COUNCIL REGULATION (EEC) No 4105/87

of 22 December 1987

opening, allocating and providing for the administration of Community tariff quotas for certain types of manufactured tobacco processed 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 [1], and in particular Article 2 of Protocol 2 thereto,

Having regard to the proposal from the Commission,

Whereas Article 2 of Protocol 2 and Article 10 of Protocol 3 to the Act of Accession provide that from 1 January 1986 manufactured tobacco falling within Chapter 24 of the combined nomenclature which is processed in the Canary Islands is to qualify, in the customs territory of the Community, for exemption from customs duties within the limits of annual Community tariff quotas; whereas this tariff preference applies to products of which there have been imports in the last five years; whereas, calculated on the basis of the abovementioned Article 2, the quota volumes for cigarettes falling within code 2402 20 00 of the combined nomenclature and cigars, cheroots and cigarillos falling within code 2402 10 00 of the combined nomenclature are 18 170 million units and 320,5 million units respectively; whereas there are no imports of other manufactured tobacco falling within Chapter 24 of the combined nomenclature; whereas the tariff quotas in question should therefore be opened for 1988;

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 rules should be laid down on the marking 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 imports into the Member States during the last three years for which statistics are available were as follows:

Member State	Cigarettes falling within code 2402 20 00 of the CN (millions of units)			Cigars, cheroots and cigarillos falling within code 2402 10 00 of the CN (millions of units)		
	1984	1985	1986	1984	1985	1986
Benelux	—	—	—	1 276	1 300	150
Denmark	—	—	—	—	—	4
Germany	—	—	—	—	—	56
Greece	—	—	—	—	—	—
Spain	18 702	18 496	15 723	312 300	314 200	329 175
France	—	—	—	208	340	349
Ireland	—	—	—	—	—	—
Italy	—	—	—	—	—	—
Portugal	—	—	—	—	—	—
United Kingdom	—	—	—	5	2 110	190

Whereas during the last three years 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 only to the importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas when imports into those Member States are announced; 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 being 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 90 % and 95 % respectively of the quota volumes;

[1] OJ No L 302, 15. 11. 1985, p. 23.

Whereas the initial shares of the Member States may be used up at different rates; whereas, in order to avoid any break in the continuity of supplies on this account, it should be provided that any Member State which has almost used up one of its initial quota shares should draw an additional share from the corresponding reserve; whereas each time one of its additional shares is almost used up a Member State should draw a further share and so on as many times as the reserve allows; whereas each of the initial and additional shares must be valid until the end of the quota period; whereas this form of administration requires close cooperation between the Member States and the Commission and the latter must be able to monitor the extent to which the quota volumes have been used up and inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of one of a Member State's initial shares remains unused, it is essential that the Member State concerned should return a significant proportion thereof to the corresponding reserve in order to prevent 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 concerning the administration of the quota 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 1988 the duties applicable to imports of the following products shall be suspended at the levels indicated and within the limits of Community tariff quotas as shown below:

Order No	CN code	Description	Volume of quota (million units)	Rate of duty
09.0401	2402 20 00	Cigarettes, manufactured in the Canary Islands	18 170	Free
09.0403	2402 10 00	Cigars, cheroots and cigarillos manufactured in the Canary Islands	320,5	Free

2. Products covered by this Regulation shall not qualify for the tariff quotas unless, when they are presented to the customs authorities responsible for the import formalities for release for free circulation in the customs territory of the Community, they are presented in packaging which bears the words 'Manufactured in the 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 referred to in Article 1 shall be divided into two parts.

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

(a) cigarettes falling within code 2402 20 00 of the combined nomenclature:

Spain	16 355 million units;

(b) cigars, cheroots and cigarillos falling within code 2402 10 00 of the combined nomenclature:

Benelux	1,2 million units,
Denmark	0,4 million units,
Spain	302,5 million units,
France	0,3 million units,
United Kingdom	0,1 million units.

3. The second part of each quota, 1 815 million units (code 2402 20 00 of the combined nomenclature) and 16,0 million units (No 2402 10 00 of the combined nomenclature) respectively, shall constitute the corresponding reserve.

4. If an importer gives notification of imminent imports of the products in question 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 so permits.

Article 3

1. If a Member States 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, Member States may draw smaller shares than those specified in the said paragraphs if there is reason to believe that they might not be used in full. Member States shall inform the Commission of their 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

By 1 November 1988 at the latest, the Member States must return to the reserve the unused portion of their initial share which, on 15 October 1988, is in excess of 20 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 November 1988 at the latest, Member States must notify the Commission of the total quantities of the products concerned imported on or before 15 October 1988 and charged against the Community quotas and of any portion of their initial shares that they are returning to the corresponding reserves.

Article 6

The Commission shall keep account of the shares drawn by Member States pursuant to Articles 2 and 3 and shall inform each Member States of the extent to which the reserves have been used up as soon as it has been notified.

It shall inform the Member States, not later than 5 November 1988, of the state of each of the reserves following any return of quota 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 final drawing.

Article 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 enable imports to be charged without interruption against their accumulated shares of the Community tariff quotas.

2. Member States shall ensure that importers of the products concerned have free access to the quota shares allocated to them.

3. Member States shall charge imports of the products concerned against their quota shares as and when the goods are entered with the customs authorities for free circulation.

4. The extent to which a Member State has used up its quota share shall be determined on the basis of imports of the products in question manufactured in the Canary Islands and charged in accordance with paragraph 3.

Article 8

At the request of the Commission, Member States shall inform it of imports of the products actually charged against their quota 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 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