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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1489/87

of 26 May 1987

opening, allocating and providing for the administration of Community tariff quotas for tomatoes, cucumbers and aubergines falling within heading No ex 07.01 of the Common Customs Tariff and originating in the Canary Islands (1987)

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 annexed to the Act of Accession, tomatoes, cucumbers, and aubergines falling within heading ex 07.01 of the Common Customs Tariff and originating in the Canary Islands qualify on the import into the customs territory of the Community for reduced duties in the limits of annual Community tariff quotas; whereas, the quota volumes amount to:

— 165 645 tonnes for tomatoes falling within subheading 07.01 M of the Common Customs Tariff,

— 28 663 tonnes for cucumbers falling within subheading 07.01 P I of the Common Customs Tariff and

— 3 819 tonnes for aubergines falling within subheading 07.01 T II of the Common Customs Tariff;

Whereas under Article 2 of Council Regulation (EEC) No 1391/87 of 18 May 1987 concerning certain adjustments to the arrangements applied to the Canary Islands [2], the quota volume laid down for tomatoes has been increased to 173 000 tonnes;

Whereas, when the said products are imported into that part of Spain which is included in the customs territory of the Community, they qualify for exemption from customs duties and are not subject to compliance with the reference price; whereas, when the said products are imported into Portugal, the quota duties applicable are to be calculated on the basis of the relevant provisions of 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 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, provided that the reference prices are complied with; 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 by Regulation (EEC) No 4044/86 [3], as amended by Regulation (EEC) No 914/87 [4], the Council has opened for the period 1 January to 31 May 1987 the annual tariff quotas as provided for in the abovementioned Protocol No 2; whereas the tariff quotas in question should therefore be opened for 1987, while taking into account on the one hand the amendment to the quota volume laid down for tomatoes, and on the other hand the necessity to provide for the deduction of quantities imported during the first five months of 1987 under Regulation (EEC) No 4044/86 from the quota volumes opened by this Regulation;

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

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(1) OJ No L 302, 15. 11. 1985, p. 23.
(2) OJ No L 133, 22. 5. 1987, p. 5.
(3) OJ No L 377, 31. 12. 1986, p. 8.
(4) OJ No L 89, 1. 1. 1987, p. 4.

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:

(tonnes)

Member States	— 07.01 M — tomatoes			— 07.01 P I — cucumbers			— 07.01 T II — aubergines		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Benelux	50 379	56 131	75 188	6 567	13 515	6 000	1 347	2 702	2 352
Denmark	70	35	3 605	51	86	1 987	—	—	57
Germany	3 009	2 449	37 302	260	313	2 492	108	104	1 295
Greece	—	—	—	—	—	—	—	—	—
Spain	average of 16 858		15 430	average of 217		5	average of 445		174
France	773	582	7 770	7	8	345	43	37	454
Ireland	24	39	21	2	6	2	—	—	—
Italy	—	—	—	—	—	—	—	—	—
Portugal	—	—	—	—	—	—	—	—	—
United Kingdom	90 748	100 701	90 063	16 942	18 930	11 225	1 226	1 501	1 425

Whereas in the last three years the products in question were imported regularly only 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 actually 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 quota 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 about 80 % of each 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. (a) Until 31 December 1987, the duties of the Common Customs Tariff applicable on the import into the Community for the following products shall be suspended at the levels and within the limits of Community tariff quotas as follows:

Order No	CCT heading No	Description	Quota volumes (tonnes)	Quota duties
09.0418	07.01 M	Tomatoes, originating in the Canary Islands	173 000	— From 1 June to 31 October: 14,4 %, subject to a minimum of 2,8 ECU per 100 kg net — From 1 November to 31 December: 8,8 %, subject to a minimum of 1,6 ECU per 100 kg net
09.0420	07.01 P I	Cucumbers, originating in the Canary Islands	28 663	— From 1 June to 31 October: 16 % — From 1 November to 31 December: 12,8 %
09.0422	07.01 T II	Aubergines, originating in the Canary Islands	3 819	12,8 %

(b) 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 and are not subject to compliance with the reference price.

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

2. On import, the said products shall, in the event of any countervailing dury being applied under 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 1351/86 (2), benefit from a reduction of 4 % of that duty.

3. (a) Without prejudice to the other 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 third and fourth subparagraphs of Article 9 of Council Regulation (EEC) No 1035/72, shall not apply to products covered by this Regulation.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 119, 8. 5. 1986, p. 46.

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 allocated among certain Member States; the respective shares which, subject to Article 5, shall be valid until 31 December 1987 shall amount to the quantities indicated below:

(a) tomatoes of subheading 07.01 M:

Benelux	41 470 tonnes,
Germany	2 000 tonnes,
Spain	17 208 tonnes,
France	720 tonnes,
United Kingdom	74 780 tonnes;

(b) cucumbers of subheading 07.01 P I:

Benelux	8 640 tonnes,
Denmark	50 tonnes,
Germany	210 tonnes,
Spain	190 tonnes,
United Kingdom	14 020 tonnes;

(c) Aubergines of subheading 07.01 T II:

Benelux	1 520 tonnes,
Germany	75 tonnes,
Spain	350 tonnes,
France	65 tonnes,
United Kingdom	1 040 tonnes.

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

— 36 822 tonnes for tomatoes of subheading 07.01 M,

— 5 553 tonnes for cucumbers of subheading 07.01 P I, and

— 769 tonnes for aubergines of subheading 07.01 T II

shall constitute the corresponding Community reserve.

4. The quantities charged against the shares allocated to the Member States in accordance with Article 2 (2) of Regulation (EEC) No 4044/86 or drawn by those States from the Community reserves constituted under Article 2 (3) of this Regulation shall be deducted from the shares and reserves provided for in this Article.

5. 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 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 1987.

Article 5

The Member States shall return to the reserve, not later than 1 October 1987, such unused portion of their initial share as, on 15 September 1987, 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 1987 of the total quantities of the products in question imported up to 15 September 1987 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 1987, 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 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. 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.

The extent to which a Member State has used up its shares shall be determined on the basis of the imports charged against shares under the conditions provided for in 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 June 1987.

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

Done at Brussels, 26 May 1987.

For the Council

The President

P. DE KEERSMAEKER