COUNCIL REGULATION (EEC) No 3798/81

of 29 December 1981

opening, allocating and providing for the administration of Community tariff quotas for herrings falling within subheading 03.01 B I a) 2 of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28 and 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Community has undertaken to open an annual duty-free Community tariff quota for 34 000 tonnes of herrings, whole, headless or in pieces, falling within subheading 03.01 B I a) 2 of the Common Customs Tariff imported from 16 June to 14 February in a fresh, chilled or frozen state, subject to compliance with the reference price; whereas, in view of present Community production capacity, the contractual quota volume of 34 000 tonnes is insufficient to meet anticipated import requirements; whereas provision should therefore be made for an autonomous supplementary quota which, in order not to jeopardize the stability of the market and so as to ensure parallel development of the market for Community production and of satisfactory supplies for the consumer industries, should be fixed at a level which is such that the total quota does not exceed its anticipated minimum utilization; whereas for the same reasons it is advisable to open such a quota for two years; whereas zero-duty tariff quotas of 84 700 tonnes and 74 000 tonnes respectively should be opened for the periods 16 June 1982 to 14 February 1983 and 16 June 1983 to 14 February 1984 and allocated between the Member States, bearing in mind the obligation to comply with any reference price which may be fixed;

Whereas under Article 64 of the 1979 Act of Accession, Greece is required to apply in full the Common Customs Tariff duty in respect of the product in question as from 1 January 1981; whereas, therefore, it is necessary to cover, under the tariff quotas in question, the requirements of that Member State during the quota period;

Whereas equal and continuous access to the quotas should be ensured for all Community importers and the rate of levy for the tariff quotas should be applied consistently to all imports until the quotas are used up; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States would seem to preserve the Community nature of the quotas; whereas, to represent as closely as possible the actual development of the market in the said goods, this allocation should follow proportionately the requirements of the Member States calculated both from statistics of imports from third countries during a representative reference period and according to the economic outlook for the quota periods in question;

Whereas, during the last three periods for which complete statistics are available, the imports of each Member State represent the following percentages in relation to total imports of the products in question:

	1978	1979	1980
Benelux	13·04	5·60	5·83
Denmark	45·80	52·76	55·89
Germany	32·15	30·09	29·27
Greece		negligible	
France	5·39	5·36	3·59
Ireland	0	0	0
Italy	0·03	0·04	0
United Kingdom	3·59	6·15	5·42

Whereas, in view of the above and of the foreseeable trend of the market for these products in the quota periods the intitial quota shares may be as indicated in Articles 2 and 3;

Whereas, to take account of the possible import trends for this product the quota volumes should be divided into two instalments, the first being allocated between 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 give importers some degree of certainty, the first instalment of the tariff quotas should be fixed at a high level, which in this case could be 90 % of the amount of the quotas;

Whereas initial shares may be used up at different rates; whereas to avoid disruption of supplies on this account it should be provided that any Member State which has almost used up one of its initial shares should draw an additional share from the corresponding reserve; whereas each time its additional share is almost used up a Member State should draw a further share and so on as many times as the reserve allows; whereas the initial and additional shares should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission and the Commission must be in a position to keep account of the extent to which the quotas have been used up and to inform the Member States accordingly;

Whereas, if at a given date in one of the quota periods a considerable quantity of a Member State's initial share remains unused it is essential that such State should return a significant proportion thereof to the reserve, in order to prevent a part of the Community tariff quota from remaining unused in one Member State while 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 measure concerning the administration of the shares allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 16 June 1982 to 14 February 1983 and for the period 16 June 1983 to 14 February 1984, Community tariff quotas of 84 700 tonnes and 74 000 tonnes respectively shall, without prejudice to paragraph 2, be opened for herrings falling within subheading 03.01 B I a) 2 of the Common Customs Tariff.

2. The use of the tariff quotas referred to in paragraph 1 shall be subject to compliance with any reference price which may be fixed.

3. The Common Customs Tariff duty shall be totally suspended within these tariff quotas.

Article 2

1. Each of the Community tariff quotas referred to in Article 1 (1) shall be divided into two instalments.

2. The first instalment shall be allocated among certain Member States; the shares, which, subject to Article 6, shall be valid from 16 June 1982 to 14 February 1983 and from 16 June 1983 to 14 February 1984, shall be as follows:

(tonnes)

	From 16 June 1982 to 14 February 1983	From 16 June 1983 to 14 February 1984
Benelux	5 130	4 500
Denmark	45 000	38 700
Germany	22 500	19 800
France	1 800	1 800
United Kingdom	1 800	1 800

3. The second instalment, constituting the reserve, shall consist of 8 470 tonnes in the period 16 June 1982 to 14 February 1983 and of 7 400 tonnes in the period 16 June 1983 to 14 February 1984.

Article 3

If needs arise in Greece, Ireland or Italy, those Member States shall draw a suitable share from the reserve to the extent that the reserve so permits.

Article 4

1. If a Member State has used 90 % or more of its initial share as fixed in Article 2 (2), or of that share minus any portion returned to the reserve pursuant to Article 6, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the corresponding reserve so permits, equal to 10 % of its initial share, rounded up as necessary to the next whole number.

2. If a Member State, after exhausting its initial share, has used 90 % or more of the second share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a third share equal to 5 % of its inital share, rounded up as necessary to the next whole number.

3. If a Member State, after exhausting its second share, has used 90 % or more of the third share drawn by it, that Member State shall, in the manner and to the extent provided in paragraph 1, draw a fourth share equal to the third.

This process shall apply until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State may draw shares lower than those specified in those paragraphs if there are grounds for believing that those specified may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

Article 5

Additional shares drawn pursuant to Article 4 shall be valid until 14 February 1983 and 14 February 1984 respectively.

Article 6

Member States shall, not later than 1 December 1982 or 1 December 1983, as the case may be, return to the reserve the unused portion of their initial share which, on 15 November 1982 or 15 November 1983 is in excess of 20 % of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 1 December 1982 or 1 December 1983, notify the Commission of the total quantities of the product in question imported up to and including 15 November 1982 or 15 November 1983 and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 7

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2, 3 and 4 and shall, as soon as the information reaches it, inform each State of the extent to which the reserves have been used up.

It shall, not later than 5 December 1982 or 5 December 1983, as the case may be, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 6.

It shall ensure that the drawing which exhausts the corresponding 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 8

1. The Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 4 are opened in such a way that importations may be charged without interruption against their accumulated shares of the Community quotas.

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

3. The Member States shall charge imports of the product in question against their shares as and when the product is entered with the customs authorities for free circulation.

4. The extent to which a Member State has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 9

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

Article 10

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 11

This Regulation shall enter into force on 16 June 1982.

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

Done at Brussels, 29 December 1981.

For the Council

The President

P. WALKER