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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 4174/87

of 21 December 1987

opening, allocating and providing for the administration of a Community tariff quota for fresh or dried hazelnuts, shelled or not, falling within code No 0802 21 00 or 0802 22 00 of the combined nomenclature and originating in Turkey (1988)

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, falling within subheading ex 08.05 G of the Common Customs Tariff 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 1988;

Whereas, in accordance with Article 119 of the Act of Accession of Greece, the Council adopted Regulation (EEC) No 3555/80 of 16 December 1980 determining the arrangements to be applied with regard to imports into Greece originating in Algeria, Israel, Malta, Morocco, Portugal, Syria, Tunisia or 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 1980;

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 by the establishment of an integrated tariff of the European Communities (Taric); whereas, from that date, the combined nomenclature and, where appropriate, the Taric code numbers should therefore be used for the description of the products covered by this Regulation;

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, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas in order to correspond as closely as possible to the real trend of the market for the products in question the allocation should reflect the requirements of the Member States based on statistics of imports of the said products from Turkey during a representative reference period and on the economic outlook for the quota period in question;

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 1984, 1985 and 1986; whereas they represent the following percentages of total imports into the Community from Turkey:

⁽¹⁾ OJ No L 343, 31. 12. 1984, p. 6.

⁽²⁾ OJ No L 382, 31. 12. 1980, p. 1.

⁽³⁾ OJ No L 250, 1. 9. 1987, p. 1.

Member State	1984		1985		1986	
	Tonnes	%	Tonnes	%	Tonnes	%
Benelux	6 816	8,36	5 266	7,10	6 202	8,24
Denmark	997	1,23	792	1,07	872	1,16
Germany	53 830	66,06	47 225	63,65	49 716	66,08
France	9 013	11,06	9 416	12,69	9 169	12,19
Ireland	22	0,03	28	0,03	0	0
Italy	2 904	3,56	5 206	7,02	3 179	4,23
United Kingdom	7 901	9,70	6 264	8,44	6 098	8,10
Total	81 483		74 197		75 236	

Whereas, in view of these factors and of market forecasts for the products concerned for 1988 and, in particular, the estimates submitted by certain Member States, initial percentage shares can be expressed approximately as follows:

Benelux	7,99
Denmark	1,22
Germany	65,29
France	12,50
Ireland	0,03
Italy	4,25
United Kingdom	8,78;

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 Member States which have used up their initial shares; 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 75 % 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 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 part of the Community tariff quotas from remaining unused in one Member State when it could be used in others; whereas in view of the seasonal nature of the imports, it seems appropriate to set the threshold for such returns to the reserve at 40 % of the initial share;

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 1988 the customs duty applicable to imports into the Community as constituted on 31 December 1980 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.

3. 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 18 750 tonnes, shall be allocated among the Member States; the quota shares, which subject to Article 5 shall be valid until 31 December 1988, shall be as follows:

	<i>(tonnes)</i>
Benelux	1 485
Denmark	228
Germany	12 242
France	2 343
Ireland	7
Italy	799
United Kingdom	1 646.

3. The second part of the quota, amounting to 6 250 tonnes, shall constitute the reserve.

Article 3

If a Member State's initial share as specified in Article 2 (2), or of that share less any portion returned to the reserve where Article 5 has been applied 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 request 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 customs declarations 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

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1988.

Article 5

By 1 October 1988 at the latest Member States must return to the reserve the unused portion of their initial share which, on 15 September 1988, is in excess of 40 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 October 1988 at the latest Member States must notify the Commission of the total quantities of the products concerned imported on or before 15 September 1988 and charged against the Community quota and of any portion of their initial share that they are returning to the reserve.

Article 6

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

It shall inform the Member States not later than 5 October 1988 of the state of the reserve following any return of quota shares pursuant to Article 5.

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 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 enable imports to be charged without interruption against their accumulated share of 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 drawn from 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 8

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

Article 9

The 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 the day of its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 January 1988.

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

B. HAARDER