COUNCIL REGULATION (EEC) No 3604/85

of 17 December 1985

opening, allocating and providing for the administration of Community tariff quotas for herrings, fresh or chilled, falling within subheading 03.01 B I a) 2 aa) 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 28 thereof,

Having regard to the draft Regulation submitted by the Commission,

Whereas the production potential in the Community, until 14 February 1986, of whole herrings, and flaps of herrings, fresh or chilled, used for certain culinary preparations, has shown a deficiency in quality as a result of which it is impossible to satisfy the specific requirements of the Community processing industry;

Whereas an autonomous Community tariff quota should therefore be provided for these specific products; whereas the quota should be restricted to whole herrings, and flaps of herrings, falling within subheading ex 03.01 B I a) 2 aa) of the Common Customs Tariff in a fresh or chilled state and intended for the manufacture of certain culinary preparations which require herrings of firm, white flesh, of very small size, of a high degree of freshness and of a fat content not exceeding 12 %; whereas the herrings caught in the Baltic Sea at this period of the year normally meet these characteristics; whereas those coming from other stocks, such as the Scandinavian Atlantic, may do so;

Whereas, for these purposes, the autonomous tariff quota must cover certain categories of size and freshness set out in Regulation (EEC) No 103/76 (1), as last amended by Regulation (EEC) No 3250/83 (2), and categories of a fat content of not more than 12 %; whereas eligibility for the benefit of the quota must be subject to the presentation to the Community customs authorities of a certificate issued by the supplying country's authorities competent for export, to the effect either that the products were caught in the Baltic Sea or that the consignments of the exported products coming from other stocks, such as the Scandinavian Atlantic stock, meet all the required criteria; whereas, for a period from the date of entry into force of this Regulation to 14 February 1986, an autonomous tariff quota of an overall volume of 15 000 tonnes made up of two parts, the first 12 750 tonnes being reserved to begin with for whole herrings, the second, 2 250 tonnes for flaps of herrings, should therefore be opened and allocated among certain Member States, with account being taken of the obligation to comply with the Community reference price fixed pursuant to Article 21 of Regulation (EEC) No 3796/81 (3);

Whereas equal and continuous access to the quota should be ensured for all importers and the rate of levy for the tariff quotas should be applied consistently to all imports until the quotas are 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 quotas; whereas, to represent as closely as possible the actual development of the market in the said products, this allocation should follow proportionately to requirements, calculated both from statistics of imports from third countries during a representative reference period and according to the economic outlook for the quota period in question;

Whereas, this being an autonomous Community tariff quotas intended to ensure that import requirements which come to light in the Community are covered, provision may be made, on an experimental basis, for the quota volumes to be allocated on the basis of the additional requirements estimated for each of the Member States; whereas the allocation system also makes it possible to ensure uniformity in applying the Common Customs Tariff;

Whereas, to take account of the possible import trends for these products 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 Member States which have used up their initial shares as well as possible needs which may arise in the other Member States; whereas, to give importers some degree of certainty, the first instalment of the Community tariff quotas should be fixed at a high level, which in this case could be 80 % of the quota volumes;

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

(1) OJ No L 20, 28. 1. 1976, p. 29.
(2) OJ No L 321, 18. 11. 1983, p. 20.
(3) OJ No L 379, 31. 12. 1981, p. 1.

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 one of the Community tariff quotas from being used 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. Until 14 February 1986 a Community tariff quota of 15 000 tonnes shall be opened in the Community for whole herrings and flaps of herring, fresh or chilled, falling within subheading ex 03.01 B I a) 2 aa) of the Common Customs Tariff, of firm, white flesh having a fat content not exceeding 12 % and which, in the case of whole herrings, satisfy freshness criterion E and size criteria 2 and 3, as defined in Regulation (EEC) No 103/76. Herrings caught in the Baltic Sea normally show these characteristics and those coming from other stocks such as the Scandinavian Atlantic, may do so.

2. The benefit of the quota referred to in paragraph 1 shall be subject to compliance with the provisions of Article 11 of Regulation (EEC) No 103/76 and with the reference price laid down by the Community and shall be limited to products accompanied by a certificate, which shall conform to the model in the Annex, issued by the supplying country's authorities competent for export and certifying either that the products were caught in the Baltic Sea or that the consignments of exported products coming from other stocks, such as the Scandinavian Atlantic, meet all the required criteria listed in paragraph 1.

However, imports from direct landings, in Community ports, of the herring referred to in paragraph 1 and fished by local inshore fishing vessels as defined in Article 2 of Regulation (EEC) No 2062/80 [1], as last amended by Regulation (EEC) No 1995/84 [2], need not present the certificate in question.

3. The Common Customs Tariff duty shall be totally suspended within this tariff quota.

Article 2

The Community tariff quota referred to in Article 1 (1) shall be subdivided as follows:

(a) 12 750 tonnes for whole herrings;

(b) 2 250 tonnes for flaps of herring.

