COUNCIL REGULATION (EEC) No 3543/85

of 12 December 1985

opening, allocating and providing for the administration of a Community tariff quota for frozen cod *(Gadus morhua)* fillets falling within subheading ex 03.01 B II b) 1 of the Common Customs Tariff (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 Community has undertaken to open an annual Community tariff quota at 8 % duty for 10 000 tonnes of frozen cod *(Gadus morhua)* fillets falling within subheading ex 03.01 B II b) 1 of the Common Customs Tariff; whereas the tariff quota concerned should be opened on 1 January 1986 and allocated among the Member States;

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; 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 said goods, 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;

Whereas, during the last three years for which complete statistics are available, the corresponding imports into each of the Member States represented the following percentages of total imports of the product in question :

Member States	1982	1983	1984
Benelux	1,57	3,39	1,01
Denmark	1,25	1,63	1,83
Germany	27,79	4,81	7,19
Greece	1,22	0,81	0,87
France	9,43	15,26	9,86
Ireland	0	0	0
Italy	3,44	3,10	7,17
United Kingdom	55,30	71,00	72,07

Whereas, in view of these factors and of market forecasts for this product for 1986, the initial percentage shares in the quota volume can be expressed approximately as follows :

Benelux	0,42
Denmark	8,55
Germany	30,80
Greece	0,09
France	17,11
Ireland	0,09
Italy	0,17
United Kingdom	42,77

Whereas, to take account of future import trends for the products in question in the various Member States, the quota should be divided into two instalments, the first being allocated among Member States and the second held as a reserve to cover subsequently the requirements of Member States which have exhausted their initial share; whereas, to give importers in each Member State some degree of certainty, the first instalment of the Community quota should be fixed at a relatively high level, in this case approximately 58 % of the full quota;

Whereas Member States may exhaust their initial shares for the products in question 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 this must be done by each Member State as and when each of its additional shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial and additional shares must be available for use until the end of the quota period; whereas this method of administration calls for close cooperation between Member States and the Commission, which latter must in particular be able to observe the extent to which the quota amount is used and inform Member States thereof;

Whereas if, at a specified date in the quota period, a considerable balance remains in one or other Member State it is essential that that Member State pay a large amount of it back into the reserve, in order to avoid a part of the Community quota 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, all transactions 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 January to 31 December 1986, a Community tariff quota of 10 000 tonnes shall be opened within the Community, for frozen cod *(Gadus morhua)* fillets falling within subheading ex 03.01 B II b) 1 of the Common Customs Tariff.

2. The Common Customs Tariff duty shall be suspended at the level of 8 % within this tariff quota.

Article 2

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

2. A first instalment of 5 845 tonnes shall be allocated among the Member States ; the shares which, subject to Article 5, shall be valid from 1 January to 31 December 1986 shall be as follows :

	(tonnes)
Benelux	25
Denmark	500
Germany	1 800
Greece	5
France	1 000
Ireland	5
Italy	10
United Kingdom	2 500

3. The second instalment of 4 155 tonnes shall constitute the 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, should the occasion arise, to the nearest unit above.

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, should the occasion arise, to the nearest unit above.

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, under the same conditions, draw a fourth share equal to the third. This process shall continue until the reserve has been exhausted.

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 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1986.

Article 5

Member States shall, not later than 1 October 1986, return to the reserve the unused portion of their initial share which, on 15 September 1986, 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 October 1986, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1986 and charged against the Community quotas 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 and 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 October 1986, inform the Member State of the amount still in reserve following any return of shares pursuant to Article 5.

It shall ensure that when an amount exhausting the reserve is drawn the amount so drawn 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. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that importations may be charged without interruption against their accumulated shares of the Community quota.

2. 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.

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 January 1986.

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

Done at Brussels, 12 December 1985.

For the Council

The President

R. GOEBBELS