COUNCIL REGULATION (EEC) No 3544/85

of 12 December 1985

opening, allocating and providing for the administration of a Community tariff quota for cod, dried, salted or in brine, whole, headless or in pieces, falling within subheading 03.02 A I b) 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 duty free Community tariff quota for 25 000 tonnes of cod, dried, salted or in brine, whole, headless or in pieces, falling within subheading 03.02 A I b) of the Common Customs Tariff; whereas, therefore, the tariff quota in question 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 coming from third countries which do not benefit from a preferential tariff measure having equivalent effect:

	1982	1983	1984
Benelux	1,57	1,71	1,78
Denmark	0,47	2,29	1,53
Germany	2,31	3,19	2,33
Greece	15,22	14,16	14,22
France	24,32	24,71	25,68
Ireland	0	0	0
Italy	54,81	52,45	53,07
United Kingdom	1,30	1,49	1,39

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	1,61
Denmark	0,95
Germany	2,54
Greece	14,57
France	23,39
Ireland	0,01
Italy	55,38
United Kingdom	1,55

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 afford 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 87 % 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 January to 31 December 1986, a Community tariff quota of 25 000 tonnes shall be opened within the Community for cod, dried, salted or in brine, whole, headless or in pieces, of the species *'Gadus morhua'*, *'Boreogadus saida'* and *'Gadus ogac'*, falling within subheading 03.02 A I b) of the Common Customs Tariff.

2. The Common Customs Tariff duty shall be totally suspended 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 21 669 tonnes shall be allocated among the Member States ; the shares which, subject to Article 5, shall be valid until December 1986 shall be as follows :

	(tonnes)
Benelux	348
Denmark	206
Germany	552
Greece	3 158
France	5 068
Ireland	1
Italy	12 000
United Kingdom	336

3. The second instalment of 3 331 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 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 1986.

Article 5

Member States shall, not later than 1 November 1986, return to the reserve the unused portion of their initial share which, on 15 October 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 November 1986, notify the Commission of the total quantities of the product in question imported up to and including 15 October 1986 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 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 November 1986, 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 importations 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 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