COUNCIL REGULATION (EEC) No 4219/88

of 19 December 1988

opening, allocating and providing for the administration of a Community tariff quota for fresh or dried hazelnuts, shelled or not, originating in Turkey (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 proposal from the Commission,

Whereas the Annex to Council Regulation (EEC) No 3721/84 of 18 December 1984 on imports into the Community of agricultural products originating in Turkey (1), provides that fresh or dried hazelnuts, shelled or not and originating in Turkey shall be admitted on importation into the Community at zero duty within the limits of a Community tariff quota of 25 000 tonnes; whereas the Community tariff quota concerned should therefore be opened for 1989;

Whereas the Council adopted Regulation (EEC) No 1059/88 of 28 March 1988 laying down the arrangements applicable to Greece's trade with Turkey (2); whereas, the Council has also adopted Regulation (EEC) No 2573/87 of 11 August 1987 laying down the arrangements for trade between Spain and Portugal, on the one hand, and Algeria, Egypt, Jordan, Lebanon, Tunisia and Turkey, on the other (3); whereas the tariff quota in question applies therefore to the Community as constituted on 31 December 1985.

Whereas equal and continuous access to the quota should be ensured for all importers of the Member States and the rate laid down for the quota should be applied consistently to all imports of the products in question into the said Member States until the quota is exhausted;

Whereas, for the period of application of this Regulation, it appears necessary to maintain an allocation between the Member States of the quotas concerned, since the administrations of the Member States are unable to provide by 1 January 1989, the administrative and technical conditions required for the Community management of quotas for these products originating in Turkey; whereas it does, however, seem advisable to provide for a further increase in the Community reserve;

Whereas provision should be made for a mechanism to prevent, when the Community quota is not used up, goods being imported into a Member State which has used up its share only after the full application of customs duties, or after having been diverted to another Member State whose share has not yet been used up; whereas under these circumstances, if, during the quota period, the Community reserve were to be almost entirely used up, Member States should return to the said reserve all of the unused portion of their initial shares so as to avoid part of the Community tariff quota from remaining unused in one Member State, when it could be used in others;

Whereas, taking into account the traditional trends in trade, the allocation maintained between Member States must, so as to reflect as well as possible the acutal market trend of the products in question, be carried out *pro rata* the needs of the Member States, calculated, on the one hand, on the basis of the statistical data relating to imports of the said products from Turkey over a representative reference period and, on the other hand, on the basis of the economic outlook for the quota periods considered;

Whereas, on the basis of the currently available statistical data, imports of the product in question from Turkey into the Member States have developed as follows over the years 1985, 1986 and 1987, whereas they represent the following percentages of total imports into the Community from Turkey:

Member State	1985		1986		1987	
	tonnes	%	tonnes	%	tonnes	%
Benelux	5 266	7,10	6 202	8,25	6 903	8,79
Denmark	792	1,07	868	1,15	869	1,10
Germany	47 225	63,65	49 716	66,12	50 513	64,29
Greece	0	0	0	0	0	0
France	9 416	12,69	9 129	12,14	8 845	11,26
Ireland	28	0,03	0	0	20	0,02
Italy	5 206	7,02	3 179	4,23	6 944	8,84
United Kingdom	6 264	8,44	6 099	8,11	4 480	5,70
Total	74 197		75 193		78 574	

(1) OJ No L 343, 31. 12. 1984, p. 6.
(2) OJ No L 104, 23. 4. 1988, p. 4.
(3) OJ No L 250, 1. 9. 1987, p. 1.

Whereas, in view of these factors and of market forecasts for the products concerned for 1989 and, in particular, the estimates submitted by certain Member States, initial percentage shares can be expressed approximately as follows:

Benelux	8,06
Denmark	1,73
Germany	64,68
France	12,02
Ireland	0,07
Italy	6,05
United Kingdom	7,39

Whereas, to allow for the trend of imports of the products concerned in the various Member States, 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 these Member States as well as those Member States which do not participate in the initial allocation; whereas to afford importers in each Member State some degree of certainty, the first part of the tariff quota should be set at a relatively high level, which in this case could be approximately 60% of the quota volume;

Whereas Member States may use up their initial shares at different rates; whereas, to provide for this eventuality and to avoid any break in the continuity of supplies, any Member State which has used up its initial share should draw additional shares in quantities corresponding to their real requirements, as many times as the reserve allows; whereas this form of administration requires close cooperation between 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 to inform the Member States accordingly;

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 into the Community as constituted on 31 December 1985 of the following products 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 quota duty (%)
09.0201	0802 21 00 0802 22 00	Fresh or dried hazelnuts, shelled or not, originating in Turkey	25 000	0

2. Imports of the products in question may not be charged against this tariff quota if they already qualify for the same customs duties under other preferential tariff arrangements.

2. This tariff quota shall be allocated and administered in accordance with the following articles.

Article 2

1. The tariff quota referred to in Article 1 (1) shall be divided into two parts.

2. The first part, amounting to 15 000 tonnes, shall be allocated among the Member States; the quota shares, which subject to Article 4 shall be valid until 31 December 1989, shall be as follows:

	(tonnes)
Benelux	1 209
Denmark	260
Germany	9 702
France	1 803
Ireland	10
Italy	908
United Kingdom	1 108

3. The second part of the quota, amounting to 10 000 tonnes, shall constitute the reserve.

4. If products of the type in question are presented in Greece and supported by a declaration as to entry into free circulation which is accepted by the customs services, the Member State concerned shall inform the Commission and draw a corresponding amount under the conditions laid down in Article 3.

Article 3

If a Member State's initial share as specified in Article 2 (2), has been used up entirely, the following provisions shall apply.

If an importer presents, in a Member State, a declaration as to entry into free circulation comprising a request for preferential treatment for a product covered by this Regulation, and this declaration is accepted by the customs authorities, the Member State concerned shall, by notifying the Commission, draw an amount corresponding to its requirements from the reserve referred to in Article 2 (3).

Requests to draw on the reserve together with the date of acceptance of the said declaration must be forwarded to the Commission without delay.

Drawings shall be granted by the Commission on the basis of the date of acceptance of goods for entry into free circulation by the customs authorities of the Member State concerned, provided a sufficient amount remains in the reserve.

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

If requests for drawings exceed the amount remaining in the reserve, an allocation shall be made *pro rata*. The Member States shall be informed by the Commission in accordance with the same procedure.

Article 4

1. Once at least 80 % of the reserve of one of the tariff quotas, as defined in Article 2 (3), has been used up, the Commission shall inform the Member States thereof.

2. It shall also notify Member States in this case of the date from which drawings on the Community reserve must be made according to the provisions laid down in the second and fifth paragraphs of Article 3, if these provisions are not already in effect.

3. Within a time limit fixed by the Commission as from the date referred to in the first subparagraph of paragraph 2, Member States shall be required to return to the reserve all their initial shares and any drawings which have not been used on that date, within the meaning of Article 6 (3).

Article 5

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

It shall inform the Member States, of the volume of the reserve following any return of quota shares pursuant to Article 4.

It shall ensure that the drawing which exhausts the reserve 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 6

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 are carried out in such a way that imports may be charged without interruption against their accumulated shares in 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, or which they have levied on the reserve.

3. Member States shall charge imports of the products 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 7

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

Article 8

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

Article 9

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, 19 December 1988.

For the Council

The President

Th. PANGALOS