COUNCIL REGULATION (EEC) No 3755/89

of 7 December 1989

opening, allocating and providing for the administration of a Community tariff quota for fresh or dried hazelnuts, shelled or not, originating in Turkey (1990)

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 1990;

Whereas, however, Council 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 [2], as last amended by Regulation (EEC) No 3189/88 [3], provides for the Portuguese Republic to defer until 31 December 1990 the application of the preferential arrangements for the produts in question; whereas, consequently, this Regulation does not apply to Portugal;

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

Whereas the hazelnut production sector is undergoing restructuring in certain regions of the Community; whereas particular economic constraints make it necessary to maintain the allocation between the Member States of the quota concerned for the period of application of this Regulation;

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 actual 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 of the quota periods considered;

Whereas, in the last three years, the products in question were imported regularly only by certain Member States; whereas, in these circumstances in the first phase initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the tariff quota when imports actually take place; whereas these arrangements for allocation will equally ensure the uniform collection of the duties applicable;

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 level which in this case could be approximately 60 % of the quota volume, and the second part of 40 % of the quota volume to constitute the reserve;

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 on the reserve; whereas each Member State should make its drawing whenever each of its additional shares is almost used up and 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 if, during the period of application of the quota, the Community reserve is almost completely used up, it is essential that Member States return to the reserve the whole of the unused part of their initial shares and any

[1] OJ No L 343, 31. 12. 1984, p. 6.
[2] OJ No L 250, 1. 9. 1987, p. 1.
[3] OJ No L 287, 20. 10. 1988, p. 1.

drawings, in order to prevent 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 1990 the customs duty applicable to imports into the Community with the exception of Portugal of the following products originating in Turkey 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 (in tonnes)	Quota duty (%)
09.0201	0502 21 00 0802 22 00	Fresh or dried hazelnuts, shelled or not	25 000	0

Within the limit of this quota the Kingdom of Spain shall apply customs duties calculated in accordance with Regulation (EEC) No 2573/87.

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.

3. This tariff quota shall be allocated and administered in accordance with the following Articles.

Article 2

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

2. The first part, amounting to 15 000 tonnes, shall be allocated among certain Member States; the quota shares, which, subject to Article 4, shall be valid until 31 December 1990, 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, aounting amounting to 10 000 tonnes shall constitute the reserve.

4. If products of the type in question are presented in Greece or Spain and supported by a declaration for entry into free ciruclation 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 a specified in Article 2 (2), has been used up entirely, the following provisional 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 so informed by the Commission.

Article 4

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

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 subparagraphs of Article 3, if these provisions are not already in effect.

Within a time limit fixed by the Commission as from the date referred to in 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 opened to 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 quota.

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 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 1990.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 December 1989.

For the Council

The President

P. QUILÈS