COUNCIL REGULATION (EEC) No 3552/85

of 12 December 1985

opening, allocating and providing for the administration of Community tariff quotas for certain fishery products (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, in the context of its external relations regarding fisheries, it is in the Community's interest partially to suspend the Common Customs Tariff duties on a number of fishery products, within the limit of appropriate Community tariff quotas; whereas Community tariff quotas for 1986 should therefore be opened for whole or headless frozen redfish *(Sebastes* spp.), whole or headless frozen cod *(Gadus morhua),* frozen cod fillets and herring flaps prepared or preserved in vinegar, presented in packings of a net capacity of 10 kilograms or more, falling within subheadings ex 03.01 B I f) 2, ex 03.01 B I h) 2, ex 03.01 B II b) 1 and ex 16.04 C II of the Common Customs Tariff; whereas eligibility to benefit from these quotas opened for products falling within subheadings ex 03.01 B I h) 2 and ex 03.01 B II b) 1 is subject to the presentation to the Community customs authorities of a certificate issued by the recognized authorities of the country of origin attesting that the products concerned come from fish belonging to the North Atlantic stocks which were fished with due regard for the international conventions on the conservation and management of fishery resources; whereas the certificates covering the products must also certify that the products presented come from cod of the *Gadus morhua* species; whereas therefore the tariff quotas in question should be opened on 1 January 1986 and allocated among Member States;

Whereas equal and continuous access to the quotas should be ensured for all importers and the rates for the said quotas should be applied without interruption to all imports until the quotas are used up; whereas, in the light of the principles outlined above, a Community tariff quota system based on an allocation between the Member States would seem to preserve the Community nature of the quotas; whereas, to reflect as closely as possible the actual development of the market in the products in question, the allocation should be in proportion to 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 year in question;

Whereas, however, the products in question of a particular origin are not separately specified in the statistical nomenclatures; whereas it has therefore not yet been possible to obtain sufficiently precise and representative figures; whereas, therefore, part of these quotas should be assigned to the Community reserves, the remainder being allocated among the Member States in proportion to their forecast import requirements; whereas, for these products, the Member States' initial percentage shares in the quota volume can thus be established as follows:

	ex 03.01 B I f) 2 ex 03.01 B I h) 2 (6 000 tonnes)	ex 03.01 B II b) 1 (22 000 tonnes)	ex 16.04 C II (6 500 tonnes)
Benelux	3,11	1,29	3,45
Denmark	6,23	3,40	0,69
Germany	21,16	26,43	86,20
Greece	0,28	0,21	0,69
France	13,05	12,65	0,69
Ireland	0,28	0,13	0,69
Italy	0,28	0,28	0,69
United Kingdom	55,61	55,61	6,90

Whereas, to take account of possible import trends for the products in question, the quota volumes should be divided into two instalments, the first being allocated and the second held as a reserve to cover any subsequent requirements of the Member States which have used up their initial share ; whereas to give importers some degree of certainty the first instalment of the Community tariff quotas should be fixed at a fairly high level, which in this case could be respectively 5 718, 20 966 and 4 000 tonnes ;

Whereas initial shares may be used 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, bearing in mind the sensitive nature of the fisheries market in the United Kingdom, that market should not be laid open to too great a pressure brought about by too high a level of imports from third countries ; whereas, therefore, without prejudice to any arrangements to be decided upon for the future, the United Kingdom should be excluded from the obligation to draw further shares from certain of the reserves ; 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, which 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 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, however, as regards the United Kingdom, any return to some of the reserves may be effected only up to the limit of the quantities necessary to satisfy the real needs of other Member States that cannot be met by the mechanisms which are directly applicable to them ;

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 6 000 tonnes shall be opened with a duty of 3,7 % for whole or headless frozen redfish *(Sebastes* spp.) and whole or headless frozen cod *(Gadus morhua),* falling within subheadings ex 03.01 B I f) 2 and ex 03.01 B I h) 2 of the Common Customs Tariff, intended to undergo one of the operations authorized under paragraph 4.

