COUNCIL REGULATION (EEC) No 4097/88

of 16 December 1988

opening and providing for the administration of a Community tariff quota for sweet, clear-fleshed cherries, marinated in alcohol, falling within CN code ex 2008 60 39 and intended for the manufacture of chocolate products (1989)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the proposal from the Commission,

Whereas Community production of sweet, clear-fleshed cherries marinated in alcohol and intended for the manufacture of confectionery (in particular chocolate products) is currently insufficient to meet the requirements of the user industries in the Community; whereas the Community depends to a considerable extent on imports from third countries for its supplies of products of this type; whereas it is in the Community's interest to suspend partially the customs duty for the products in question, within a Community tariff quota of an appropriate volume; whereas, in order not to interfere with the prospects for developing production in the Community and at the same time ensure an adequate supply to satisfy user industries, it is advisable that the tariff quota should cover only products which meet certain criteria relating to use, to open the quota for the period 1 January to 31 December 1989 and to set the volume at 3 000 tonnes, this being the quantity it is necessary to import from third countries during that period, and to set the quota duty at 10 %;

Whereas it is in particular necessary to allow all Community importers equal and uninterrrupted access to the quota and to ensure uninterrupted application of the rates laid down for the quota to all imports of the products concerned into all Member States until the quota has been used up; whereas, in the present case, it seems advisable not to allocate this quota among the Member States but to allow them to draw against the quota volume such quantities as they may need, under the conditions and according to the procedure specified in Article 2 (1); whereas this method of administration requires close cooperation between the Member States and the Commission and the latter must, in particular, be able to monitor the rate at which the quota is being used up and inform the Member States accordingly;

Whereas if, during the quota period, the tariff quota is almost totally used up, it is indispensable that Member States return to this quota the entirety of the drawings made which have not been used, in order to avoid one part of the Community tariff quota 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, all transactions concerning the administration of shares levied by that economic union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1989 the customs duties applicable to imports of the products specified below shall be suspended at the level indicated and within the limits of a Community tariff quota as follows:

Order No	CN code	Description	Volume of quota (tonnes)	Rate of duty (%)
09.2713	ex 2008 60 39	Sweet, clear-fleshed cherries, marinated in alcohol, of a diameter not exceeding 18,9 mm, stoned, intended for the manufacture of chocolate products (1)	3 000	10

(1) Checks on their prescribed end-use shall be carried out pursuant to the relevant Community provisions.

2. Within the limits of this tariff quota, Spain and Portugal shall apply customs duties calculated in accordance with the relevant provisions in the 1985 Act of Accession.

Article 2

1. If an importer gives notification of imminent imports of the product in question into a Member State 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 quota so permits.

2. Without prejudice to Article 3, shares drawn pursuant to paragraph 1 shall be valid until the end of the quota period.

Article 3

1. Once at least 80% of the tariff quota as defined in Article 1 (1) has been used up, the Commission shall notify the Member States thereof.

2. It shall also notify Member States in this case of the date from which drawings on the tariff quota must be made according to the following provisions.

If an importer presents in a Member State a declaration of entry into free circulation including a request for preferential benefit for a product covered by this Regulation, and if this declaration is accepted by the customs authorities, the Member State concerned shall draw from the tariff quota, by means of notification to the Commission, a quantity corresponding to these needs.

The requests for drawing, with the indication of the date of acceptance of the said declarations, must be communicated to the Commission without delay.

The drawings are granted by the Commission on the basis of the date of acceptance of the declaration of entry into free circulation by the customs authorities of the Member State concerned, to the extent that the available balance so permits.

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

If the quantities requested are greater than the available balance of the quota, allocation shall be made on a *pro rata* basis with respect to the requests. Member States shall be informed by the Commission in accordance with the same procedures.

3. Within a time limit laid down by the Commission starting from the date referred to in the first subparagraph of paragraph 2, Member States shall be required to return to the tariff quota all the quantities which have not been used on that date, within the meaning of Article 4 (3) and (4).

Article 4

1. Member States shall take all appropriate measures to ensure that their drawings pursuant to Article 2 (1) enable imports to be charged without interruption against their accumulated shares of the Community quota.

2. Each Member State shall ensure that importers of the product concerned have free access to the quota for such time as the residual balance of the quota volume so permits.

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

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 5

At the request of the Commission, Member States shall inform it of imports of the product concerned actually charged against the quota.

Article 6

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

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