COUNCIL REGULATION (EEC) No 3808/85

of 20 December 1985

opening, allocating and providing for the administration of a Community tariff quota for certain live plants falling within subheadings ex 06.01 A, 06.02 A II and ex 06.02 D of theCommon Customs Tariff and originating in the Canary Islands (1986)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Act of Accession of Spain and Portugal [1], and in particular Article 4 of Protocol No 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas, pursuant to Article 4 of Protocol No 2 and Article 10 of Protocol No 3 annexed to the Act of Accession, certain live plants falling within subheadings ex 06.01 A, 06.02 A II and ex 06.02 D of the Common Customs Tariff, originating in the Canary Islands, may be imported into the Community within the limits of a Community tariff quota at reduced duties; whereas the quota volume amounts to 3 446 tonnes; whereas for 1986 the duties to be applied within the limits of the tariff quota are equal to 87,5 % of the duties of the Common Customs Tariff; whereas, however, when the products in question are imported into that part of Spain which is included in the customs territory of the Community they shall qualify for exemption from customs duties; whereas, when the products are imported into Portugal, the quota duties applicable must be calculated on the basis of the provisions referred to in the Act of Accession; whereas, to benefit from the tariff quota, the products in question must comply with certain marking and labelling conditions designed to prove their origin; whereas, according to the abovementioned Article 4, the tariff preference provided for takes effect only from 1 March 1986; whereas this Community tariff quota should be opened for the period from 1 March to 31 December 1986;

Whereas it is in particular necessary to ensure to 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 principles mentioned above, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, to reflect as accurately as possible the true trend of the market of the products in question, such allocation should be in proportion to the requirements of the Member States calculated by reference to the statistics of imports of the said products originating in the Canary Islands over a representative period and also to the economic outlook for the quota period concerned;

[1] OJ No L 302, 15. 11. 1985, p. 23.

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, of the products concerned, originating in the Canary Islands:

Member States	1982	1983	1984
Benelux	6,3	8,6	10,7
Denmark	–	0,3	0,1
Germany	4,8	4,2	4,5
Greece	–	–	–
Spain	78,9	78,5	77,2
France	0,3	0,4	0,4
Ireland	–	–	–
Italy	1,6	0,7	1,7
United Kingdom	8,1	7,3	5,4
Portugal	–	–	–

Whereas, in view of these factors, and of market forecasts for the products in question, the initial quota shares may in a first phase be fixed approximately at the following percentages:

Benelux	8,9
Denmark	0,1
Germany	3,2
Greece	0,1
Spain	78,9
France	0,4
Ireland	0,1
Italy	1,4
Portugal	0,1
United Kingdom	6,8

Whereas, in order to take into account import trends for the products concerned in the various Member States, the quota volume 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 having 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 present circumstances be fixed at 80 % of the quota;

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 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 of an initial share remains unused in a Member State, it is essential that that Member State should return a significant proportion to the reserve, to prevent a part of any Community 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 concerning 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 Community may adopt, before accession, the measures referred to in Article 4 of Protocol No 2 annexed to the Act of Accession,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 March to 31 December 1986, the Common Customs Tariff duties in respect of the following products originating in the Canary Islands shall be partially suspended at the levels indicated for each of them within the limits of a Community tariff quota of 3 446 tonnes:

CCT heading No	Description	NIMEXE-Code	Rate of duty
06.01	Bulbs, tubers, tuberous roots corms, crowns and rhizomes, dormant, in growth or in flower:		
	ex A. Dormant:		
	— Other than hyacinths, narcissi, tulips and gladioli	06.02-19	7 %
06.02	Other live plants, including trees, shrubs, bushes, roots, cuttings and slips:		
	A. Unrooted cuttings and slips:		
	II. Other	06.02-19	7,4 %
	ex D. Other:		
	— Roses (all the species Rosa), neither budded nor grafted:		
	— With stock of a diameter of 10 mm or less	06.02-61	11,3 %
	— Other	06.02-65	11,3 %
	— Other than mycelium (spawn of mushrooms and other edible fungi), rhododendrons, azaleas, vegetable and strawberry plants:		
	— Outdoor plants:		
	— Trees, shrubs and bushes other than fruit trees and bushes and forest trees:		
	— Rooted cuttings and growing plants	06.02-81	11,3 %
	— Other	06.02-83	11,3 %
	— Other:		
	— Perennial plants	06.02-92	11,3 %
	— Other	06.02-93	11,3 %
	— Indoor plants:		
	— Rooted cuttings and growing plants, excluding cacti	06.02.94	11,3 %
	— Other than flowering plants with buds or flowers, excluding cacti	06.02-99	11,3 %

The products qualify, however, within the limits of this tariff quota for exemption from customs duties when they are imported into that part of Spain which is included in the customs territory of the Community.

Within the limits of this tariff quota the Portuguese Republic applies customs duties calculated according to the relevant provisions of the Act of Accession and the Regulations relating thereto.

2. Without prejudice to the provisions applicable as regards quality standards, products covered by this Regulation cannot qualify under the tariff quota 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 which bears the words 'Canary Islands', or the equivalent thereof in another official Community language, in a clearly visible and perfectly legible form.

Article 2

1. A first instalment amounting to 2 750 tonnes of the Community tariff quota referred to in Article 1 shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid until 31 December 1986, shall be as follows:

	(tonnes)
Benelux	244
Denmark	3
Germany	88
Greece	3
Spain	2 172
France	10
Ireland	3
Italy	40
Portugal	3
United Kingdom	187

2. The second instalment of 696 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 is 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, 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 same conditions, 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 these might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Each of 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 which, 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 it may not be used.

The Member States shall, not later than 1 October 1986, notify the Commission of the total quantities of the products in question up to 15 September 1986 and charged against the tariff quota and of any quantities of the initial shares returned to the reserve.

Article 6

The Commission shall keep an account of the shares opened by Member States in accordance with Articles 2 and 3 and shall, as soon as it is notified, 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 pursuant to Article 5.

The Commission shall ensure that any drawing which exhausts the reserve does not exceed the balance available and, to this end, shall notify the amount of that balance to the Member State which makes such 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 Community 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 imports of the said goods against their shares as and when the goods are entered with the 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 request of the Commission, 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 in order to ensure compliance with this Regulation.

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. It shall apply from 1 March 1986.

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