COUNCIL REGULATION (EEC) No 2638/79

of 20 November 1979

opening, allocating and providing for the administration of a Community tariff quota for dried figs, falling within subheading ex 08.03 B of the Common Customs Tariff and originating in Spain (1980)

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 Agreement between the European Economic Community and Spain [1] provides for the opening by the Community of an annual Community tariff quota of 200 tonnes of dried figs falling within subheading ex 08.03 B of the Common Customs Tariff, originating in Spain and imported in immediate packings of a net capacity of 15 kilograms or less; whereas the duty to be applied under the quota has been fixed at 30 % of the Common Customs Tariff duty; whereas these preferential tariff arrangements were laid down only for imports of these products into the Member States of the Community as originally constituted; whereas, under the Act of Accession, imports of these products into the three new Member States are subject to Common Customs Tariff duties with effect from 1 January 1978; whereas the import arrangements for these products should be uniform throughout the Community; whereas this Community tariff quota should be opened for 1980;

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 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 Spain 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 by each of the Member States represent the following percentages of the imports into the Community from Spain of the products concerned:

Member States	1976	1977	1978
Benelux	4	—	—
Denmark	—	—	—
Germany	96	100	96·7
France	—	—	3·3
Ireland	—	—	—
Italy	—	—	—
United Kingdom	—	—	—

Whereas, in view of these factors and of the estimates submitted by certain Member States as well as the practical need to ensure that the obligations contracted under the Agreement concerned are allocated fairly among the Member States, initial quota shares may be fixed approximately at the following percentages:

Benelux	4
Denmark	8
Germany	46
France	23
Ireland	4
Italy	4
United Kingdom	11

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 65 % of the quota volume;

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

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[1] OJ No L 182, 16. 8. 1970, p. 2.

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

From 1 January to 31 December 1980, the Common Customs Tariff duty in respect of dried figs falling within subheading ex 08.03 B, originating in Spain and imported in immediate packings of a net capacity not exceeding 15 kilograms shall be partially suspended at 3 % within the limits of a Community tariff quota of 200 tonnes.

Article 2

1. A first instalment, amounting to 130 tonnes of the Community tariff quota referred to in Article 1, shall be shared among the Member States, the respective shares which, subject to Article 5, shall be valid until 31 December 1980, shall be as follows:

	tonnes
Benelux	5
Denmark	10
Germany	60
France	30
Ireland	5
Italy	5
United Kingdom	15

2. The second instalment of 70 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, rounded up where necessary to the next unit.

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 1980.

Article 5

The Member States shall return to the reserve, not later than 1 October 1980, such unused portion of their initial shares as, on 15 September 1980, 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 1980, of the total quantities of the products in question imported up to 15 September 1980

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 1980, of the amount in the reserve after quantities have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts any 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 free circulation.

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 1980.

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

Done at Brussels, 20 November 1979.

For the Council

The President

M. O'KENNEDY