COUNCIL REGULATION (EEC) No 3762/86

of 8 December 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 (1987)

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 of Spain and Portugal to the Community, an Agreement in the form of an Exchange of Letters has been concluded and approved by the Council Decision of 15 September 1986;

Whereas the aforesaid Agreement provides for the opening of a 6 000-tonne 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 January to 31 December 1987;

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 actual development of the market in the said goods, 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 three years for which statistics are available, imports of frozen peas, including chick peas, originating in Sweden, into each of the Member States, other than Spain, were as follows:

(in tonnes)

Member State	1983	1984	1985
Benelux	0	138	0
Denmark	121	254	11 091
Germany	1 365	1 432	2 567
Greece	231	0	272
France	0	0	0
Ireland	0	0	0
Italy	2 764	7 568	26 478
Portugal	223	0	0
United Kingdom	0	647	1 160
	4 704	10 039	41 568

Whereas, during the last 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, other than Spain's, in the quota volume can be set as follows:

Benelux	0,25,
Denmark	20,36,
Germany	9,53,
Greece	0,89,
Italy	65,37,
Portugal	0,40,
United Kingdom	3,20;

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 about 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 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. From 1 January to 31 December 1987 the Common Customs Tariff duties on the following product shall be suspended at the level and within the limit of the Community tariff quota shown herewith:

Order No	CCT heading No	Description	Quota volume (in tonnes)	Rate of duty (%)
09.0613	ex 07.02 B	Frozen peas, originating in Sweden	6 000	4,5 in Spain 6 in the other Member States

2. 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 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 1987, shall be as follows:

	(in tonnes)
Benelux	4,
Denmark	285,
Germany	133,
Greece	12,
Spain	4 500,
Italy	915,
Portugal	6,
United Kingdom	45.

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 in 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 notifiying 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 paragraphs 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

Aditional shares drawn pursuant to Article 3 shall be valid until 31 December 1987.

Article 5

Member States shall, not later than 1 October 1987, return to the reserve the unused portion of their initial share which, on 15 September 1987, is in excess of 20 % of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 1 October 1987, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1987 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 purusant 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 5 October 1987, 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 1 January 1987.

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

Done at Brussels, 8 December 1986.

For the Council

The President

N. LAWSON