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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1378/88
of 3 May 1988

opening, allocating and providing for the administration of Community tariff quotas for new potatoes and fresh table grapes originating in Cyprus (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 Agreement establishing an association between the European Economic Community and the Republic of Cyprus, as supplemented by the Protocol laying down the conditions and procedures for the implementation of the second stage of the said Agreement and adapting certain provisions thereof⁽¹⁾, provides for the opening of annual Community tariff quotas of 60 000 tonnes for new potatoes falling within CN code 0701 90 59 and for 7 500 tonnes for fresh table grapes falling within CN codes ex 0806 10 15 and ex 0806 10 19, originating in Cyprus; whereas, under Article 18 of the Protocol in question, these volumes are subject to gradual increases from the entry into force of the Protocol, and will therefore be 65 000 tonnes and 8 100 tonnes respectively in 1988; whereas, within the limits of these tariff quotas the customs duties applicable are to be abolished progressively according to the same timetables and under the same conditions as laid down in Articles 5 and 16 of the said Protocol;

Whereas, however, the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community⁽²⁾ lays down that those two Member States will postpone, until 31 December 1989 and 31 December 1990 respectively, implementation of the preferential arrangements for the products covered by Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables⁽³⁾ as last amended by Regulation (EEC) No 00/88⁽⁴⁾; whereas, consequently, the tariff quota for fresh table grapes applies only to the Community as constituted

on 31 December 1985, whilst that for new potatoes applies to the Community of Twelve;

Whereas the Community tariff quotas should therefore be opened for the period 16 May to 30 June 1988 for new potatoes and for the period 8 June to 4 August 1988 for fresh table grapes;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quotas and uninterrupted application of the rates laid down for these quotas to all imports of the products concerned into all Member States until the quotas have been used up; whereas, having regard to the above principles, the Community nature of the quotas can be respected by allocating the Community tariff quotas among the Member States; whereas, in order to reflect as accurately as possible the true trend of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics for imports from Cyprus over a representative reference period and also to the economic outlook for the quota periods in question;

Whereas, during the last three years for which statistics are available, imports of new potatoes into each of the Member States were as follows:

(in tonnes)

Member States	1984	1985	1986
Benelux	4 714	1 861	3 999
Denmark	—	—	1
Germany	3 071	1 932	4 120
Greece	—	—	—
Spain	—	—	—
France	—	—	—
Ireland	630	854	92
Italy	—	—	—
Portugal	—	—	—
United Kingdom	68 524	63 846	64 496

⁽¹⁾ OJ No L 393, 31. 12. 1987, p. 2.

⁽²⁾ OJ No L 393, 31. 12. 1987, p. 37.

⁽³⁾ OJ No L 118, 20. 5. 1972, p. 1.

⁽⁴⁾ OJ No L 110, 29. 4. 1988, p. 33.

Whereas in view of these factors and of market forecasts for the products in question and in particular of the estimates submitted by certain Member States, initial quota shares may be fixed approximately at the following percentages :

Benelux	5,03
Denmark	0,53
Germany	4,77
Greece	—
Spain	—
France	—
Ireland	0,67
Italy	—
Portugal	—
United Kingdom	89,00

Whereas, however, neither Community nor national statistics showing the breakdown for imports of fresh table grapes corresponding to the period in question are available and no reliable estimates of future imports can be made ; whereas, in these circumstances, the quota volumes should be allocated in initial shares, to take into account demand for these products on the markets of the various Member States ;

Whereas during the last three years these products were imported regularly only by certain Member States and not at all or only occasionally by the other Member States ; whereas under these circumstances, in the first phase, initial shares should be allocated only to the genuine importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas when imports actually take place in non-Member States ; whereas these allocation arrangements will ensure the uniform application of the Common Customs Tariff ;

Whereas, to allow for the trend of imports of the products concerned in the various Member States, each quota volume should be divided into two parts, the first being allocated among certain Member States and the second held as a reserve to cover any subsequent requirements of those Member States which have used up their initial shares and any requirements which might arise in the

other Member States ; whereas, to afford importers in each Member State some degree of certainty, an appropriate level for the first part of the Community quotas would, in the present circumstances, be approximately 86 % of the quota volume for new potatoes and 75 % of the quota volume for fresh table grapes.

