COUNCIL REGULATION (EEC) No 3810/85

of 20 December 1985

opening, allocating and providing for the administration of Community tariff quotas for fresh flowers falling within subheading 06.03 A 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 hereto,

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 fresh flowers falling within subheading 06.03 A of the Common Customs Tariff, originating in the Canary Islands, may be imported into the Community within the limits of Community tariff quotas at reduced duties; whereas the quota volumes amount for roses, carnations, orchids, gladioli and chrysanthemums to 85 460 000 pieces and for the other flowers to 597 tonnes; whereas for 1986 the duties to be applied in the limits of these tariff quotas 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 will 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 to prove their origin; whereas according to the abovementioned Article 4 the tariff measure provided for only takes effect from 1 March 1986; whereas these Community tariff quotas should be opened for the period from 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 said products 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, the corresponding imports into each of the Member States represent the following percentages of the imports into the Community of the products in question originating in the Canary Islands:

— Roses, carnations, orchids, gladioli and chrysanthemums:

Member States	1982	1983	1984
Benelux	6,4	6,2	5,9
Denmark	–	–	–
Germany	36,6	36,6	25,2
Greece	–	–	–
Spain	46,5	43,0	61,5
France	4,4	3,7	1,1
Ireland	–	–	–
Italy	0,3	0,9	0,4
Portugal	–	–	–
United Kingdom	5,8	9,6	5,9

— Other flowers:

Member States	1982	1983	1984
Benelux	37,4	44,2	25,2
Denmark	–	–	–
Germany	9,7	14,0	7,1
Greece	–	–	–
Spain	51,8	40,1	66,9
France	0,3	0,6	–
Ireland	–	–	–
Italy	0,8	1,1	0,8
Portugal	–	–	–
United Kingdom	–	–	–

Whereas, in view of these factors and of the foreseeable market trends of the products in questions initial shares of the quota volumes may be fixed in a first phase approximately at the following percentage:

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

Member States	Roses, carnations, orchids, gladioli and chrysanthemums	Other flowers
Benelux	6,0	33
Denmark	0,1	1
Germany	31,0	9
Greece	0,1	1
Spain	52,6	51
France	2,6	1
Ireland	0,1	1
Italy	0,5	1
Portugal	0,1	1
United Kingdom	6,9	1

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 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 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 use 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 pursuant to Article 2 (3) of the Act 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 until 31 December 1986 Community tariff quotas shall be opened within the indicated limits in the Community for the following products originating in the Canary Islands:

CCT heading No	Description	Quota volumes
06.03	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:	
	ex A. Fresh: — Roses, carnations, orchids, gladioli, and chrysanthemums	85 460 000 pieces
	ex A. Fresh: — Other flowers	597 tonnes

2. Within the limits of these tariff quotas the following quota duties shall apply to these products

— from 1 March to 31 May: 14,8 %,

— from 1 June to 31 October: 21,0 %,

— from 1 November to 31 December: 14,8 %.

The products qualify, however, within the limits of these tariff quotas 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 these tariff quotas, Portugal shall apply customs duties calculated according to the provisions in question of the Act of Accession and the Regulations relating thereto.

3. Without prejudice to the provisions applicable as regards quality standards, products covered by this Regulation cannot qualify under the tariff quotas unless, at the time of their presentation 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.

The words used on the packaging to indicate the origin must be 'Canary Islands' or the equivalent 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 Community tariff quota mentioned in Article 1 shall be shared among the Member States; the shares, which, subject to Article 5, shall be valid until 31 December 1986, shall be as follows:

Member States	– ex 06.03 A – roses, carnations, gladioli, orchids and chrysanthemums (in pieces)	– ex 06.03 A – other flowers (in tonnes)
Benelux	4 100 000	158
Denmark	70 000	5
Germany	21 200 000	43
Greece	70 000	5
Spain	35 980 000	244
France	1 780 000	5
Ireland	70 000	5
Italy	340 000	5
Portugal	70 000	5
United Kingdom	4 720 000	5

3. The second intalment of each quota, i.e. 17 060 000 pieces and 117 tonnes respectively, shall constitute the corresponding reserves.

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 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 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 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 States 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 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 Act 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