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(Actos whose publication is obligatory)

COUNCIL REGULATION (EEC) No 4092/88

of 16 December 1988

opening, allocating and providing for the administration of Community tariff quotas for tomatoes, cucumbers and aubergines originating in the Canary Islands (1989)

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], tomatoes, cucumbers and aubergines falling within CN codes 0702 00 10, 0702 00 90, 0707 00 11, 0707 00 19 or 0709 30 00 and originating in the Canary Islands qualify on import into the customs territory of the Community for reduced duties within the limits of annual Community tariff quotas; whereas the quota volumes are as follows:

— 173 000 tonnes of tomatoes falling within CN codes 0702 00 10 or 0702 00 90,

— 28 663 tonnes of cucumbers falling within CN codes 0707 00 11 or 0707 00 19,

— 3 819 tonnes of aubergines falling within CN code 0709 30 00;

Whereas, for 1989, the duties applicable within the limits of those tariff quotas are equal to 50% of the basic duties;

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

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 with certain marking and labelling conditions designed to prove their origin;

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 Community tariff quotas among the Member States would seem such as 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, for 1989, it is necessary to maintain the shares for the Member States given that the administrations of the Member States cannot create, by 1989 a technical and administrative basis for Community administration of the quota; whereas, however, it is possible, given the evolution of trade over the last few years, to provide for an increase in the Community reserve;

Whereas, during the last three years for which statistics are available, imports of these products into each of the Member States were as follows:

(tonnes)

Member State	CN codes 0702 00 10, 0702 00 90 Tomatoes			CN codes 0707 00 11, 0707 00 19 Cucumbers			CN code 0709 30 00 Aubergines		
	1985	1986	1987	1985	1986	1987	1985	1986	1987
Benelux	75 188	57 041	55 013	6 000	11 566	12 209	2 352	2 091	1 367
Denmark	3 605	59	257	1 987	45	—	57	2	—
Germany	37 302	2 826	2 725	2 492	179	246	1 295	110	27
Greece	—	—	—	—	—	—	—	—	—
Spain	15 430	—	5 338	5	—	—	174	—	142
France	7 770	1 944	312	345	211	829	454	40	133
Ireland	21	62	13	2	5	8	—	—	—
Italy	—	3	94	—	—	—	—	—	—
Portugal	—	—	—	—	—	—	—	—	—
United Kingdom	90 063	95 220	103 284	11 255	15 485	21 062	1 425	1 747	1 717

Whereas during the last three years these products 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 the latter; 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 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 60 % of each quota volume;

Whereas, if during the quota period the Community reserve is almost totally used up, it is vital that Member States should return to that reserve all the unused part of their initial and where relevant, additional shares, to prevent part of the Community tariff quota remaining unused in a 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 1989 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 (tonnes)	Rate of duty (%)
09.0417	0702 00 10 0702 00 90	Tomatoes, fresh or chilled	173 000	— From 1 January to 28 February: 3,3 %, minimum 0,6 ECU/100 kg/net — From 1 March to 14 May: 6,6 %, minimum 1,2 ECU/100 kg/net — From 15 May to 31 October: 10,8 %, minimum 2,1 ECU/100 kg/net — From 1 November to 31 December: 6,6 %, minimum 1,2 ECU/100 kg/net
09.0419	0707 00 11 0707 00 19	Cucumbers	28 663	— From 1 January to 15 May: 9,6 % — From 16 May to 31 October: 12 % — From 1 November to 31 December: 9,6 %
09.0421	0709 30 00	Aubergines	3 819	9,6 %

(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. On import, the said products shall, in the event of any countervailing duty being applied under Council 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 2283/88 [2], benefit from a reduction of 6 % of that duty.

3. 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. A first part of respectively 103 800, 17 200 and 2 290 tonnes of each quota shall be allocated among certain Member States; the quota shares valid until 31 December 1989, shall be as follows:

(a) tomatoes falling within CN codes 0702 00 10 and 0702 00 90:

Benelux	35 105 tonnes,
Denmark	758 tonnes,
Germany	8 034 tonnes,
Spain	3 903 tonnes,
France	1 889 tonnes,
United Kingdom	54 111 tonnes;

(b) cucumbers falling within CN codes 0707 00 11 or 0707 00 19:

Benelux	6 103 tonnes,
Denmark	416 tonnes,
Germany	599 tonnes,
France	286 tonnes,
United Kingdom	9 796 tonnes;

(c) aubergines falling within CN code 0709 30 00:

Benelux	1 015 tonnes,
Germany	252 tonnes,
Spain	57 tonnes,
France	111 tonnes,
United Kingdom	855 tonnes;

3. The second part of each quota shall be as follows and shall constitute the corresponding Community reserve:

— 69 200 tonnes of tomatoes falling within CN codes 0702 00 10 or 0702 00 90

— 11 463 tonnes of cucumbers falling within CN codes 0707 00 11 or 0707 00 19

— 1 529 tonnes of aubergines falling within CN code 0709 30 00.

4. If an importer gives notification of imminent imports of one of the products in question into another Member State which has not taken part in the initial allocation or has used up its initial share and which applies to take advantage of the corresponding 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.

5. Without prejudice to Article 3, the amounts drawn in accordance with paragraph 4 shall be valid until the end of the period to which the quota applies.

Article 3

1. Once at least 80 % of the reserve of the tariff quota as defined in Article 2 (3) is used up, the Commission shall notify the Member States.

2. It shall also, in this case, notify the Member States of the date from which shares drawn from the Community reserve must be dealt with in accordance with the following provisions:

If an importer submits in a Member State a declaration for release for free circulation including an application for preferential treatment for a product referred to under this Regulation, and if that declaration is accepted by the customs authorities, the Member State concerned shall inform the Commission and draw from the reserve referred to in Article 2 (3) a quantity corresponding to these requirements.

Applications to draw on the quota volume, showing the date of acceptance of the above declaration must be forwarded to the Commission without delay.

Withdrawals shall be granted by the Commission on the basis of the date when the declaration for release for free circulation was accepted by the customs authorities of the Member State concerned, in so far as the available balance so permits.

If a Member State does not use up the quantities drawn, it shall return them as soon as possible to the reserve.

If the quantities applied for are greater than the available balance of the reserve the shall be allocated *pro rata*. Member States shall be informed by the Commission by the same procedures.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 198, 26. 7. 1988, p. 1.

3. Within three working days from the date mentioned in paragraph 2, the Member States shall be obliged to return to the reserve all the unused part of their initial and, where applicable, additional shares within the meaning of Article 5 (3) and (4).

Article 4

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 of the amounts in these reserves after quantities have been returned thereto pursuant to Article 3.

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 5

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 whith 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 6

At the Commission's request, the Member States shall inform it of imports actually charged against their shares.

Article 7

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, 16 December 1988.

For the Council

The President

G. GENNIMATAS