COUNCIL REGULATION (EEC) No 2823/77

of 28 November 1977

opening, allocating and providing for the administration of a Community tariff quota for apricot pulp falling within subheading ex 20.06 B II c) 1 aa) of the Common Customs Tariff, originating in Tunisia (1978)

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 Cooperation Agreement between the European Economic Community and the Republic of Tunisia, signed on 25 April 1976, provides for the opening by the Community of an annual Community tariff quota of 4 300 tonnes of apricot pulp falling within subheading ex 20.06 B II c) 1 aa) of the Common Customs Tariff, originating in Tunisia; whereas the customs duties applicable to the quota are equal to 70 % of the customs duties actually applied to non-member countries; whereas the Community tariff quota in question should therefore be opened for 1978;

Whereas it is in particular necessary to ensure equal and uninterrupted access for all importers in the Member States to the quota and uninterrupted application of the rate laid down for that quota to all imports of the product in question into all Member States until the said quota has been used up; whereas, having regard to the above principles, the Community nature of the quota can be respected by allocating the tariff quota among the Member States; whereas, to reflect most accurately the actual development of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, assessed by reference both to the statistics relating to imports of the said product from Tunisia over a representative reference period and to the economic outlook for the quota period concerned;

Whereas, during the last three years for which statistics are available, the corresponding imports of each Member State represent the following percentages of imports into the Community from Tunisia of the products concerned:

Member States	1974	1975	1976
Benelux	3·4	3·8	7·1
Denmark	—	—	—
Germany	2·5	—	—
France	94·1	95·2	92·9
Ireland	—	—	—
Italy	—	1·0	—
United Kingdom	—	—	—

Whereas both these percentages and the estimates from certain Member States should be taken into account as well as the need to ensure that, in the circumstances, the obligations contracted under the Agreement concerned are allocated fairly among all the Member States; whereas the approximate percentages of the initial quota shares may therefore be fixed as follows:

Benelux	10 %
Denmark	5 %
Germany	10 %
France	62 %
Ireland	3 %
Italy	5 %
United Kingdom	5 %;

Whereas, in order to take account of future trends in imports into the various Member States of the products concerned, the quota should be divided into two instalments; the first to be allocated among all the Member States and the second to form a reserve intended to cover any subsequent requirements of

[1] Opinion delivered on 18 November 1977 (not yet published in the Official Journal).

Member States which have used up their initial shares; whereas, in order to ensure a certain degree of security for importers in each Member State, the first instalment of the Community tariff quota should be set at 66 % of the quota;

Whereas Member States may use up their initial shares at different rates; whereas, to provide for this eventuality and to avoid disruption of supplies, any Member State which has almost used up its initial share should draw an additional share from the reserve; whereas this should be done by each Member State when each of its additional shares has been almost used up, 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 Member States and the Commission, and the Commission must be in a position to keep a record 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 that Member State should return a significant proportion to the reserve so as to prevent a part of the quota from remaining unused in one Member State when 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. For the period 1 January to 31 December 1978 a Community tariff quota of 4 300 tonnes shall be opened in the Community for apricot pulp falling within subheading ex 20.06 B II c) 1 aa) of the Common Customs Tariff originating in Tunisia.

2. Within the limits of this tariff quota the Common Customs Tariff duty applicable to these products shall be suspended at a rate of 11·9 %.

Article 2

1. A first instalment of 2 840 tonnes of the Community tariff quota referred to in Article 1, shall be allocated among the Member States; the shares, which subject to Article 5 shall be valid until 31 December 1978, shall be as follows:

Benelux	280 tonnes,
Denmark	140 tonnes,
Germany	280 tonnes,
France	1 760 tonnes,
Ireland	100 tonnes,
Italy	140 tonnes,
United Kingdom	140 tonnes.

2. The second instalment of 1 460 tonnes shall constitute the reserve.

Article 3

1. If 90 % or more of any Member State's initial share as fixed in Article 2 (1), or 90 % of that share less any portion returned to the reserve, where Article 5 has been applied, has been used up that Member State shall forthwith, by notifying the Commission, draw a second share equal to 15 % of its initial share, rounded up where necessary to the next whole number, to the extent that the reserve permits.

2. If, after its initial share has been used up, 90 % or more of the second share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share equal to 7·5 % of its initial share.

3. If after its second share has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This procedure shall apply until the reserve is used up.

4. Notwithstanding paragraphs 1, 2 and 3, Member States may draw smaller shares than those specified therein if there are grounds for believing that those specified may not be used in full. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1978.

Article 5

Member States shall return to the reserve, not later than 1 October 1978, the unused portions of their initial shares which, on 15 September 1978, are in excess of 20 % of the initial amounts. They may return a greater portion if there are grounds for believing that such portions may not be used in full.

Member States shall notify the Commission, not later than 1 October 1978, of the total quantity of the product in question imported up to and including 15 September 1978 and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 6

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

It shall inform the Member States, not later than 5 October 1978, of the state of the reserve after amounts have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve does not exceed the balance available and to this end shall specify the amount thereof to the Member State making the final drawing.

Article 7

1. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their aggregate shares of the Community quota.

2. Member States shall ensure that importers of the products in question established in their territory have free access to the shares allocated to them.

3. Member States shall charge imports of the said products against their shares as and when the products in question are entered with customs authorities 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 Commission's request, Member States shall inform it of the imports actually charged against their shares.

Article 9

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

Article 10

This Regulation shall enter into force on 1 January 1978.

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

Done at Brussels, 28 November 1977.

For the Council

The President

L. OUTERS