces	5 000
	24	pieces	5 000
	26	pieces	5 000
	27	pieces	5 000
	28	pieces	5 000
	29	pieces	5 000
	31	pieces	5 000
	36	kilograms	5 000
	37	kilograms	5 000
	39	kilograms	5 000
	59	kilograms	5 000
	61	kilograms	5 000
	68	kilograms	5 000
	69	pieces	5 000
	70	pieces	5 000
	73	pieces	5 000
	74	pieces	5 000
	75	pieces	5 000
	76	kilograms	1 000
	77	kilograms	1 000
	78	kilograms	1 000
	83	kilograms	1 000
	117	kilograms	1 000
	118	kilograms	1 000
	142	kilograms	1 000
	151A	kilograms	1 000
	151B	kilograms	1 000
	161	kilograms	1 000
Republics of Bosnia-Herzegovina, Croatia and the former Yugoslav Republic of Macedonia	1	kilograms	5 000
	2	kilograms	5 000
	2a	kilograms	5 000
	3	kilograms	5 000
	5	pieces	5 000
	6	pieces	5 000
	7	pieces	5 000
	8	pieces	5 000
	9	kilograms	5 000
	15	pieces	5 000
	16	pieces	5 000
	67	kilograms	5 000