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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3386/85

of 18 November 1985

opening, allocating and providing for the administration of Community tariff quotas for prepared or preserved sardines, falling within subheading 16.04 D of the Common Customs Tariff and originating in Morocco (1986)

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 Cooperation Agreement between the Community and Morocco (1), supplemented by Council Regulation (EEC) No 3511/81 of 3 December 1981 laying down the arrangements applicable to trade between Greece and Morocco (2), provides that prepared and preserved sardines, falling within subheading 16.04 D of the Common Customs Tariff and originating in Morocco, may be imported into the Community free of duty; whereas the detailed arrangements must be fixed by an exchange of letters between the Community and Morocco; whereas, since this exchange of letters has not yet taken place, it is advisable to renew until 31 December 1986 the Community arrangements which were applied in 1985; whereas it is advisable to open two Community tariff quotas for importations into the Community of the products in question, one duty-free tariff quota of 14 000 tonnes and the other of 6 000 tonnes at a rate of duty of 10 %; whereas these tariff quotas are to apply from 1 January 1986 until either the conclusion of the exchange of letters provided for in Article 19 of the Cooperation Agreement between the Community and Morocco or until such time as Community arrangements for imports of the products in question are applied, but until 31 December 1986 at the latest;

Whereas, since a Protocol as provided for in Articles 179 and 366 of the Act of Accession of Spain and Portugal does not exist, the Community must adopt the measures referred to in Articles 180 and 367 of that Act; whereas the tariff measure concerned will, therefore, apply to the Community of Ten;

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 principles mentioned above, 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 Morocco over a representative reference period and also to the economic outlook for the quota period in question;

Whereas, during the last three years for which statistics are available, the corresponding imports into each of the Member States represent the following percentages of the imports into the Community from Morocco of the products concerned:

Member States	1982	1983	1984
Benelux	10,27	7,27	4,30
Denmark	0,35	0,00	0,00
Germany	11,64	15,62	18,80
Greece	0,51	1,02	1,60
France	64,64	57,00	57,60
Ireland	0,00	0,00	0,50
Italy	0,04	0,76	1,50
United Kingdom	12,55	18,33	15,70

Whereas, in view of these factors and of the estimates submitted by certain Member States initial shares may be fixed approximately at the following percentages:

(1) OJ No L 264, 27. 9. 1978, p. 2.
(2) OJ No L 358, 3. 12. 1981, p. 1.

Benelux	6,5
Denmark	0,1
Germany	15,3
Greece	1,5
France	56,2
Ireland	1,9
Italy	0,8
United Kingdom	17,7

Whereas, in order to take into account import trends for the products concerned in the various Member States, each quota should be divided into two instalments, the first being shared among the Member States and the second constituting a reserve to cover at a later date the requirements of the Member States which have used up their initial quota shares; whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quotas should, under the circumstances, be fixed at 75 % respectively of the quota volumes;

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 any tariff 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 1 January 1986 until the conclusion of the exchange of letters referred to in Article 19 of the Cooperation Agreement between the Community and Morocco, until such time as Community import arrangements are applied or until 31 December 1986 whichever shall be the earliest, a duty-free Community tariff quota of 14 000 tonnes shall be opened for import into the Community of Ten of prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Morocco.

2. From 1 January 1986 until either the conclusion of the exchange of letters referred to in Article 19 of the Cooperation Agreeement between the Community and Morocco or until such time as Community import arrangements are applied but until 31 December 1986 at the latest, a Community of Ten tariff quota of 6 000 tonnes at a duty rate of 10 % shall be opened for imports into the Community of prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Morocco.

Article 2

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

2. A first instalment of each quota shall be shared among the Member States; the respective shares which, subject to Article 5, shall be valid until the end of the period specified in Article 1 shall be as follows:

(tonnes)

Member States	Article 1 (1)	Article 1 (2)
Benelux	680	230
Denmark	30	5
Germany	1 600	535
Greece	160	50
France	5 890	1 960
Ireland	200	70
Italy	80	30
United Kingdom	1 860	620
	10 500	3 500

3. The second instalment of each quota, i.e. 3 500 and 2 500 tonnes respectively, shall constitute corresponding reserves.

Article 3

1. If 90 % or more of a Member State's initial share as specified in Article 2 (2), or 90 % of that share minus the portion returned to the corresponding reserve where Article 5 has been applied, has been used up, then, to the extent permitted by the amount of the reserve, that Member State shall forthwith, by notifying the Commission, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next unit.

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.

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

The additional shares drawn pursuant to Article 3 shall be valid until the end of the period specified in Article 1.

Article 5

The Member States shall return to the reserve, not later than 1 October 1986 such unused portion of their initial share as, on 15 September 1986 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 1986, of the total quantities of the products in question imported up to 15 September 1986 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 1986, 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.

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 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. The extent to which a Member State has used up its shares shall be determined on the basis of the imports of the products concerned originating in Morocco and entered with customs authorities for free circulation.

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 1986.

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

Done at Brussels, 18 November 1985.

For the Council

The President

M. FISCHBACH