COUNCIL REGULATION (EEC) No 1182/77

of 17 May 1977

opening, allocating and providing for the administration of a Community tariff quota for fresh or dried hazelnuts, shelled or otherwise, falling within subheading ex 08.05 G of the Common Customs Tariff, originating in Turkey

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 Article 5 (1) of Council Regulation (EEC) No 1180/77 of 17 May 1977 on imports into the Community of certain agricultural products originating in Turkey (2), which enters into force on 1 July 1977, provides for the opening by the Community of a Community tariff quota of 25 000 tonnes at a duty rate of 2·5% for fresh or dried hazelnuts, shelled or otherwise, falling within subheading ex 08.05 G of the Common Customs Tariff, originating in Turkey; whereas under paragraph 2 of the said Article, the *pro rata temporis* clause is applicable; whereas by Regulation (EEC) No 3055/76 (3), the Council opened and allocated among the Member States, for 1977, for the products in question originating in Turkey, a Community tariff quota of 21 700 tonnes at a duty rate of 2·5%; whereas, for 1977, the volume of the tariff quota is fixed at 23 350 tonnes; whereas, with regard to the customs duty applicable in the new Member States, it should be noted that Article 2 of the Interim Agreement concluded pending the entry into force of the Additional Protocol signed at Ankara on 30 June 1973 (4) lays down that the reductions in customs duties which are provided pursuant to the Association Agreement shall be applicable in the new Member States in accordance with the percentages and timetable laid down, upon the entry into force of that Agreement; whereas the rates to which the new Member States apply those reductions are those which they apply at any given moment to non-member countries; whereas the rates fixed as a result of the reductions regarding the products listed, in particular, in Annex 6 to the Additional Protocol — and which include hazelnuts — may in no case be lower than those applied by the new Member States with reference to the Community as originally constituted; whereas the reduction to be applied by the new Member States within the framework of the tariff quota under consideration must therefore, in certain cases, be limited to 80%; whereas, consequently, the tariff quota in question should be opened as laid down above for 1977 and provision should be made for charging against this quota the quantities imported from 1 January to 30 June 1977 and charged against the quota opened by Regulation (EEC) No 3055/76;

Whereas it is in particular necessary to guarantee all importers of the Member States equal and uninterrupted access to the said quota and uninterrupted application of the rate laid down for that quota to all imports of the products concerned into the Member States until the quota has been used up; whereas having regard to the above principles, the Community nature of the quotas can be respected by allocating the Community tariff quota among the Member States; whereas, to reflect most 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 both to the statistics relating to imports from Turkey over a representative period, and to the economic outlook for the quota period concerned;

Whereas, on the basis of the statistics at present available, imports into the Member States in 1973, 1974 and 1975 of the product concerned originating in Turkey have developed as follows and represent the following percentages of total imports into the Community:

(1) OJ No C 133 , 6. 6. 1977, p. 45.
(2) See page 10 of this Official Journal.
(3) OJ No L 350, 20.12.1976, p. 111.
(4) OJ No L 277, 3.10.1973, p. 2.

Member States	1973		1974		1975	
	tonnes	%	tonnes	%	tonnes	%
Germany	39 133	70·16	34 515	64·29	35 154	65·47
Benelux	3 323	5·96	4 500	8·38	5 284	9·84
France	6 170	11·06	5 680	10·58	6 084	11·33
Italy	2 062	3·70	2 473	4·61	1 653·5	3·08
Denmark	975	1·75	875	1·63	899	1·67
Ireland	201	0·36	619	1·15	30	0·06
United Kingdom	3 910	7·01	5 026	9·36	4 590	8·55
Total	55 774		53 688		53 694·5	

Whereas, taking into account these figures and the foreseeable development of the product concerned during 1977 and, in particular, the forecasts made by some Member States, the initial shares may be fixed approximately at the following percentages:

Germany	65·93
Benelux	10·14
France	8·20
Italy	0·25
Denmark	2·67
Ireland	1·66
United Kingdom	11·15

