COUNCIL REGULATION (EEC) No 3544/81

of 3 December 1981

opening, allocating and providing for the administration of a Community tariff quota for fresh or dried hazelnuts, shelled or not, falling within subheading ex 08.05 G of the Common Customs Tariff and originating in Turkey (1982)

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 Annex to Council Regulation (EEC) No 562/81 of 20 January 1981 on the reduction of customs duties on imports into the Community of certain agricultural products originating in Turkey [1] provides that fresh or dried hazelnuts, shelled or not, falling within subheading ex 08.05 G of the Common Customs Tariff and originating in Turkey are admitted on importation into the Community at zero duty, within the limit of a Community tariff quota of 25 000 tonnes; whereas the Community tariff quota concerned should therefore be opened for 1982;

Whereas, in accordance with Article 119 of the 1979 Act of Accession, the Community adopted Council Regulation (EEC) No 3555/80 of 16 December 1980 determining the arrangements to be applied with regard to imports into Greece originating in Algeria, Israel, Malta, Morocco, Portugal, Syria, Tunisia or Turkey [2]; whereas this Regulation therefore applies to the Community of Nine;

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 Turkey over a representative reference period and also to the economic outlook for the quota period in question;

Whereas, on the basis of the statistics at present available, imports into the Member States in 1978, 1979 and 1980 of the product concerned, originating in Turkey, have developed as follows and represent the following percentages of total imports into the Community:

Member States	1978		1979		1980	
	tonnes	%	tonnes	%	tonnes	%
Benelux	6102	8·12	4550	6·21	5106	7·45
Denmark	1277	1·70	1305	1·78	1202·8	1·75
Germany	50096	66·66	49306	67·36	44844	65·40
France	9706	12·91	10657	14·56	9230	13·46
Ireland	132	0·18	114	0·16	40	0·06
Italy	2436	3·24	2067	2·82	3808·3	5·55
United Kingdom	5405	7·19	5204	7·11	4337	6·33
Total	75154		73203		68568·1	

[1] OJ No L 65, 11. 3. 1981, p. 1.

[2] OJ No L 382, 31. 12. 1980, p. 1.

Whereas, taking into account these figures and the foreseeable development of the product concerned during 1982 and, in particular, the forecasts made by some Member States, the initial shares may be fixed approximately at the following percentages:

Benelux	7·38
Denmark	2·24
Germany	63·15
France	13·52
Ireland	0·23
Italy	3·75
United Kingdom	9·73

Whereas, in order to take into account import trends for the product 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 those Member States which have used up their initial quota share; whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quota might under the circumstances be fixed at 80 % 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, 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, taking into account the seasonal nature of imports, it seems appropriate to fix the transfer limit at 40 % of the initial share;

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 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. During the period 1 January to 31 December 1982 a Community tariff quota of 25 000 tonnes shall be opened in the Community of Nine for fresh or dried hazelnuts, shelled or not, falling within subheading ex 08.05 G of the Common Customs Tariff and originating in Turkey.

2. Within this tariff quota, the Common Customs Tariff duty shall be totally suspended.

3. Imports of the product in question benefiting from the same or lower customs duties under preferential arrangements shall not be charged against this tariff quota.

4. This tariff quota shall be allocated and administered in accordance with the following provisions.

Article 2

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

2. The first instalment, amounting to 20 000 tonnes, shall be shared among the Member States; the shares which, subject to Article 5, shall be valid until 31 December 1982 shall be as follows:

	(tonnes)
Benelux	1 476
Denmark	448
Germany	12 630
France	2 704
Ireland	46
Italy	750
United Kingdom	1 946

3. The second instalment, amounting to 5 000 tonnes, shall constitute the reserve.

Article 3

1. If 90 % or more of any Member State's initial share as specified in Article 2 (2), 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, to the extent permitted by the amount of the reserve, 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 up 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 1982.

Article 5

The Member States shall return to the reserve, not later than 1 October 1982, such unused portion of their initial shares as, on 15 September 1982, is in excess of 40 % 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 1982, of the total quantities of the products in question imported up to 15 September 1982 and charged against the tariff quotas and of any quantity of the 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 is notified, inform each Member State of the extent to which the reserves have been used up.

It shall inform the Member States, not later than 5 October 1982, 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 shares shall be determined on the basis of the imports charged under the conditions set in 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 1982.

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

Done at Brussels, 3 December 1981.

For the Council

The President

T. KING