Whereas the Member States initial shares may be used up at different times ; whereas in order to take this fact into account and avoid any break in continuity, any Member State which has almost used up its initial quota shares should draw an additional share from the corresponding reserve ; whereas this must be done by each Member State as and when each of its additional shares is almost used up, and repeated 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 method of administration requires close cooperation between the Member States and the Commission and the latter must be in a position to monitor the extent to which the quota amounts have been used up and to inform Member States thereof ;

Whereas, if, at a given date in the quota period, a substantial quantity remains unused in any Member State, it is essential that that Member State should return a significant proportion to the corresponding reserve to prevent a part of a Community quota from 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 relating to the administration of the quota shares allocated to that economic union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION :

Article 1

1. From 16 May to 30 June 1988 on import into the Community the customs duty applicable for the following products originating in Cyprus shall be suspended at the level and within the limits of a Community tariff quota as follows :

Order No	CN code	Description	Amount of quota (in tonnes)	Quota duty (%)
09.1401	0701 90 59	New potatoes	65 000	8,5

Within the limits of this tariff quota, Spain and Portugal shall apply customs duties calculated in accordance with the relevant provisions of the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of Spain and Portugal.

2. From 8 June to 4 August 1988, on import into the Community as constituted on 31 December 1985, the duties applicable for the following products, originating in Cyprus, shall be suspended at the levels and within the limit of a Community tariff quota as follows:

Order No	CN code	Description	Amount of quota (in tonnes)	Quota duty (%)
09.1407	ex 0806 10 15 ex 0806 10 19	Fresh table grapes : from 8 June to 14 July from 15 July to 4 August	8 100	6,5 8,0

Article 2

1. The tariff quotas laid down in Article 1 shall be divided into two instalments.

2. The first part of each Community tariff quota referred to in Article 1 shall be allocated among certain Member States; without prejudice to Article 5, the quota shares shall be valid until 30 June and 4 August 1988 respectively and shall be as follows:

Member States	New potatoes CN code 0701 90 59	Fresh table grapes CN code ex 0806 10 15 ex 0806 10 19
Benelux	2 820	155
Denmark	300	40
Germany	2 675	195
Greece	—	—
Spain	—	—
France	—	—
Ireland	375	20
Italy	—	—
Portugal	—	—
United Kingdom	49 930	5 700

3. The second part of each quota, 8 900 and 1 990 tonnes respectively shall constitute the corresponding reserve.

4. If an importer gives notification of imminent imports of these products into the other Member States 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 reserve so permits.

Article 3

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

2. If, after one of its initial quota shares has been used up, a Member State has used 90 % or more of its second share as well, it shall, using the procedure provided for in paragraph 1 and to the extent that the reserve so permits, draw a third share equal to 5 % of the initial share, rounded up where necessary to the next whole number.

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

This process shall continue until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State may draw shares smaller than those fixed in those paragraphs if there is reason to believe that they might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Each of the additional shares drawn pursuant to Article 3 shall be valid until 30 June and 4 August 1988 respectively.

Article 5

The Member States shall return to the reserve not later than 15 June and 20 July respectively, such unused portion of their initial share as, on 10 June and 15 July 1988 respectively, is in excess of 20 % of the initial volume. They may return a larger quantity if there are grounds for believing that this quantity may not be used.

The Member States shall notify the Commission, not later than 15 June and 20 July respectively, of the total quantities of the products in question imported up to 10 June and 15 July 1988 respectively, and charged against the tariff quotas and of any quantity of the initial shares returned to the corresponding reserves.

Article 6

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

It shall inform the Member States, not later than 20 June and 25 July 1988 respectively, of the amount in each reserve after quantities have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts any reserve 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.

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

Done at Brussels, 3 May 1988.

Article 7

1. The Member States shall take all measures necessary to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their accumulated shares of the Community tariff quotas.

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 the imports of the products concerned against their quota shares as and when the products are entered with 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 Commission's request, the Member States shall inform it of imports actually charged against their 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 16 May 1988.

For the Council

The President

M. BANGEMANN