Article 3

1. A first instalment, amounting to 10 200 tonnes for whole herrings and 1 800 tonnes for flaps of herring, shall be allocated among certain Member States; the shares which, subject to Article 7, are valid during the period defined in Article 1 (1), shall amount, for the said Member States, to the following:

	Quota Article 2 (a) (in tonnes)	Quota Article 2 (b) (in tonnes)
Denmark	7 910	130
Germany	2 290	1 670

2. The second instalments, covering amounts of 2 250 tonnes and 450 tonnes respectively, shall constitute the reserves.

3. If an importer envisages importing the product in question into the other Member States and requests the benefit of the quota, the Member State concerned shall draw a share equal to these needs from the corresponding reserve, to the extent that the available balance of this reserve so permits.

Article 4

On 25 January 1985 the remainder of the quota referred to in Article 2 (b) still unused on 24 January 1986 may cover the imports of whole herrings referred to in Article 2 (a).

Article 5

1. If one of the Member States referred to in Article 3 has used 90 % or more of its initial share, or of that share minus any portion returned to the reserve pursuant to Article 7, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the corresponding reserve so permits, equal to 10 % of its initial share, rounded up as necessary to the next whole number.

2. If one of the said Member States, after exhausting one of its initial shares, 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.

[1] OJ No L 200, 1. 8. 1980, p. 82.
[2] OJ No L 186, 12. 7. 1984, p. 23.

3. If one of the said Member States, 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, each of the said Member States 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 6

Additional shares drawn pursuant to Articles 3 (3) and 5 shall be valid until the end of the period specified in Article 1 (1).

Article 7

Member States shall, not later than 25 January 1986, return to the reserve the unused portion of their initial shares which, on 15 January 1986, is in excess of 10 % 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 25 January 1986, notify the Commission of the total quantities of the product in question imported up to and including 15 January 1986 and charged against the Community tariff quotas and of any portion of their initial shares returned to the corresponding reserve.

Article 8

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2, 3 and 4 and shall, as soon as the information reaches it, inform each State of the extent to which the reserves have been used up.

It shall, not later than 1 February 1986, inform the Member States of the amount still in the reserves, following any return of shares pursuant to Article 6.

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 9

1. Member States shall take the appropriate measures to ensure that additional shares drawn pursuant to Article 5 are opened in such a way that imports may be charged without interruption against their accumulated share of the Community quotas.

Member States shall ensure that the fish presented meets all the conditions imposed by Article 1 (1) and (2) before granting the benefit of the quotas. Where imports are the result of direct unloading in Community ports, the checking with regard to the conditions referred to in Article 1 (1) and (2), second subparagraph, shall be made under the arrangement laid down in Article 4 of Regulation (EEC) No 3796/81.

2. 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 10

At the request of the Commission, the Member States shall inform it of imports actually charged against their shares.

Article 11

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 12

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

It shall apply from 1 December 1985.

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

Done at Brussels, 17 December 1985.

For the Council

The President

J. F. POOS

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

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 CONCERNING HERRING **Issued with a view to obtaining the benefit of the preferential tariff arrangements in the European Economic Community** **CERTIFICAT CONCERNANT LE HARENG** **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 exclusively herrings

Je soussigné certifie que l'envoi décrit ci-avant contient exclusivement du hareng

1. coming from stocks caught in the Baltic Sea

   provenant des stocks pêchés dans la mer Baltique

2. coming from ..... (indicate where fished) and complying, on presentation, with the conditions as to size, freshness, appearance and fat content appearing on the back of this certificate

   provenant de (lieu de pêche) ..... et répondant, lors de leur présentation, aux conditions de taille, de fraîcheur, d'aspect et de teneur en graisse figurant au verso du présent certificat

12 Competent authority (Name, full address, country) Autorite 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

(Back of herring certificate)

(Verso du certificat hareng)

Size grading Calibrage	kg/fish kg/poissons	Number per kg Pièces au kg
Size 2 Taille 2	from 0,085 to under 0,125 kg de 0,085 à moins de 0,125 kg	9 to 11 9 à 11
Size 3 Taille 3	a) from 0,050 to 0,085 exclusive de 0,050 à 0,085 exclu	12 to 20 12 à 20
	b) from 0,033 to 0,085 exclusive for herrings from the Baltic Sea	12 to 30
	de 0,033 à 0,085 exclu pour les harengs de la mer Baltique	12 à 30

Freshness category : Extra

Catégorie de fraîcheur : Extra

The degree of freshness shall be defined by reference to the appearance, condition and smell as explained in Articles 5 and 6 of Regulation (EEC) No 103/76 and with the help of the freshness ratings in Annex A thereto. The fish must be free from pressure marks, injuries, blemishes and bad discoloration.

Le degré de fraîcheur est défini selon l'aspect, l'état et l'odeur explicités aux articles 5 et 6 et à l'aide du barème de notation figurant à l'annexe A du règlement (CEE) n° 103/76. Les poissons doivent être dépourvus de marques de pression ou d'écorchures, de souillures et de forte décoloration.

Appearance :

Aspect :

White, firm flesh,
Chair ferme et blanche.

Fat content :

Teneur en graisse :

12 % mg maximum.
maximum 12 % mg.