COUNCIL REGULATION (EEC) No 1432/78

of 26 June 1978

opening, allocating and providing for the administration of a Community tariff quota for sweet peppers falling within subheading 07.01 S of the Common Customs Tariff, originating in Cyprus

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas a Protocol laying down certain provisions relating to trade in agricultural products between the European Economic Community and Cyprus was signed on 11 May 1978; whereas this Protocol is to enter into force on 1 July 1978; whereas Article 2 of this Protocol provides for the opening of an annual Community tariff quota of 300 tonnes of sweet peppers falling within subheading 07.01 S of the Common Customs Tariff, originating in Cyprus, at a rate of customs duty equal to 50% of the customs duty in the Common Customs Tariff; whereas the *pro rata temporis* clause is applicable; whereas under these circumstances it is necessary to open a Community tariff quota of 150 tonnes for the period 1 July to 31 December 1978;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quota and uninterrupted application of the rates laid down for that quota to all imports of the products concerned into all Member States until the quota has been used up; whereas, having regard to the principles mentioned above, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect more 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 to both the statistics of each State's imports of the said products from Cyprus over a representative period and the economic outlook for the quota period concerned;

Whereas, however, neither Community nor national statistics showing the breakdown for the products in question are available and no reliable estimates of future imports can be made; whereas, in these circumstances, the quota volumes should be allocated in initial shares, taking into account demand for these products on the markets of the various Member States;

Whereas, in order to take into account import trends for the products concerned in the different Member States, the quota amount should be divided into two tranches, the first tranche being allocated among the Member States and the second forming a reserve intended ultimately to cover the requirements of the Member States which have used up their initial quota shares; whereas, in order to ensure a certain degree of security to importers in each Member State, the first tranche of the Community quota should be determined at a level which, under present circumstances, may be 86% of the quota amount;

Whereas the initial shares of the Member States may be used up at different times; whereas, in order to take this fact into account and avoid any break in continuity, it is important that any Member State having used up almost the whole of its initial shares should draw an additional share from the reserve; whereas this must be done by each Member State as and when each of its additional shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial and additional shares must be available for use until the end of the quota period; whereas this method of administration calls for close cooperation between Member States and the Commission, which must, in particular, be able to observe the extent to which the quota amount is used and inform Member States thereof:

Whereas, if at a specified date in the quota period, a considerable balance remains in one or other Member State it is essential that that Member State pays a large amount of it back into the reserve, in order to avoid a 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 all transactions concerning the administration of shares allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 July to 31 December 1978, the Common Customs Tariff duty for sweet peppers falling within subheading ex 07.01 S of the Common Customs Tariff, originating in Cyprus, shall be partially suspended at 4·5% within the limits of a Community tariff quota of 150 tonnes.

Article 2

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

2. The first tranche, amounting to 129 tonnes, shall be shared among the Member States; the proportions which, subject to Article 5, shall be valid until 31 December 1978, shall be as follows:

Benelux	7 tonnes
Denmark	7 tonnes
Germany	14 tonnes
France	1 tonne
Ireland	7 tonnes
Italy	1 tonne
United Kingdom	92 tonnes

3. The second tranche, amounting to 21 tonnes shall constitute the reserve.

Article 3

1. If 90% or more of the initial share of a Member State, as laid down in Article 2 (2), or 90% of that share less the amount returned into the reserve, where the provisions of Article 5 have been applied, has been exhausted, that Member State shall proceed without delay, by notifying the Commission, to 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 a Member State has been used, that Member State shall proceed, in the manner specified in paragraph 1, to draw a third share equal to 7·5% of its initial share, rounded up to the next unit where appropriate, to the extent that the amount in the reserve allows.

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 proceed, in the same way, to draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, the Member States may proceed to draw shares smaller than those fixed in those paragraphs if there is reason to believe that they might not be used up. They shall inform the Commission of the reasons which led them to apply this paragraph.

Article 4

The 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 15 November 1978, the unused portion of their initial share which on 1 November 1978, is in excess of 20% of the initial amount. They may return a larger portion if there are grounds for believing that such portion may not be used in full.

Each Member State shall, not later than 15 November 1978, notify the Commission of the total imports of the products concerned effected up to 1 November 1978 inclusive and charged against the Community quota and, where appropriate, the proportion of its initial share that is being returned 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 20 November 1978, notify Member States of the amount in 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. Member States shall take all appropriate measures to ensure that, when additional shares are drawn pursuant to Article 3, it is possible for charges to be made

without interruption against their accumulated shares of the Community quota.

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

3. 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

On receipt of a request from the Commission, Member States shall inform it of imports actually charged against their shares.

Article 9

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 July 1978.

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

Done at Luxembourg, 26 June 1978.

For the Council

The President

K. B. ANDERSEN