2. From 1 January to 31 December 1986, a Community tariff quota of 22 000 tonnes with a duty of 4 % shall be opened for frozen cod *(Gadus morhua)* fillets falling within subheading ex 03.01 B II b) 1 of the Common Customs Tariff, intended to undergo one of the operations authorized under paragraph 4.

3. From 1 January to 31 December 1986 a Community tariff quota of 6 500 tonnes with a duty of 10 % shall be opened for herring flaps, prepared or preserved in vinegar, presented in packings of a net capacity of 10 kilograms or more, falling within subheading ex 16.04 C II of the Common Customs Tariff.

4. Without prejudice to paragraph 5 the preferential arrangements shown in paragraphs 1 and 2 shall apply to fish intended to undergo any operation, unless they are intended to undergo exclusively one or more of the following treatments :

— cleaning, gutting, heading, tailing,

— cutting (excluding filleting and cutting up frozen blocks),

— sampling, sorting,

— labelling,

— packing,

— chilling,

— freezing,

— deep-freezing,

— thawing, separation.

The preferential arrangements shall not apply to products intended to undergo an operation which qualifies for the grant of the benefit of the quota but which is carried out at retail or catering level. The products referred to in paragraph 2, which are presented individually or in blocks and in immediate packings of a net capacity of four kilograms or more shall be considered to fulfil the conditions shown in this subparagraph.

The preferential arrangements shall apply only to fish intended for human consumption.

5. The tariff opened for products falling within subheadings ex 03.01 B I h) 2 and ex 03.01 B II b) 1 of the Common Customs Tariff shall be reserved for products accompanied by a certificate issued by one of the recognized authorities of the countries of origin listed in Annex II, made out in accordance with the model in Annex I, attesting that the fish from which they were obtained were fished in the North Atlantic with due respect for the international conventions on the conservation and management of fishery resources. The certificate must also certify that the products presented were obtained from cod of the *Gadus morhua* species.

Article 2

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

A first instalment of each quota, i.e. 5 718, 20 966 and 4 000 tonnes, respectively, shall be allocated among the Member States ; the shares, which subject to Article 5, shall be valid until 31 December 1986, shall be as follows :

	Quota Article 1 (1) (6 000 tonnes to 3,7 %)	Quota Article 1 (2) (22 000 tonnes to 4 %)	Quota Article 1 (3) (6 500 tonnes to 10 %)
Benelux	178	270	138
Denmark	356	713	28
Germany	1 210	5 541	3 447
Greece	16	44	28
France	746	2 652	28
Ireland	16	27	28
Italy	16	59	28
United Kingdom	3 180	11 660	275
	5 718	20 966	4 000

2. The second instalment of each quota i.e. 282, 1 034 and 2 500 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 (1), 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 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.

5. However, with regard to the quotas referred to in Article 1 (1) and (2), paragraphs 1 to 4 above shall not apply to the United Kingdom.

Article 4

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

Article 5

1. 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 tariff quotas and of any portion of their initial shares returned to the reserve.

2. However, with regard to the quotas referred to in Article 1 (1) and (2), any return to the reserve by the United Kingdom may be effected only up to the limit of the quantities necessary to satisfy the real needs of other Member States that cannot be met either by their initial shares or by the corresponding reserve that might be replenished pursuant to paragraph 1.

Article 6

The Commission shall keep an account of the volume 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 States of the amount still in reserve, following any return of shares pursuant to Article 5.

It shall ensure that the drawing which exhausts one of the reserves 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 take all appropriate measures to ensure that the products referred to in Article 1 (1) and (2) fulfil the conditions mentioned in the aforesaid Article for admission to benefit from the tariff quotas. In such case use of the product for the particular end-use specified shall be verified in accordance with the relevant Community provisions.

3. The Member States shall ensure that importers of the products in question have free access to the shares allocated to them.

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

5. 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 4.

