

COUNCIL REGULATION (EEC) No 4094/88

of 16 December 1988

opening, allocating and providing for the administration of Community tariff quotas for fresh flowers originating in the Canary Islands (1989)

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 ⁽¹⁾, fresh flowers falling within CN codes 0603 10 11 to 0603 10 69 and originating in the Canary Islands qualify on import into the Community for reduced customs duties within the limits of Community tariff quotas; whereas the quota volume for roses, carnations, orchids, gladioli and chrysanthemums is 87 500 00 pieces and that for other flowers is 597 tonnes;

Whereas, for 1989, the duties applicable within the limits of those tariff quotas are equal to 50% of the basic duties; whereas, however, the products concerned qualify for exemption from import duties on import into that part of Spain which is included in the customs territory of the Community; 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 to qualify for the tariff quota the products in question must comply with certain marking and labelling conditions designed to prove their origin;

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 Community tariff quotas among the Member States would seem such as 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, for 1989, it is necessary to maintain the shares for the Member States given that the administrations of the Member States cannot create, by 1989 a technical and administrative basis for Community administration of the quota; whereas, however, it is possible, given the evolution of trade over the last few years, to provide for an increase in the Community reserve;

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

— roses, carnations, orchids, gladioli and chrysanthemums:

(in 1 000 pieces)

Member States	1985	1986	1987
Benelux	—	12 421	9 852
Denmark	—	18	32
Germany	24 613,2	27 027	51 860
Greece	—	—	—
Spain	33 558	—	12 283
France	1 136,5	1 519	2 232
Ireland	—	108	471
Italy	963,2	1 026	1 355
Portugal	—	—	—
United Kingdom	11 402	13 415	14 976

— other flowers:

(tonnes)

Member States	1985	1986	1987
Benelux	92	10	62
Denmark	—	—	—
Germany	27,1	26,7	8,7
Greece	—	—	—
Spain	425	—	222
France	3	1	—
Ireland	—	—	17
Italy	7,5	—	—
Portugal	—	—	—
United Kingdom	1	—	3

Whereas during the last three years these products were imported regularly only by certain Member States and not at

⁽¹⁾ OJ No L 133, 22. 5. 1987, p. 5.

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 the latter; 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 60% of each quota volume;

Whereas, if during the quota period the Community reserve is almost totally used up, it is vital that Member States should

return to that reserve all the unused part of their initial and where relevant, additional shares, to prevent part of the Community tariff quota remaining unused in a 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 1989 the customs duties applicable to imports into the Community for the following products originating in the Canary Islands shall be suspended at the levels indicated and within the limits of Community tariff quotas as below:

Order No	CN code	Description	Amount of tariff quotas	Rate of duty
09.0431	0603 10 11	Roses, carnations, orchids, gladioli and chrysanthemums, fresh	87 500 000 pieces	From 1 January to 31 May: 8,5%
	0603 10 13			
	0603 10 15			
	0603 10 21			
	0603 10 25			
	0603 10 51			From 1 June to 31 October: 12%
	0603 10 53			
	0603 10 55			
	0603 10 61			
	0603 10 65			
09.0433	0603 10 29	Other flowers, fresh	597 tonnes	From 1 November to 31 December: 8,5%
	0603 10 69			

- (b) Within the limits of these tariff quotas, the said products shall be exempt from customs duties on import into that part of Spain which is included in the customs territory of the Community;

- (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. Without prejudice to the relevant provisions applicable as regards quality standards, products covered by this Regulation cannot qualify under the tariff quotas unless, at the time their presentation 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.

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 the Member States; subject to Article 5, the quota shares shall be valid until 31 December 1989 and shall be as follows:

Member States	ex 0603 roses, carnations, gladioli, orchids and chrysanthemums (units)	ex 0603 Other flowers (tonnes)
Benelux	5 302 500	67
Denmark	10 500	—
Germany	24 648 750	25
Greece	—	—
Spain	10 914 750	258
France	1 212 750	—
Ireland	136 500	—
Italy	798 000	10
Portugal	—	—
United Kingdom	9 476 250	—
Total	52 500 000	360

3. The second part of each quota, 35 000 000 pieces and 237 tonnes respectively, shall constitute the corresponding reserve.

4. If an importer gives notification of imminent imports of one of the products in question into another Member State which has not taken part in the initial allocation or has used up its initial share and which applies to take advantage of the corresponding quota the Member State concerned shall inform the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the reserve so permits.

5. Without prejudice to Article 3, the amounts drawn in accordance with paragraph 4 shall be valid until the end of the period to which the quota applies.

Article 3

1. Once at least 80 % of the reserve of the tariff quota as defined in Article 2 (3) is used up, the Commission shall notify the Member States.

2. It shall also, in this case, notify the Member States of the date from which shares drawn from the Community reserve must be dealt with in accordance with the following provisions:

If an importer submits in a Member State a declaration for release for free circulation including an application for preferential treatment for a product referred to under this Regulation, and if that declaration is accepted by the customs authorities, the Member State concerned shall inform the Commission and draw from the reserve referred to in Article 2 (3) a quantity corresponding to these requirements.

Applications to draw on the quota volume, showing the date of acceptance of the above declaration must be forwarded to the Commission without delay.

Withdrawals shall be granted by the Commission on the basis of the date when the declaration for release for free

circulation was accepted by the customs authorities of the Member State concerned, in so far as the available balance so permits.

If a Member State does not use up the quantities drawn, it shall return them as soon as possible to the reserve.

If the quantities applied for are greater than the available balance of the reserve they shall be allocated *pro rata*. Member States shall be informed by the Commission by the same procedures.

3. Within three working days from the date mentioned in paragraph 2, the Member States shall be obliged to return to the reserve all the unused part of their initial and, where applicable, additional shares within the meaning of Article 5 (3) and (4).

Article 4

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 of the amounts in these reserves after quantities have been returned thereto pursuant to Article 3.

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 5

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 6

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

Article 7

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, 16 December 1988.

For the Council
The President
G. GENNIMATAS
