COUNCIL REGULATION (EEC) No 4243/88

of 21 December 1988

opening, allocating and providing for the administration of unilateral tariff quotas for coffee, unroasted and not freed of caffeine, and cocoa beans, whole or broken, raw or roasted falling within CN codes 0901 11 00 and 1801 00 00 (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 in the context of the accession negotiations, and in order to take into account the traditional trade flows between Spain and Latin America, the Community proposed that, for the first three years of the transitional period, duty-free unilateral tariff quotas be opened of 40 000 tonnes for coffee; unroasted and not freed of caffeine, falling within subheading 09.01 A I a) of the Common Customs Tariff and of 10 000 tonnes for cocoa beans, whole or broken, falling within heading No 18.01 of the Common Customs Tariff; whereas these quotas should be opened for their third year of application, namely for the period 1 January to 31 December 1989;

Whereas the Community has adopted, with effect from 1 January 1988, a combined nomenclature for goods which meets the requirements of the Common Customs Tariff and the Nomenclature of Goods for the External Trade Statistics of the Community and Statistics of Trade between Member States; whereas in order to accommodate specific Community rules, this nomenclature has been expanded into an integrated tariff of the European Communities (TARIC); whereas, with effect from that date, the combined nomenclature and, where appropriate, the TARIC code numbers, should be used for the description of the products covered by this Regulation.

Whereas, in particular, equal and continuous access to the quotas should be ensured for all importers, and the rate of duty for the tariff quotas should be applied consistently to all imports until the quotas are used up; whereas, in the light of these principles, arrangements for the utilization of the tariff quotas based on an allocation among Member States would seem to be consistent with the Community nature of the quotas; whereas, to correspond as closely as possible to the actual trend in the market in the products in question, allocation of the quotas should be in proportion to the requirements as calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota year in question;

Whereas, during the last three years for which statistics are available, imports into Member States from third countries which do not benefit from an equivalent tariff preference are as follows:

Member States	Coffee, unroasted and not freed of caffeine			Cocoa, beans, whole or broken		
	1984	1985	1986	1984	1985	1986
Benelux	161 876	148 039	123 203	31 406	50 518	31 511
Denmark	41 793	42 169	37 830	24	27	10
Germany	320 451	587 445	363 398	45 393	63 706	58 885
Greece	22 025	19 765	12 077	2 682	2 708	3 032
Spain	(117 191)	(121 083)	(86 692)	(37 823)	(38 923)	(15 998)
France	103 137	111 283	100 175	2 785	5 355	5 767
Ireland	191	163	162	0	0	0
Italy	129 333	163 912	118 964	2 874	3 851	3 444
Portugal	11 175	12 382	15 831	115	115	23
United Kingdom	46 058	46 098	39 204	6 242	6 782	8 673

Whereas, on the basis of the available data, and taking into account the special nature of the quotas, the initial percentage shares of the quota volumes can be expressed as follows:

Member States	Coffee	Cocoa
Benelux	0,78	1,69
Denmark	0,22	0,01
Germany	2,29	2,49
Greece	0,10	0,12
Spain	95,00	95,00
France	0,56	0,20
Ireland	0,01	0,01
Italy	0,74	0,14
Portugal	0,07	0,01
United Kingdom	0,23	0,32

Whereas, to take account of the possible import trends for the products concerned, the quota volumes 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 give importers some degree of certainty, the first part of the Community tariff quotas should be set at a high level, which in this case could be about 99 % of the quota volumes;

Whereas initial shares may be used up at different rates; whereas, 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 quotas have been used up and to 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 a part of the Community tariff quotas from remaining unused in one Member State while 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 measure concerning the administration of the 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 duties applicable to imports of the following products shall be suspended at the level indicated and within the limits of Community tariff quotas as shown herewith:

Order No	CN code	Description	Quota volume (tonnes)	Rate of duty (%)
09.2733	0901 11 00	Coffee, unroasted and not freed of caffeine	40 000	0
09.2735	1801 00 00	Cocoa beans, whole or broken, raw or roasted	10 000	0

2. Imports of the products in question may not be charged against these tariff quotas if they are already free of customs duties under other preferential tariff arrangements.

Article 2

1. The Community tariff quotas referred to in Article 1 shall be divided into two parts.

2. A first part of 39 500 and 9 900 tonnes respectively shall be allocated among the Member States; the shares shall, subject to Article 5, be valid from 1 January to 31 December 1989 and shall be as follows:

Member States	CN code 0901 11 00	CN code 1801 00 00
Benelux	308	167
Denmark	87	1
Germany	904	247
Greece	38	12
Spain	37 525	9 405
France	223	20
Ireland	1	1
Italy	293	14
Portugal	28	1
United Kingdom	93	32

3. The second part of 500 and 100 tonnes respectively, shall constitute the corresponding reserve.

Article 3

1. If a Member State has used 90 % or more of one of its initial shares 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, draw a second share, to the extent that the reserve so permits, equal to 10 % of its initial share, rounded up where necessary to the next whole number.

2. If a Member State, after exhausting one or the other of its initial shares, has used 90 % or more of the second share drawn by it, that Member State shall forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next whole number.

3. If a Member State, after exhausting one or the other of its second shares, has used 90 % or more of the third share drawn by it, that Member State shall, using the procedure provided for in paragraph 1, draw a fourth share equal to the third.

This process shall apply until each of the reserves is used up.

4. By way of derogation from paragraphs 1, 2 and 3, each Member State may draw shares lower than those specified in those paragraphs if there are grounds for believing that they may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

Article 4

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

Article 5

Member States shall, not later than 1 October 1989 return to the reserve the unused portion of each of their initial shares which, on 15 September 1989, is in excess of 20 % of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 1 October 1989, notify the Commission of the total quantities of the products in question imported up to and including 15 September 1989 and charged against the Community quotas and of any portion of their initial shares returned to the reserve.

Article 6

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 the information reaches it, inform each State of the extent to which the reserves have been used up.

It shall, not later that 5 October 1989, inform the Member States of the amount still in the reserves, following any return of shares pursuant to Article 5.

It shall ensure that the drawing which exhausts one of the reserves 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 7

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 of the Community quota.

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 imports of the products in question against their shares as and when the products are entered with the customs authorities for free circulation.

4. The extent to which a Member State has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 8

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

Article 9

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, 21 December 1988.

For the Council
The President
V. PAPANDREOU