Article 8

Admission to benefit from the tariff quotas may not be subjected by a Member State to a customs security, intended solely to ensure that the shares laid down in this Regulation are not exceeded, unless the effective use of the shares that have been attributed to it has exceeded 90 % of such shares.

Article 9

The Member States shall, not later than the 15th day of the months of April and July, communicate to the Commission statements of charges effected on their shares during the first and second quarters, respectively.

At the request of the Commission, they shall communicate statements of charges for shorter periods and these statements must be forwarded within 10 days from the end of each period.

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 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

BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I — ALLEGATO I — BIJLAGE I

MODEL TIL CERTIFIKAT

MUSTER DER BESCHEINIGUNG

ΥΠΟΔΕΙΓΜΑ ΠΙΣΤΟΠΟΙΗΤΙΚΟΥ

MODEL CERTIFICATE

MODÈLE DE CERTIFICAT

MODELLO DI CERTIFICATO

MODEL VAN CERTIFICAAT

1 Exporter (Name, full address, country) Exportateur (Nom, adresse complète, pays)	2 Number Numéro	00000
	CERTIFICATE IN REGARD TO NORTH ATLANTIC COD (GADUS MORHUA) **Issued with a view to obtaining the benefit of the preferential tariff arrangements in the European Economic Community** **CERTIFICAT CONCERNANT LE CABILLAUD DE L'ATLANTIQUE DU NORD (« GADUS MORHUA »)** **délivré en vue de l'obtention du bénéfice du régime tarifaire préférentiel dans la Communauté économique européenne**	
3 Consignee (Name, full address, country) Destinataire (Nom, adresse complète, pays)	4 Country of origin Pays d'origine	5 Country of destination Pays de destination
6 Place and date of shipment — Means of transport Lieu et date d'embarquement — moyen de transport	7 Supplementary details Données supplémentaires	

8 Marks and numbers — Number and kind of packages — DETAILED DESCRIPTION OF GOODS Marques et numéros — nombre et nature des colis — DÉSIGNATION DÉTAILLÉE DES MARCHANDISES	9 Quantity in tonnes Quantité en tonnes	10 FOB value (1) Valeur fob (1)

11 CERTIFICATION BY THE COMPETENT AUTHORITY — VISA DE L'AUTORITÉ COMPÉTENTE

I, the undersigned, certify that the consignment described above contains only North Atlantic cod *(Gadus morhua)* from the stocks of the North Atlantic Ocean fished in accordance with the provisions of the North-West Atlantic Fisheries Organization, or the North-East Atlantic Fisheries Commission.

Je soussigné certifie que l'envoi décrit ci-dessus contient exclusivement du cabillaud de l'Atlantique Nord *(Gadus morhua)* provenant des stocks de l'océan de l'Atlantique Nord et capturés en concordance avec les dispositions de l'Organisation de l'Atlantique du Nord-Ouest ou de la commission des pêcheries de l'Atlantique du Nord-Est.

12 Competent authority (Name, full address, country) Autorité compétente (Nom, adresse complète, pays)	At / À ....., on / le ..... (Signature) (Seal) (Sceau)

(1) In the currency of the contract of sale.
Dans la monnaie du contrat de vente.

BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II

Oprindelsesland Ursprungsland Χώρα καταγωγής Country of origin Pays d'origine Paesi di origine Land van oorsprong	Kompetent myndighed Zuständige Behörde Αρμόδια υπηρεσία Competent authority Autorité compétente Autorità competente Bevoegde autoriteit
Island Island Ισλανδία Iceland Islande Islanda IJsland	Customs Iceland
Norge Norwegen Νορβηγία Norway Norvège Norvegia Noorwegen	Quality Inspection Department Directorate-General of Fisheries Bergen (Norway)
Canada Kanada Καναδάς Canada Canada Canada Canada Canada	Department of Fisheries and Oceans
De forenede Stater USA ΗΠΑ USA États-Unis d'Amérique Stati Uniti USA	Department of Commerce Washington DC