COUNCIL REGULATION (EEC) No 2859/78

of 23 November 1978

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 and originating in Tunisia (1979)

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 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 and 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 1979;

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 rate 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 above principles, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect as accurately as possible the true trend of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics for imports from Tunisia over a representative reference period and also to the economic outlook for the quota period in question;

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	1975	1976	1977
Benelux	3·8	7·1	22·8
Denmark	—	—	—
Germany	—	—	2·6
France	95·2	92·9	74·0
Ireland	—	—	—
Italy	1·0	—	0·6
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	28·7 %
Denmark	3·5 %
Germany	4·8 %
France	54·9 %
Ireland	1·8 %
Italy	1·8 %
United Kingdom	4·5 %

Whereas, in order to take into account import trends for the products concerned in the various Member States, the quota amount should be divided into two instalments, the first being shared among the Member States and the second constituting a reserve to cover at a later date the requirements of the Member States which have used up their initial quota shares; whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quota should under the circumstances be fixed at 73% of the quota volume;

Whereas the Member States' initial shares may be used up at different times; whereas, in order to take this fact into account and avoid any break in continuity, any

Member State which has almost used up its initial quota share 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 used up, and repeated as many times as the reserve allows; whereas the initial and additional shares must be valid until the end of the quota period; whereas this method of administration requires close cooperation between the Member States and the Commission, and the latter must be in a position to monitor the extent to which the quota volume has been used up and to inform the Member States thereof;

Whereas if, at a given date in the quota period, a substantial quantity remains unused in any Member State, it is essential that that Member State should return a significant proportion to the reserve to prevent a part of any tariff 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 in and represented by the Benelux Economic Union, any operation relating to 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. From 1 January until 31 December 1979, 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 and 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 amounting to 3 135 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 1979, shall be as follows:

	(tonnes)
Benelux	900
Denmark	110
Germany	150
France	1 725
Ireland	55
Italy	55
United Kingdom	140

2. The second instalment amounting to 1 165 tonnes shall constitute the reserve.

Article 3

1. If 90% or more of a Member State's initial share as specified in Article 2 (1), or 90% of that share minus the portion returned to the reserve where Article 5 has been applied, has been used up, then, to the extent permitted by the amount of the reserve, 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 unit.

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, then 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 conditions laid down in paragraph 1, draw a fourth share equal to the third.

This process shall continue until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3 a Member State may draw shares smaller than those fixed in those paragraphs if there is reason to believe that they might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

The additional shares drawn pursuant to Article 3 shall be valid until 31 December 1979.

Article 5

The Member States shall return to the reserve, not later than 1 October 1979, such unused portion of their

initial share as, on 15 September 1979, is in excess of 20% of the initial volume. They may return a larger quantity if there are grounds for believing that this quantity may not be used.

The Member States shall notify the Commission, not later than 1 October 1979, of the total quantities of the products in question imported up to 15 September 1979 and charged against the tariff quota and of any quantity of the initial shares returned to the reserves.

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 is notified, shall inform each State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 October 1979, of the amount in the reserve after quantities 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, notify the amount of that balance to the Member State making the last drawing.

Article 7

1. The Member States shall take all measures necessary 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 accumulated shares of the tariff quota.

2. The 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. The Member States shall charge the imports of the products concerned against their shares as and when the products 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, the Member States shall inform it of 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 1979.

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

Done at Brussels, 23 November 1978.

For the Council

The President

J. ERTL