COUNCIL REGULATION (EEC) No 4061/87

of 22 December 1987

opening, allocating and providing for the administration of Community tariff quotas for fresh flowers originating in the Canary Islands (1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal and in particular Article 4 of Protocol 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas by virtue of Article 4 of Protocol 2 to the Act of Accession and Article 2 of Council Regulation (EEC) No 1391/87 of 18 May 1987 concerning certain adjustments to the arrangements applied to the Canary Islands [1], fresh flowers falling within codes 0603 10 11 to 0603 10 69 of the combined nomenclature and originating in the Canary Islands qualify on import into the Community for reduced customs duties within the limits of Community tariff quotas; whereas the quota volume for roses, carnations, orchids, gladioli and chrysanthemums is 87 500 000 pieces and that for other flowers is 597 tonnes;

Whereas for 1988 the duties applicable within the limits of those tariff quotas are equal to 62,5 % of the combined nomenclature duties, whereas, however, the products concerned qualify for exemption from import duties on import into that part of Spain which is included in the customs territory of the Community; whereas, where the said products are imported into Portugal, the quota duties applicable are to be calculated in accordance with the relevant provisions of the Act of Accession; whereas to qualify for the tariff quota the products in question must comply which certain marking and labelling conditions designed to prove their origin;

Whereas, from 1 January 1988 the nomenclature used in the Common Customs Tariff will be replaced by the combined nomenclature based on the International Convention on the Harmonized Commodity Description and Coding System; whereas this Regulation must take account of that fact by indicating the combined nomenclature codes of the products concerned;

Whereas equal and continuous access to the quotas should be ensured for all Community importers and the rates laid down for the quotas should be applied consistently to all imports of the products in question into all Member States until the quotas are exhausted; whereas, in the light of these principles, allocation of the tariff quotas among the Member States would seem to preserve the Community nature of the quotas; whereas in order to correspond as closely as possible to the real trend of the market for the products concerned the allocation should reflect the requirements of the Member States based on statistics of imports of those products originating in the Canary Islands during a representative reference period and on 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 concerned originating in the Canary Islands:

— Roses, carnations, orchids, gladioli and chrysanthemums:

Member States	1984	1985	1986
Benelux	5,9	—	22,37
Denmark	—	—	0,03
Germany	25,2	34,3	48,67
Greece	—	—	—
Spain	61,5	46,7	—
France	1,1	1,8	2,74
Ireland	—	—	0,19
Italy	0,4	1,3	1,85
Portugal	—	—	—
United Kingdom	5,9	15,9	24,15

— Other flowers:

Member States	1984	1985	1986
Benelux	25,2	16,5	66,67
Denmark	—	—	—
Germany	7,1	4,8	26,67
Greece	—	—	—
Spain	66,9	76,7	—
France	—	0,5	6,66
Ireland	—	—	—
Italy	0,8	1,3	—
Portugal	—	—	—
United Kingdom	—	0,2	—

Whereas, in view of these factors and of market forecasts for these products, the initial percentage shares of the quota volume can be expressed approximately as follows:

[1] OJ No L 133, 22. 5. 1987, p. 5.

Member States	Roses, carnations, orchids, gladioli and chrysanthemums	Other flowers
Benelux	6,0	21,93
Denmark	0,1	—
Germany	31,0	6,35
Greece	0,1	—
Spain	52,6	70,26
France	2,6	—
Ireland	0,1	—
Italy	0,5	1,45
Portugal	0,1	—
United Kingdom	6,9	—

Whereas during the last three years the other flowers concerned 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 only 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 non-Member States; whereas these allocation arrangements will ensure the uniform application of the Common Customs Tariff;

Whereas, to allow for the trend of imports of the products concerned in the various Member States, each quota volume should be divided into two parts, the first being allocated among certain Member States and the second held as a reserve to cover any subsequent requirements of those Member States which have used up their initial shares and any requirements which might arise in the other Member States; whereas, to afford importers in each Member State some degree of certainty, an appropriate level for the first part of the Community quotas would, in the present circumstances, be 75 % of each quota volume;

Whereas the Member States' initial shares may be used up at different times; whereas in 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 a Community 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) From 1 January to 31 December 1988 the customs duties applicable to imports into the Community for the following products originating in the Canary Islands shall be suspended at the levels indicated and within the limits of Community tariff quotas as below:

Order No	CN code	Description	Amount of tariff quota	Rate of duty
	ex 0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		From 1 January to 31 May: 10,6 %
		– Fresh:		
09.0431	0603 10 11 0603 10 13 0603 10 15 0603 10 21 0603 10 25 0603 10 51 0603 10 53 0603 10 55 0603 10 61 0603 10 65	– – Roses, carnations, orchids, gladioli and chrysanthemums	87 500 000 units	From 1 June to 31 October: 15 %
09.0433	0603 10 29 0603 10 69	– – Other flowers	597 tonnes	From 1 November to 31 December: 10,6 %

(b) Within the limits of these tariff quotas, the said products shall be exempt from customs duties on import into that part of Spain which is included in the customs territory of the Community;

(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. Without prejudice to the relevant 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.

Article 2

1. The tariff quotas laid down in Article 1 shall be divided into two instalments.

2. The first part of each Community tariff quota referred to in Article 1 shall be allocated among the Member States; without prejudice to Article 5, the quota shares shall be valid until 31 December 1988 and shall be as follows:

Member States	— ex 0603 — roses, carnations, gladioli orchids and chrysanthemums (units)	— ex 0603 — other flowers (tonnes)
Benelux	3 937 500	100
Denmark	65 625	—
Germany	20 343 750	30
Greece	65 625	—
Spain	34 518 750	315
France	1 706 250	—
Ireland	65 625	—
Italy	328 125	5
Portugal	65 625	—
United Kingdom	4 528 125	—

3. The second part of each quota, 21 875 000 units and 147 tonnes respectively, shall constitute the corresponding reserve.

4. If an importer gives notification of imminent imports of other flowers into the other Member States and applies to take advantage of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its 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 one of its initial quota shares as specified in Article 2 (2), or of that share less any portion returned to the reserve pursuant to Article 5, it shall forthwith, by notifying the Commission and to the extent that the reserve so permits, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next whole number.

2. If, after one of its initial quota shares has been used up, a Member State has used 90 % or more of its second share as well, it shall, using the procedure provided for in paragraph 1 and to the extent that the reserve so permits, draw a third share equal to 5 % of the initial share, rounded up where necessary to the next whole number.

3. If, after one of its second shares has been used up, a Member State has used 90 % or more of its third share, it shall, using the procedure provided for 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

Each of the additional shares drawn pursuant to Article 3 shall be valid until 31 December 1988.

Article 5

The Member States shall notify the Commission, not later than 1 October 1988, of such unused portion of their initial share as, on 15 September 1988, 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 1988, of the total quantities of the products in question imported up to 15 September 1988 and charged against the tariff quota and of any quantity of the initial shares returned to the corresponding reserves.

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 1988 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 Community tariff quotas.

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 quota shares as and when the products are entered with customs authorities for free circulation.

4. The extent to which a Member State has used up its shares 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 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 1988.

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

Done at Brussels, 22 December 1987.

For the Council

The President

N. WILHJELM