Whereas in order to take into account the import trends for the product concerned in the Member States, the quota volume should be divided into two instalments, the first instalment being allocated to the Member States and the second forming a reserve intended ultimately to cover the requirements of the Member States, should their initial share be used up; whereas, in order to ensure a certain degree of security to importers, the first instalment of the Community quota should be determined at a relatively high level, which under present circumstances could be approximately 80% of the quota volume;

Whereas the initial shares may be used up fairly quickly; whereas, therefore, to avoid disruption of supplies, any Member State which has almost used up its initial share, shall draw a supplementary share from the Community reserve; whereas this must be done by each Member State as each one of its supplementary shares is almost used up, and as many times as the reserve allows; whereas the initial and supplementary shares must 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 follow the extent to which the tariff quota has been used up and inform the Member States thereof;

Whereas if, at a specified date in the quota period, a considerable quantity of the initial share remains in any Member State, it is essential that the Member State should return a certain proportion thereof to the reserve, in order to avoid part of the Community quota remaining unused in one Member State when it could be used in others; whereas, taking into account the seasonal nature of imports, it seems appropriate to fix the quantity which may be returned at 40% of the initial share;

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. Until 31 December 1977, a Community tariff quota of 23 350 tonnes shall be opened in the Community for fresh or dried hazelnuts, shelled or otherwise, falling within subheading ex 08.05 G of the Common Customs Tariff, originating in Turkey.

2. Within this tariff quota the Common Customs Tariff duty shall be partially suspended at 2·5 %.

3. The new Member States shall apply within this Community tariff quota, the customs duties calculated in accordance with the relevant provisions of the Act of Accession, the Interim Agreement and Regulation (EEC) No 1180/77.

4. This tariff quota shall be allocated and administered in accordance with the following provisions.

Article 2

1. The tariff quota referred to in Article 1 (1) shall be divided into two instalments.

2. A first instalment, amounting to 19 000 tonnes, shall be shared among the Member States; the shares, which subject to Article 5 shall be valid until 31 December 1977, shall be as follows:

Germany	12 527 tonnes,
Benelux	1 927 tonnes,
France	1 558 tonnes,
Italy	48 tonnes,
Denmark	507 tonnes,
Ireland	315 tonnes,
United Kingdom	2 118 tonnes.

3. The second instalment of 4 350 tonnes shall constitute the reserve.

4. Imports of hazelnuts effected during the period 1 January to 30 June 1977 and charged against the tariff quota opened by Regulation (EEC) No 3055/76 shall be deducted from the shares allocated to the Member States and, where necessary, from the additional shares drawn from the Community reserve.

Article 3

1. If 90% or more of any Member State's initial share, as laid down in Article 2 (2), or 90% of that share less the amount returned to the reserve, where Article 5 has been applied, has been exhausted, that Member State shall without delay, by notifying the Commission, 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 reserve allows.

2. If, after its initial share has been exhausted, 90% or more of the second share drawn by that Member State has been used, it shall, in the manner provided for in paragraph 1, draw a third share equal to 7·5 % of its initial share.

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

This process shall be applied until the reserve is exhausted.

4. By way of derogation from paragraphs 1, 2 and 3, Member States may draw smaller shares than those fixed in those paragraphs if there is reason to believe that those shares might not be used up. They shall inform the Commission of their reasons for applying 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 40% 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.

The Member States shall, not later than 1 October 1977, notify the Commission of the total imports of the products concerned effected under the Community quota up to 15 September 1977 inclusive and, where appropriate, the proportion of their initial shares that they are returning 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 reserve has been used as soon as it receives the notifications.

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

The Commission shall ensure that any drawing which uses up the 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. The Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 3 are opened in such a way that charges may be made without interruption against their accumulative shares of the Community quota.

2. The Member States shall ensure that importers of the said products established in their territory have free access to the shares allocated to them or drawn from the reserve.

3. The Member States shall charge imports of the said goods against their shares 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

At the request of the Commission, Member States shall inform it of imports of the products in question actually charged against their shares.

Article 9

The Member States and the Commission shall cooperate closely in order to ensure the correct application of this Regulation.

Article 10

Council Regulation (EEC) No 3055/76 shall be repealed on the entry into force of this Regulation.

Article 11

This Regulation shall enter into force on 1 July 1977.

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

Done at Brussels, 17 May 1977.

For the Council

The President

J. SILKIN