COUNCIL REGULATION (EEC) No 3767/85

of 20 December 1985

opening, allocating and providing for the administration of Community tariff quotas for certain types of manufactured tobacco falling within heading No 24.02 of the Common Customs Tariff and processed in the Canary Islands (1986)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Act fo Accession of Spain and Portugal (1), and in particular Article 2 of Protocol No 2 thereto,

Having regard to the proposal from the Commission,

Whereas Article 2 of Protocol No 2 and Article 10 of Protocol No 3 to the Act of Accession stipulate that, as from 1 January 1986, manufactured tobacco falling within heading No 24.02 of the Common Customs Tariff and processed in the Canary Islands is to be exempt, in the customs territory of the Community, from customs duties within the limit of annual Community tariff quotas; whereas this tariff preference is applicable only to products of which there have been imports in the last five years; whereas, calculated on the basis of the said Article 2, the quota volumes for cigarettes falling within subheading 24.02 A and cigars falling within subheading 24.02 B amount to 19 400 million and 332,3 million items respectively; whereas there are no imports of other products falling within heading No 24.02; whereas the tariff quotas in question should therefore be opened for 1986;

Whereas rules should be laid down to cover the marking of the products concerned;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quotas and uninterrupted application of the rates laid down for these quotas to all imports of the products concerned in all Member States until the quotas have been used up; whereas, having regard to the principles mentioned above, the Community nature of the quotas can be respected by allocating the Community tariff quotas 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 of the products concerned processed in the Canary Islands 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, imports into each of the Member States were as follows:

Member States	24.02 A cigarettes (million items)			24.02 B cigars (thousand items)		
	1982	1983	1984	1982	1983	1984
Benelux	—	—	—	1 140	468	1 276
Denmark	—	—	—	—	—	—
Germany	—	—	—	17	—	—
Spain	on average 19 400 per year			on average 312 300 per year		
Greece	—	—	—	—	—	—
France	—	—	—	—	—	208
Ireland	—	—	—	—	—	—
Italy	—	—	—	—	—	—
Portugal	—	—	—	—	—	—
United Kingdom	—	—	—	38	9	5

Whereas, during the last three years, the products in question were imported only by certain Member States and not at all by the other Member States; whereas, under these circumstances, initial shares should be allocated to the importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas upon imports into those States of the products concerned being notified; whereas these arrangements for allocation will equally ensure the uniform application of the Common Customs Tariff;

Whereas, in order to take into account import trends for the products concerned in the various Member States, each quota should be divided into two instalments, the first being shared among certain Member States and the second constituting a reserve to cover the subsequent requirements of these Member States where they have used up their initial shares and any additional requirements which might arise in the other Member States; whereas, in order to give importers in each Member State a certain degree of security, it is appropriate to fix the first instalment of the Community quotas at a level which, in the circumstances, could be 95 and 99 % respectively of each 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 shares should draw an additional share from the corresponding 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

(1) OJ No L 302, 15. 11. 1985, p. 23.

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 amounts have been used up and to inform 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 corresponding 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 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;

Whereas, pursuant to Article 2 (3) of the Treaty of Accession of Spain and Portugal, the institutions of the Communities may adopt, before accession, the measures referred to in Article 2 of Protocol No 2 annexed to the Act of Accession, such measures entering into force subject to and on the date of entry into force of the said Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1986, duty-free Community tariff quotas shall be opened in the Community for the following products processed in the Canary Islands, within the limits indicated below:

CCT heading No	Description	Quota volume (million items)
24.02	Manufactured tobacco; tobacco extracts and essences:	
	A. Cigarettes	19 400
	B. Cigars	332,3

2. Products covered by this Regulation cannot qualify under the quotas unless, when they are presented to the authorities responsible for the import formalities for the purposes of release into free circulation in the customs territory of the Community, they are presented in packaging bearing the words, in clearly visible and perfectly legible characters, 'Manufactured in the Canary Islands', or a translation thereof in another official Community language.

Article 2

1. The tariff quotas laid down in Article 1 shall be divided into two instalments.

2. A first instalment of each quota shall be shared among certain Member States; the respective shares, which, subject to Article 5, shall be valid until 31 December 1986, shall be as follows:

(a) 24.02 A cigarettes

Spain:	18 430 million items;

(b) 24.02 B cigars

Benelux:	1,30 million items
Germany:	0,01 million items
Spain:	330,73 million items
France:	0,20 million items
United Kingdom:	0,01 million items.

3. The second instalment of each quota, that is 970 million items (24.02 A) and 0,05 million items (24.02 B) respectively, shall constitute the corresponding reserve.

4. If an importer notifies the imminent import of the products in question into the other Member States and requests the benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the reserve so permits.

Article 3

1. If 90 % or more of a Member State's initial share as specified in Article 2 (2), or 90 % of that share minus the portion returned to the corresponding 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 10 % of its initial share, rounded up where necessary to the next unit.

2. If, after one of its initial shares 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 5 % of its initial share, rounded up where necessary to the next unit.

3. If, after one of its second shares 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 1986.

Article 5

The Member States shall return to the reserve, not later than 30 November 1986, such unused portion of their initial share as, on 15 November 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 30 November 1986 of the total quantities of the products in question imported up to 15 November 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 State of the extent to which the reserves have been used up.

It shall inform the Member States, not later than 5 December 1986 of the amount in each 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, shall notify the amount of that balance to the Member State making the last drawing.

Article 7

1. The Member States shall take every measure 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. Member States shall charge imports of the products in question against their shares as and when the products are entered with the 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 of the products concerned processed in the Canary Islands and entered with customs authorities for free circulation.

Article 8

At the Commission's request, the Member States shall inform it of imports of the products concerned 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, subject to the entry into force of the Treaty of Accession of Spain and Portugal.

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

Done at Brussels, 20 December 1985.

For the Council

The President

R. STEICHEN