COUNCIL REGULATION (EEC) No 3586/88

of 8 November 1988

opening, allocating and providing for the administration of a Community tariff quota for frozen peas originating in Sweden (1989)

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 Council Decision 86/558/EEC (1);

Whereas the said 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 1989;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate laid down for the quota should be applied consistently to all imports until the quota is exhausted; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas in order to correspond as closely as possible to the real trend of the market for the product in question the allocation should reflect the requirements of the Member States based on statistics of imports of the said products from Sweden during a representative reference period and on the economic outlook for the quota year in question;

Whereas during the last three years for which statistics are available, imports of peas from Sweden into each of the Member States, other than Spain, were as follows:

(tonnes)

Member State	1985	1986	1987
Benelux	20	0	0
Denmark	42	273	363
Germany	2 567	3 475	2 924
Greece	272	91	315
France	0	0	20
Ireland	0	0	0
Italy	14 879	14 643	12 953
Portugal	0	262	208
United Kingdom	1 160	1 499	40
	18 940	20 243	16 823

Whereas, during the 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 tariff quota when notification is given of imports into those States of the products concerned; whereas these arrangements for allocation will also ensure the uniform application of the Common Customs Tariff;

Whereas in view of these factors, the initial percentage shares of the quota volume of the Member States other than Spain can be expressed approximately as follows:

Benelux	0,04
Denmark	1,21
Germany	16,00
Greece	1,21
France	0,04
Italy	75,84
Portugal	0,84
United Kingdom	4,82

Whereas to allow for the trend of imports of the product concerned, the quota volume should be divided into two parts, the first being allocated among 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 afford importers in each Member State some degree of certainty, the first part of the tariff quota should be set at a high level, which in this case could be 98 % of the quota volume;

(1) OJ No L 328, 22. 11. 1986, p. 89.

Whereas the initial shares 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 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 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 volume has been used up and 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 the Member State concerned should return a significant proportion thereof to the reserve in order to prevent part of the Community 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 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 1989 the customs duty applicable to imports of the following products, originating in Sweden, shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN code	Description	Amount of quota (tonnes)	Rate of duty (%)
09.0613	0710 21 00 ex 0710 29 00	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 tariff quota referred to in Article 1 (1) shall be divided into two parts.

2. The first part of this quota shall be allocated among certain Member States; the respective shares, which, subject to Article 5, shall be valid until 31 December 1989, shall be as follows:

	(in tonnes)
Benelux	1
Denmark	17
Germany	224
Greece	17
Spain	4 500
France	1
Italy	1 069
Portugal	12
United Kingdom	67.

3. The second part of the quota amounting to 100 tonnes shall constitute the reserve.

4. If an importer gives notification of imminent imports of the products in question into a Member State not covered by the initial allocation 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 its initial share, 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 its initial quota share has been used up, a Member State has used 90 % or more of its second share as well, it shall forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of the initial share, rounded up where necessary to the next whole number.

3. If, after its second share 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

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

By 1 October 1989 at the latest Member States must return to the reserve the unused portion of their initial share which, on 15 September 1989, 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 October 1989 at the latest Member States must notify the Commission of the total quantities of the product concerned imported on or before 15 September 1989 and charged against the Community quota and of any portion of their initial share that they are returning to the reserve.

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 State of the extent to which the reserve has been used up as soon as it has been notified.

It shall inform the Member States not later than 5 October 1989 of the state of the reserve following any return of quota 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 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 share of the Community tariff quota.

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

3. Member States shall charge imports of the product concerned against their 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 shares shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 8

At the request of the Commission, Member States shall inform it of imports 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 1989.

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

Done at Brussels, 8 November 1988.

For the Council

The President

A. PEPONIS