

## COUNCIL REGULATION (EEC) No 4063/87

of 22 December 1987

opening, allocating and providing for the administration of Community tariff quotas for tomatoes, cucumbers and aubergines originating in the Canary Islands (1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 4 of Protocol 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas, by virtue of Article 4 of Protocol 2 to the Act of Accession and Article 2 of Council Regulation (EEC) No 1391/87 of 18 May 1987 concerning certain adjustments to the arrangements applied to the Canary Islands<sup>(1)</sup>, tomatoes, cucumbers and aubergines falling within subheadings 0702 00 10, 0702 00 90, 0707 00 11, 0707 00 19 or 0709 30 00 of the combined nomenclature and originating in the Canary Islands qualify on import into the customs territory of the Community for reduced duties within the limits of annual Community tariff quotas; whereas the quota volumes are as follows:

- 173 000 tonnes of tomatoes falling within codes 0702 00 10 or 0702 00 90,
- 28 663 tonnes of cucumbers falling within codes 0707 00 11 or 0707 00 19,
- 3 819 tonnes of aubergines falling within code 0709 30 00;

Whereas, where the said products are imported into that part of Spain which is included in the customs territory of the Community, they qualify for exemption from customs duties and are not subject to observance of the reference price; whereas, where the said products are imported into Portugal, the quota duties applicable are to be calculated in accordance with the relevant provisions of the Act of Accession; whereas, where the said products are released

for free circulation in the remainder of the customs territory of the Community, they qualify for the progressive reduction of customs duties according to the same timetable and under the same conditions as those provided for in Article 75 of the Act of Accession, provided that the reference prices are observed; whereas, to qualify for the tariff quotas, the products in question have to comply with certain marking and labelling conditions designed to prove their origin; whereas the tariff quotas in question should therefore be opened for 1988;

Whereas, from 1 January 1988, the nomenclature used in the Common Customs Tariff will be replaced by the combined nomenclature based on the International Convention on the Harmonized Commodity Description and Coding System; whereas this Regulation must take account of that fact by indicating the combined nomenclature codes of the products concerned;

Whereas equal and continuous access to the quotas should be ensured for all Community importers and the rates laid down for the quotas should be applied consistently to all imports of the products in question into all Member States until the quotas are exhausted; whereas, in the light of these principles, allocation of the tariff quotas among the Member States would seem to preserve the Community nature of the quotas; whereas, in order to correspond as closely as possible to the real trend of the market for the products concerned, the allocation should reflect the requirements of the Member States based on statistics of imports of those products originating in the Canary Islands during a representative reference period and on the economic outlook for the quota period in question;

Whereas, during the last three years for which statistics are available, imports of Member States have developed as shown in the following table:

(tonnes)

Member State	0702 00 10 0702 00 90 Tomatoes			0707 00 11 0707 00 19 Cucumbers			0709 30 00 Aubergines		
	1984	1985	1986	1984	1985	1986	1984	1985	1986
Benelux	56 131	75 188	57 041	13 515	6 000	11 566	2 702	2 352	2 091
Denmark	35	3 605	59	86	1 987	45	—	57	2
Germany	2 449	37 302	2 826	313	2 492	179	104	1 295	110
Greece	—	—	—	—	—	—	—	—	—
Spain	16 858	15 430	—	217	5	—	445	174	—
France	582	7 770	1 944	8	345	211	37	454	40
Ireland	39	21	62	6	2	5	—	—	—
Italy	—	—	3	—	—	—	—	—	—
Portugal	—	—	—	—	—	—	—	—	—
United Kingdom	100 701	90 063	95 220	18 930	11 255	15 485	1 501	1 425	1 747

(<sup>1</sup>) OJ No L 133, 22. 5. 1987, p. 5.

Whereas in the last three years the products in question 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 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 those Member States; whereas these allocation arrangements will equally ensure the uniform application of the combined nomenclature duties;

Whereas, in order to take into account import trends for 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 constituting a reserve to cover the subsequent requirements of those Member States which have used up their initial share and also any additional requirements which might arise in other Member States; whereas, in order to give importers in each Member State a certain degree of security, the first part of the Community quotas should, under the circumstances, be fixed at 75 % respectively of each quota volume;

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 considerable quantity of one 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 corresponding reserve in order to prevent 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. (a) From 1 January to 31 December 1988 the customs duties applicable to imports into the Community of the following products originating in the Canary Islands shall be suspended at the levels indicated and within the limits of Community tariff quotas as shown below:

Order No	CN code	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.0417	0702 00 10 0702 00 90	Tomatoes, fresh or chilled	173 000	— From 1 January to 29 February: 3,8 % subject to a minimum of 0,7 ECU per 100 kg net — From 1 March to 14 May: 7,7 % subject to a minimum of 1,4 ECU per 100 kg net — From 15 May to 31 October: 12,6 % subject to a minimum of 2,4 ECU per 100 kg net — From 1 November to 31 December: 7,7 % subject to a minimum of 1,4 ECU per 100 kg net
09.0419	0707 00 11 0707 00 19	Cucumbers	28 663	— From 1 January to 15 May: 11,2 % — From 16 May to 31 October: 14 % — From 1 November to 31 December: 11,2 %
09.0421	0709 30 00	Aubergines	3 819	11,2 %

(b) Where the said products are imported into that part of Spain which is included in the customs territory of the Community, they shall qualify for exemption from customs duties and are not subject to compliance with the reference price ;

(c) Within the limits of these tariff quotas, the Portuguese Republic shall apply customs duties calculated according to the relevant provisions of the Act of Accession and the Regulations relating thereto.

2. On import, the said products shall, in the event of any countervailing duty being applied under Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 3910/87<sup>(2)</sup>, benefit from a reduction of 6 % of that duty.

3. (a) Without prejudice to the other provisions applicable as regards quality standards, products covered by this Regulation cannot qualify under the tariff quotas unless, when they are presented to the authorities responsible for the import formalities for the purposes of release into free circulation in the customs territory of the Community, they are presented in packaging which bears the words 'Canary Islands', or the equivalent thereof in another official Community language, in a clearly visible and perfectly legible form ;

(b) The third and fourth subparagraphs of Article 9 of Council Regulation (EEC) No 1035/72, shall not apply to products covered by this Regulation.

#### Article 2

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

2. A first part of each quota shall be allocated among certain Member States ; the quota shares valid until 31 December 1988, shall be as follows :

(a) tomatoes falling within codes 0702 00 10 and 0702 00 90 of the combined nomenclature :

Benelux	39 510 tonnes,
Germany	1 910 tonnes,
Spain	16 400 tonnes,
France	690 tonnes,
United Kingdom	71 240 tonnes ;

(b) cucumbers falling within codes 0707 00 11 or 0707 00 19 of the combined nomenclature :

Benelux	8 080 tonnes,
Denmark	550 tonnes,
Germany	780 tonnes,
Spain	60 tonnes,
France	150 tonnes,
United Kingdom	11 000 tonnes ;

(c) Aubergines falling within code 0709 30 00 of the combined nomenclature :

Benelux	1 405 tonnes,
Germany	310 tonnes,
Spain	120 tonnes,
France	105 tonnes,
United Kingdom	920 tonnes.

3. The second part of each quota shall be as follows and shall constitute the corresponding Community reserve :

- 43 250 tonnes of tomatoes falling within codes 0702 00 10 or 0702 00 90 of the combined nomenclature,
- 7 163 tonnes of cucumbers falling within codes 0707 00 11 or 0707 00 19 of the combined nomenclature,
- 959 tonnes of aubergines falling within code 0709 30 00 of the combined nomenclature.

4. If an importer notifies the imminent import of the product in question 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 shares has been used up, 90 % or more of the second share drawn by a Member State has been used up, then that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next unit.

3. If, after one of its second shares has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a fourth share equal to the third.

This process shall continue until the reserve is used up.

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 370, 30. 12. 1987.

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 31 December 1988.

#### *Article 5*

The Member States shall return to the reserve, not later than 1 October 1988, such unused portion of their initial share as, on 15 September 1988, 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 1 October 1988 of the total quantities of the products in question imported up to 15 September 1988 and charged against the tariff quota and of any quantity of the initial shares returned to the reserve.

#### *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 5 October 1988, of the amount in each reserve after quantities have been returned thereto pursuant to Article 5.

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

Done at Brussels, 22 December 1987.

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.

#### *Article 7*

1. The Member States shall take every measure necessary to ensure that additional shares drawn pursuant to Article 3 enable imports to be charged without interruption against their accumulated shares of the tariff quota.

2. The Member States shall ensure that importers of the products in question have free access to the shares allocated to them.

3. 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.

The extent to which a Member State has used up its shares shall be determined on the basis of the imports charged against shares under the conditions provided for in paragraph 3.

#### *Article 8*

At the Commission's request, the Member States shall inform it of imports of the products concerned 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 1 January 1988.

*For the Council*

*The President*

N. WILHJELM