COUNCIL REGULATION (EEC) No 2356/86

of 24 July 1986

opening, allocating and providing for the administration of a Community tariff quota for frozen peas, falling within subheading 07.02 B of the Common Customs Tariff, originating in Sweden

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 Act of Accession of Spain and Portugal,

Having regard to the proposal from the Commission,

Whereas an Agreement between the European Economic Community and the Kingdom of Sweden was concluded on 22 July 1972; whereas following the accession to the Community of the Kingdom of Spain and the Portuguese Republic, a supplementary Protocol is to be signed in the near future; whereas until the entry into force of that Protocol, Council Regulation (EEC) No 744/86 of 1986 (1) laid down arrangements applicable to trade in certain agricultural products with Sweden in particular;

Whereas the said Regulation (EEC) No 744/86 provides for the opening, to run from 1 March 1986, of a 6 000 tonnes Community tariff quota at a reduced rate of duty for frozen peas, originating in Sweden, 4 500 tonnes of which are reserved for Spain; whereas therefore the tariff quota in question should be opened for the period from 1 March to 31 December 1986; whereas in the absence of a 'prorata temporis' clause, the proposed annual quota volume should be opened for the period under consideration;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of levy for the tariff quota should be applied consistently to all imports until the quota is used up; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States would seem to preserve the Community nature of the quota; whereas, to represent as closely as possible the real market trend of the product in question, the allocation should follow proportionately the requirements of the Member States calculated both from statistics of imports from Sweden during a representative reference period and according to the economic outlook for the tariff year in question;

Whereas during the last two years for which statistics are available, imports of frozen peas, including chick peas, originating in Sweden, into each of the Member States were as follows:

(tonnes)

Member State	1983	1984
Benelux	0	138
Denmark	121	254
Germany	1 365	1 432
Greece	231	0
France	0	0
Ireland	0	0
Italy	2 764	7 568
Portugal	223	0
United Kingdom	0	647
	4 704	10 039

Whereas, during the last two years under consideration, 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 quota 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 taking into account these factors, the Member States' initial percentage shares in the quota volume can be set as follows:

Benelux	0,94
Denmark	2,54
Germany	18,97
Greece	1,57
Italy	70,08
Portugal	1,51
United Kingdom	4,39

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 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 share 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 quota at a level which, in the circumstances, could be 98 % of the quota volume;

Whereas initial shares may be used up at different rates; whereas, to avoid disruption of supplies on this account, it should be provided that any Member State which has almost used up its initial share should draw an additional

(1) OJ No L 56, 1. 3. 1986, p. 113.

share from the reserve; whereas each time its additional share is almost used up a Member State should draw a further share and so on as many times as the reserve allows; whereas the initial and additional shares should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission and the Commission must be in a position to keep account of the extent to which the quotas have been used up and to inform the Member States accordingly;

Whereas, if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused it is essential that such State should return a significant proportion thereof to the reserve, in order to prevent a part of the Community tariff quota from remaining unused in one Member State while 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. Until 31 December 1986, a Community tariff quota of 6 000 tonnes shall be opened in the Community for frozen peas, falling within subheading ex 07.02 B of the Common Customs Tariff, originating in Sweden.

2. Within the limit of this tariff quota the applicable duty shall be 6 %. However, when these products are imported into Spain the duty applicable shall be 4,5 % within the limit of the quota-shares allocated to this Member State.

3. The Protocol on the definition of the concept of originating products and on methods of administrative cooperation, annexed to the Agreement between the European Economic Community and Sweden shall be applicable.

Article 2

1. The tariff quota laid down in Article 1 (1) shall be divided into two instalments.

2. A first instalment of this 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:

	(tonnes)
Benelux	13
Denmark	36
Germany	266
Spain	4 500
Greece	22
Italy	981
Portugal	21
United Kingdom	61

3. The second instalment of the quota being 100 tonnes shall constitute the reserve.

4. If an importer notifies the imminent import of the products in question into a Member State that does not participate in the initial allocation 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 a Member State has used 90 % or more of its initial share as fixed in Article 2 (2), or of that share minus any portion returned to the reserve pursuant to Article 5, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 10 % of its initial share, rounded up as necessary to the next whole number.

2. If a Member State, after exhausting its initial share, has used 90 % or more of the second share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up as necessary to the whole number.

3. If a Member State, after exhausting its second share, has used 90 % or more of the third share drawn by it, that Member State shall, in the manner and to the extent provided in paragraph 1, draw a fourth share equal to the third.

This process shall apply until the reserve is used up.

4. By way of derogation from paragraph 1, 2 and 3, a Member State may draw shares lower than those specified in those paragraphs if there are grounds for believing that those specified may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1986.

Article 5

Member States shall, not later than 15 November 1986, return to the reserve the unused portion of their initial share which, on 1 November 1986, is in excess of 20 % of the initial volume. They may return a greater portion if there are grounds for believing that it may be used in full.

Member States shall, not later than 15 November 1986, notify the Commission of the total quantities of the product in question imported up to and including 1 November 1986 and charged against the Community quota and of any portion of their 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 shall, as soon as the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 20 November 1986, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 5.

It shall ensure that the 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 making the last drawing.

Article 7

1. The Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that importations may be charged without interruption against their accumulated shares of the Community quota.

2. The Member States shall ensure that importers of the product in question have free access to the shares allocated to them.

3. The Member States shall charge imports of the product in question against their shares as and when the product is 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, 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 the day following its publication in the *Official Journal of the European Communities.*

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, 24 July 1986.

For the Council

The President

A. CLARK