COUNCIL REGULATION (EEC) No 4011/86

of 16 December 1986

opening, allocating and providing for the administration of autonomous tariff quotas for coffee, unroasted and not freed of caffeine, and cocoa beans, whole or broken, falling within subheading 09.01 A I a) and heading No 18.01 of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the draft Regulation from the Commission,

Whereas in the context of the accession negotiations, and so as to take into account the traditional trade flows between Spain and Latin America, the Community proposes that, for the first three years of the transitional period, duty-free autonomous Community tariff quotas be opened of 40 000 tonnes for coffee, unroasted and not freed of caffeine falling within subheading 09.01 A I a) of the Common Customs Tariff and of 10 000 tonnes for cocoa beans, whole or broken, falling within heading No 18.01 of the Common Customs Tariff; whereas these quotas should be opened for their second year of application, namely for the period 1 January to 31 December 1987;

Whereas, in particular, equal and continuous access to the quotas should be ensured for all importers, and the rate of duty for the tariff quotas should be applied consistently to all imports until the quota is exhausted; whereas, in the light of these principles, arrangements for the utilization of the tariff quotas based on an allocation among Member States would seem to be consistent with the Community nature of the quotas; whereas, to correspond as closely as possible to the actual trend in the market in the products in question, allocation of the quotas should be in proportion to the requirements as calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota period in question;

Whereas, however, it has not been possible to collect complete and accurate statistical data on all Member States' imports of the products in question from third countries that do not benefit from an equivalent tariff preference; whereas, on the basis of the available data, and taking into account the special nature of these quotas, the percentages of the initial participation in the quotas may be estimated as being the following:

	09.01 A I a)	18.01
Benelux	0,83	1,72
Denmark	0,22	0,01
Germany	2,23	2,48
Greece	0,11	0,12
Spain	95,00	95,00
France	0,57	0,21
Ireland	0,01	0,01
Italy	0,76	0,15
Portugal	0,05	0,01
United Kingdom	0,22	0,29

Whereas, to take account of the possible import trends for these products, the quota volumes should be divided into two parts, the first being allocated between the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share; whereas, to give importers some degree of certainty, the first instalment of Community tariff quotas should be fixed at a high level, which in this case could be about 99 % of the quota amounts;

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 quotas 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 measure concerning the administration of the shares allocated to that economic union may be carried out by any one 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 products shall be suspended at the level and within the limit of Community rariff quotas as shown herewith:

Order No	CCT heading No	Description	Quota volume (tonnes)	Duty of tariff quota (%)
09.1933	09.01 A I a)	Coffee, unroasted and not freed of caffeine	40 000	0
09.1935	18.01	Cocoa beans, whole or broken	10 000	0

2. Imports of the products in question may not be charged against this tariff quota if they are already free of customs duties under other preferential tariff arrangements.

Article 2

1. The Community tariff quotas referred to in Article 1 shall be divided into two instalments.

2. A first instalment of 39 500 and 9 900 tonnes respectively, shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid from 1 January to 31 December 1987 shall be as follows:

	09.01 A I a)	18.01
Benelux	326	170
Denmark	88	1
Germany	880	245
Greece	43	12
Spain	37 525	9 405
France	226	21
Ireland	1	1
Italy	301	15
Portugal	22	1
United Kingdom	88	29

3. The second instalment, of 500 and 100 tonnes respectively, shall constitute the corresponding reserve.

Article 3

1. If a Member State has used 90 % or more of one of its initial shares 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 one or the other of its initial shares, 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 one or the other of its second shares, 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 each of the reserves is used up.

4. By way of derogation from paragraphs 1, 2 and 3, each 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 1987.

Article 5

Member States shall, not later than 1 October 1987, return to the reserve the unused portion of each of their initial shares 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 products in question imported up to and including 15 September 1987 and charged against the Community quotas 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 reserves have been used up.

It shall, not later than 5 October 1987, inform the Member States of the amount still in the reserves, following any return of shares pursuant to Article 5.

It shall ensure that the drawing which exhausts one of the reserves 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. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that importation 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 products in question against their shares as and when the products 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, the Member States shall inform it of imports actually charged against their shares.

Article 9

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, 16 December 1986.

For the Council

The President

G. HOWE