COUNCIL REGULATION (EEC) No 3809/85

of 20 December 1985

opening, allocating and providing for the administration of Community tariff quotas for beans (of the species *Phaseolus)* onions and sweet peppers falling within heading ex 07.01 of the Common 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, according to Article 4 of Protocol No 2 and Article 10 of Protocol No 3 annexed to the Act of Accession, beans, onions and sweet peppers falling within heading ex 07.01 of the Common Customs Tariff and originating in the Canary Islands qualify on import into the customs territory of the Community for reduced duties within the limits of annual Community tariff quotas; whereas the quota volumes amount to:

— 1 219 tonnes for beans (of the species *Phaseolus*) of subheading 07.01 F II,

— 5 348 tonnes for onions of subheading ex 07.01 H and,

— 160 605 tonnes for sweet peppers of subheading 07.01 S;

Whereas where the said products are imported into that part of Spain which is included in the customs territory of the Community, they qualify for exemption of customs duties; whereas, where the said products are imported into Portugal, the quota duties applicable are to be calculated on the basis of the provisions belonging to the Act of Accession; whereas, when the said products are released for free circulation in the remainder of the customs territory of the Community, they shall qualify for the progressive reduction of customs duties according to the same timetable and under the same conditions as those provided for in Article 75 of the Act of Accession; whereas, to qualify for the tariff quota, the products in question have to comply with certain marking and labelling conditions designed to prove their origin; whereas, according to the relevant provisions in the Act of Accession, the tariff measures take effect only from 1 March 1986; whereas the tariff quotas in question should therefore be opened for the period 1 March to 31 December 1986;

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 into 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 originating 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 (in tonnes):

Member States	– 07.01 F II – beans (of the species *Phaseolus*)			– ex 07.01 H – onions			– 07.01 S – sweet peppers		
	1982	1983	1984	1982	1983	1984	1982	1983	1984
Benelux	216	418	338	1 349	–	31	9 430	7 781	8 716
Denmark	–	–	–	–	–	–	171	34	6
Germany	19	14	18	736	–	24	1 386	443	426
Greece	–	–	–	–	–	–	–	–	–
Spain	average of 723			average of 4 488			average of 279		
France	–	–	–	–	–	–	9	8	30
Ireland	–	–	–	–	–	–	–	1	–
Italy	–	–	–	–	–	–	–	–	–
Portugal	–	–	–	–	–	–	–	–	–
United Kindom	41	116	309	308	–	133	7 548	6 137	6 851

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

Whereas in the last three years the products in question were only imported regularly by certain Member States and not at all or only occasionally by the other Member States; whereas, under these circumstances, in the first phase, initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas when imports take place in the latter; 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 quotas 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, the first instalment of the Community quotas should, under the circumstances, be fixed at 80 % respectively of the quota volumes;

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 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, according to Article 2 (3) of the Treaty of Accession of Spain and Portugal, the Community institutions 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, Community tariff quotas shall be opened in the Community for the following products, originating in the Canary Islands and within the limits indicated below:

CCT heading No	Description	Quota volume (tonnes)
07.01	Vegetables, fresh or chilled:	
	F. Leguminous vegetables, shelled or unshelled:	
	II. Beans (of the species *Phaseolus*)	1 219
	H. Onions, shallots and garlic:	
	— Onions	5 348
	S. Sweet peppers	16 605

2. (a) Where the said products 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.

(b) Within the limits of these quotas the Portuguese Republic shall apply customs duties calculated according to the relevant provisions of the Act of Accession and the Regulations relating thereto.

(c) Where the said products are released for free circulation in the remainder of the customs territory of the Community, the quota duties indicated below for each of the tariff subheadings shall be applicable:

CCT heading No	Quota duty
07.01 F II:	
— From 1 March to 30 June	11,8 % subject to a minimum of 1,8 ECU per 100 kg net
— From 1 July to 30 September	15,4 % subject to a minimum of 1,8 ECU per 100 kg net
— From 1 October to 31 December	11,8 % subject to a minimum of 1,8 ECU per 100 kg net
ex 07.01 H:	10,9 %
07.01 S:	5,7 %

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

(b) The provisions of the third and fourth subparagraphs of Article 9 of Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1), as last amended by Regulation (EEC) No 1631/84 (2), shall not apply to products covered by this Regulation.

Article 2

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

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

(a) beans (of the species *Phaseolus)* falling within subheading 07.01 F II:

Benelux	260 tonnes,
Germany	15 tonnes,
Spain	580 tonnes,
United Kingdom	120 tonnes;

(b) onions falling within subheading ex 07.01 H:

Benelux	370 tonnes,
Germany	200 tonnes,
Spain	3 595 tonnes,
United Kingdom	115 tonnes;

(c) sweet peppers falling within subheading 07.01 S:

Benelux	6 920 tonnes,
Denmark	50 tonnes,
Germany	600 tonnes,
Spain	240 tonnes,
United Kingdom	5 470 tonnes.

3. The second instalment of each quota, i.e. respectively

— 244 tonnes for beans (of the species *Phaseolus*) falling within subheading 07.01 F II,

— 1 068 tonnes for onions falling within subheading ex 07.01 H and

— 3 325 tonnes for sweet peppers falling within subheading 07.01 S shall constitute the corresponding Community reserve.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 154, 9. 6. 1984, p. 24.

4. If an importer notifies the imminent import of the product 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 forthwirth, 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 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 State of the extent to which the reserves have been used up.

It shall inform the Member States, not later than 5 October 1986 of the amount in each reserve after quantities have been returned there to 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. The Member States shall charge the imports of the products concerned against their shares as and when the products are entered whith 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 of the products concerned, originating in the Canary Islands, entered with the customs authorities accompanied by statements of release 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. 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