COUNCIL REGULATION (EEC) No 2195/85

of 25 July 1985

opening, allocating and providing for the administration of Community tariff quotas for certain fishery products, salted, falling within subheadings ex 03.02 A I b) and ex 03.02 A II a) of the Common Customs Tariff

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 Community has undertaken to open annual duty free Community tariff quotas for cod, whole or headless, salted, and fillets of cod, salted, falling within subheadings ex 03.02 A I b) and ex 03.02 A II a) of the Common Customs Tariff, and for 1985 within the limits of 4 000 and 2 500 tonnes respectively ; whereas this undertaking was fulfilled in recent months through the total suspension of the Common Customs Tariff duty provided for by Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products [1] ; whereas however, this suspension ceases to be in force as from 1 July 1985 pursuant to Regulation (EEC) No 3655/84 [2] which amends the aforementioned Regulation ; whereas it is desirable to defer the opening of these tariff quotas to 1 September 1985 ; whereas the benefit of the first of these is provided for fish of the 'Gadus morhua' species ; whereas, therefore, it is necessary to open on 1 September 1985, and for the remainder of the current year, the tariff quotas in question and to allocate them among the Member States ;

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

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of levy for the tariff quota should be applied consistently to all imports until the quota is used up ;

[1] OJ No L 379, 31. 12. 1981, p. 1.
[2] OJ No L 340, 28. 12. 1984, p. 1.

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 quota ; whereas, to represent as closely as possible the actual development of the market in the product in question, the 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 tariff year in question ;

Wheeas, however, the products in question are not as such separately specified in the statistical nomenclatures ; whereas it has therefore not yet been possible to obtain sufficiently precise and representative figures ; whereas, therefore, figures should be based on statistics of imports from third countries which do not benefit from a tariff preference of cod and cod fillets whatever their species, presentation or method of preservation ; whereas, on this basis, the initial percentage shares in the quotas can thus be as follows :

	ex 03.02 A I b)	ex 03.02 A II a)
Benelux	1,64	0,02
Denmark	1,69	0,08
Germany	2,89	0,09
Greece	16,73	1,02
France	29,02	4,15
Ireland	0,01	0,01
Italy	46,47	94,62
United Kingdom	1,57	0,01

Whereas, to take account of the possible import trends for these fish, the quota volume 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 share ; whereas, to give importers some degree of certainty, the first instalment of the tariff quota should be fixed at a high level, which in this case could be 80 % of the amount of the quota ;

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 its initial share should draw an additional share from the 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 the quota period 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. From 1 September to 31 December 1985, Community tariff quotas shall be opened for the following products within the limit indicated for each of them :

(tonnes)

CCT heading No	Description	Quota volume
ex 03.02 A I b)	Cod of the species 'Gadus morhua', whole or headless, salted	4 000
ex 03.02 A II a)	Fillets of cod, salted	2 500

2. The Common Customs Tariff duty shall be totally suspended within the limits of these tariff quotas.

Article 2

1. The Community tariff quotas referred to in Article 1 shall be divided into two instalments.

2. A first instalment, of 3 200 and 2 000 tonnes respectively, shall be allocated among the Member States ; the shares which, subject to Article 5, shall be valid from 1 September to 31 December 1985 shall be as follows :

(tonnes)

	ex 03.02 A I b)	ex 03.02 A II a)
Benelux	52	1
Denmark	54	2
Germany	92	2
Greece	535	20
France	929	83
Ireland	1	1
Italy	1 487	1 890
United Kingdom	50	1

3. The second instalment, of 800 and 500 tonnes respectively, shall constitute the corresponding reserve.

Article 3

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 5, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the 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 initial share, rounded up as necessary to the 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 paragraph 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 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1985.

Article 5

Member States shall, not later than 1 November 1985, return to the reserve the unused portion of their initial share which, on 15 October 1985, 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 November 1985, notify the Commission of the total quantities of the product in question imported up to and including 15 October 1985 and charged against the Community quota and of any portion of their 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 shall, as soon as the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 5 November 1985, inform the Member States of the amount still in reserve, following any return of 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 last drawing.

Article 7

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

2. The Member States shall ensure that importers of the product in question 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 8

At the request of the Commission, 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 1 September 1985.

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

Done at Brussels, 25 July 1985.

For the Council

The President

J. POOS