

Case 254/86

Damianos Soph. Symeonidis Anonimos Emboriki Eteria
Sigaretton kai Ikodomikon Epichirisseon AE

v

Minister for Commerce

(reference for a preliminary ruling
from the Greek Council of State)

(Preliminary ruling — Protective measures
taken pursuant to Article 130 of the Act of Accession of
Greece — Direct effects)

Report for the Hearing	4356
Opinion of Mr Advocate General Darmon delivered on 2 July 1987	4360
Judgment of the Court (Third Chamber), 28 October 1987	4362

Summary of the Judgment

Accession of new Member States to the Communities — Greece — Protective measures — Import quota — Administration by the national authorities — Observance of existing trade patterns — Allocation of shares to new importers
(Act of Accession of Greece, Art. 130; Commission Decision 84/64/EEC, Arts 6 and 7)

Article 7 of Commission Decision 84/64/EEC authorizing Greece to take protective measures in respect of cigarette imports, in accordance with which the shares to be reserved for new importers were not to exceed 10% of the total of authorized imports, cannot be interpreted to mean that the entire 10% of the overall quota must be allocated to those new

importers. Its purpose is simply to avoid the risk that, in a situation where imports are restricted, the activities of new importers might interfere with existing patterns of trade which, under Article 6, are to be respected.

In administering the quota set by Decision 84/64/EEC, the Greek authorities were,

therefore, entitled, provided that the whole of the quota was allocated, to set the share of a single new importer at a figure less than 10% of the overall quota, that share being identical to the smallest share

allocated to existing importers, on condition that that smallest quota was not for an insignificant amount, in such a manner as to ensure that existing patterns of trade were observed.

REPORT FOR THE HEARING
delivered in Case 254/86 *

I — Facts and written procedure

In the main proceedings Damianos Soph. Symeonidis AEE Sigaretton kai Ikodomikon Epichirisseon AE is requesting the Council of State to annul the list of allocation of cigarettes originating in the EEC in which the applicant undertaking appeared, along with eight existing importers, as the only new importer and its import entitlement was set at 34 004 kg; that list was established by the Import Permit Committee, an organ of the Ministry of Commerce, and is the basis on which import permits are issued.

Article 130 of the Act of Accession of Greece provides that:

‘(1) If, before 31 December 1985, difficulties arise which are serious and liable to persist in any sector of the economy or which could bring about serious deterioration in the economic situation of a given area, the Hellenic Republic may apply for authorization to take protective measures in order to rectify the situation and adjust the sector

concerned to the economy of the common market.

- (2) On application by the State concerned, the Commission shall, by emergency procedures, determine the protective measures which it considers necessary specifying the circumstances and the manner in which they are to be put into effect.
- (3) The measures authorized under paragraph 2 may involve derogations from the rules of the EEC Treaty and of this Act to such an extent and for such periods as are strictly necessary in order to attain the objectives referred to in paragraph 1. Priority shall be given to such measures as will least disturb the functioning of the common market.’

Restrictions on the importation of cigarettes falling within subheading 24.02 A of the Common Customs Tariff were authorized by the Commission in Decision 84/64/EEC of 27 January 1984 (Official Journal 1984,

* Language of the Case: Greek.