COUNCIL REGULATION (EEC) No 4241/88

of 21 December 1988

repealing and replacing Regulation (EEC) No 3584/88 opening and providing for the administration of a Community tariff quota for table cherries, excluding Morello cherries, originating in Switzerland (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 Swiss Confederation 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 was concluded and approved by Council Decision 86/559/EEC (1);

Whereas the Agreement in the form of an Exchange of Letters provides for the opening of a Community tariff quota at zero duty for table cherries, excluding Morello cherries, originating in Switzerland; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas the system of administering the tariff quota should be adjusted and therefore Regulation (EEC) No 3584/88 (2) should be repealed and replaced by this Regulation;

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 of the products in question into all the Member States until the quota is exhausted; whereas, however, since the quota is to cover requirements which cannot be determined with sufficient accuracy, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under conditions and according to a procedure to be determined; 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 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, 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 duty applicable to imports of the following product 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 tariff quota (tonnes)	Rate of duty (%)
09.0901	0809 20 10 ex 0809 20 90	Table cherries excluding Morello cherries, originating in Switzerland	1 000	0

2. Within the limit of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions of the Act of Accession.

3. The Protocol on the definition of the concept of originating products and on methods of administrative

(1) OJ No L 328, 22. 11. 1986, p. 98.
(2) OJ No L 314, 22. 11. 1988, p. 1.

cooperation annexed to the Agreement between the European Economic Community and the Swiss Confederation shall apply.

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 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 retun 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 for 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 products concerned actually charged against the quota.

Article 6

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

Article 7

Regulation (EEC) No 3584/88 is hereby repealed.

Article 8

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, 21 December 1988.

For the Council

The President

V. PAPANDREOU