COUNCIL REGULATION (EEC) No 2877/77

of 20 December 1977

opening, allocating and providing for the administration of a Community tariff quota for prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and 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 on 20 December 1977 the Council decided to open a Community tariff quota for prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Tunisia; whereas this quota is for a quantity of 100 tonnes free of duty; whereas this tariff quota is to apply from 1 January 1978 until the conclusion of the exchange of letters provided for in Article 18 of the Cooperation Agreement between the Community and Tunisia, until such time as Community arrangements for imports of the products in question are applied or until 31 December 1978, whichever shall be the earliest; whereas this Community tariff quota should therefore be opened;

Whereas it is in particular necessary to ensure importers of the Member States equal and uninterrupted access to the quota and uninterrupted application of the rate laid down for that quota to all imports of the products in question into the Member States until the 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 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 as against the imports into the Community from Tunisia of the products concerned:

Member State	1974	1975	1976
Benelux	—	—	—
Denmark	—	—	—
Germany	—	—	—
France	100 (= 36 t)	100 (= 33 t)	100 (= 14 t)
Ireland	—	—	—
Italy	—	—	—
United Kingdom	—	—	—

Whereas these data cannot be considered as representative to serve as a basis for allocation of the quota volume among the Member States; whereas it is difficult to estimate imports by Member States for 1978 because of the absence of any pattern in previous years; whereas, to allocate the quota volume on a fair basis, the initial quota shares may be fixed approximately at the following percentages:

Benelux	10 %
Denmark	3 %
Germany	15 %
France	50 %
Ireland	3 %
Italy	4 %
United Kingdom	15 %

Whereas, to take account of future import trends in the various Member States for the products concerned, the quota volume should be divided into two instalments, the first instalment being allocated among the Member States and the second held as a reserve intended to cover at a later date the requirements of Member States which have used up their initial share; whereas, in order to ensure a certain degree of security to importers of each Member State, the first instalment of the Community tariff quota could be fixed at 80 % of the quota volume;

Whereas the initial shares may be used up at different times; whereas, in order to take this fact into account

(1) OJ No C 299, 12. 12. 1977, p. 60.

and to avoid any break in continuity, it is important that any Member State which has used up almost all of its initial share should draw a supplementary share from the reserve ; whereas this must be done by each Member State if each of its supplementary shares is almost used up, and as many times as the reserve allows ; whereas each initial and supplementary share must 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 follow the extent to which the tariff quotas have been used up and inform the Member States thereof ;

Whereas if, at a given date in the quota period, a considerable quantity of the initial share remains in any Member State, it is essential that that State should return a significant proportion 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, 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 quota shares allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION :

Article 1

From 1 January 1978 until the conclusion of the exchange of letters referred to in Article 18 of the Cooperation Agreement between the Community and Tunisia, until such time as Community import arrangements are applied or until 31 December 1978, whichever shall be the earliest, a duty-free Community tariff quota of 100 tonnes shall be opened for imports into the Community of prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Tunisia.

Article 2

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

2. A first instalment, amounting to 80 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 the end of the period specified in Article 1, shall be as follows :

	(tonnes)
Benelux	8
Denmark	2
Germany	12
France	40
Ireland	2
Italy	4
United Kingdom	12

3. The second instalment of 20 tonnes shall constitute the reserve.

Article 3

1. If 90 % or more of any Member State's initial share, as laid down in Article 2 (2), or 90 % or more of that share less the amount returned into 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 in the quota 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 a Member State has been used, 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 exhausted, 90 % or more of the third share drawn by a Member State has been used, that Member State shall, in accordance with the same conditions, 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 these 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 the end of the period specified in Article 1.

Article 5

The Member States shall, not later than 1 October 1978, return to the reserve the unused portion of their initial share which, on 15 September 1978, is in excess of 20 % 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 1978, notify the Commission of the total imports of the products concerned effected under the Community quota up to and including 15 September 1978, 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 the 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 1978, 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 of 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. Member States shall ensure that importers of the said products established in their territory have free access to the shares allocated to them.

3. The extent to which a Member State has used up its share shall be determined on the basis of the imports of the products in question originating in Tunisia when entered for home use.

Article 8

At the Commission's request Member States shall inform it of the products concerned actually charged against their shares.

Article 9

The Member States and the Commission shall cooperate closely in order to ensure that this Regulation is observed.

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, 20 December 1977.

For the Council

The President

H. SIMONET