COUNCIL REGULATION (EEC) No 3388/85

of 18 November 1985

opening, allocating and providing for the administration of a Community tariff quota for certain tobaccos falling within subheading ex 24.01 B of the Common Customs Tariff and originating in Yugoslavia (1986)

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 Article 23 of the Cooperation Agreement between the European Economic Community and the Socialist Federal Republic of Yugoslavia on trade and trade cooperation [1] provides that tobacco of the 'Prilep' type, falling within subheading ex 24.01 B of the Common Customs Tariff, originating in and coming from Yugoslavia and specified in an Agreement in the form of an exchange of letters of 11 July 1980 shall be imported into the Community at a rate of customs duty of 7 % with a minimum amount of 13 ECU per 100 kilograms and a maximum of 45 ECU per 100 kilograms within the limits of an annual Community tariff quota of 1 500 tonnes; whereas the tobacco must be accompanied by a certificate of origin and authenticity; whereas the tariff quota in question should be opened for 1986;

Whereas, in the absence of a Protocol such as that provided for in Articles 179 and 366 of the Act of Accession of Spain and Portugal, the Community must take the measures referred to in Articles 180 and 367 of the said Act; whereas the tariff measure in question therefore applies to the Community of Ten:

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

Whereas, in this case, however, neither Community nor national statistics 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 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 74 % 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

(1) OJ No L 41, 14. 2. 1983, p. 1.

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. From 1 January to 31 December 1986 a Community tariff quota of 1 500 tonnes shall be opened in the Community of Ten for tobacco of the 'Prilep' type, falling within subheading ex 24.01 B of the Common Customs Tariff, originating in and coming from Yugoslavia.

2. Within the limits of this tariff quota the Common Customs Tariff duty applicable to this product shall be suspended at a rate of 7 % *ad valorem* with a minimum amount of 13 ECU per 100 kilograms and a maximum of 45 ECU per 100 kilograms.

3. Such goods, when imported, shall be accompanied by a certificate of authenticity issued by the competent Yugoslav authority, conforming with the model annexed to this Regulation.

Article 2

1. A first instalment amounting to 1 100 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 1986, shall be as follows:

	(tonnes)
Benelux	5
Denmark	5
Germany	600
Greece	5
France	5
Ireland	5
Italy	470
United Kingdom	5

2. The second instalment amounting to 400 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 are grounds for believing 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 1986.

Article 5

The Member States shall return to the reserve, not later than 1 October 1986, such unused portion of their initial share as, on 15 September 1986, 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 1986, of the total quantities of the products in question imported up to 15 September 1986 and charged against the tariff quota 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, shall inform each Member State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 October 1986, 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 the 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 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 1986.

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

Done at Brussels, 18 November 1985.

For the Council

The President

M. FISCHBACH

BILAG - ANHANG - ΠΑΡΑΡΤΗΜΑ - ANNEX - ANNEXE - ALLEGATO - BIJLAGE

1 Exporter (name, full address, country) Exportateur (nom, adresse complète, pays)	2 No	**ORIGINAL**
	3 Quota year Année contingentaire	4 Country of destination Pays de destination
5 Consignee (name, full address, country) Destinataire (nom, adresse complète, pays)	6 Issuing authority Organisme émetteur	
8 Place and date of shipment — Means of transport Lieu et date d'embarquement — Moyen de transport	7 **CERTIFICATE OF AUTHENTICITY** **CERTIFICAT D'AUTHENTICITÉ** **Tobacco — Tabac** **'Prilep'** (CCT subheading ex 24.01 B) (Sous-position du TDC: ex 24.01 B)	
9 Marks and numbers — Number and kind of packages Marques et numéros — Nombre et nature des colis		10 Net weight (kg) Poids net (kg)
11 Net weight (kg) (in words) Poids net (kg) (en lettres)		

12 CERTIFICATE BY THE ISSUING AUTHORITY — VISA DE L'ORGANISME ÉMETTEUR

I hereby certify that the tobacco described in this certificate is 'Prilep' tobacco within the meaning of the Agreement.

Je certifie que le tabac décrit dans ce certificat est le tabac «Prilep» au sens de l'accord.

Place
Lieu

Date
Date

(Stamp and signature)
(Cachet et signature)