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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1393/86

of 6 May 1986

opening, allocating and providing for the administration of Community tariff quotas for certain cod and fillets of cod falling within subheadings ex 03.02 A I b) and 03.02 A II a) of the Common Customs Tariff and originating in Norway

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to the proposal from the Commission,

Whereas an Agreement between the European Economic Community and the Kingdom of Norway was concluded on 14 May 1973; whereas, following the accession of Spain and Portugal to the Community, a supplementary protocol is to be signed in the near future; whereas, pending the entry into force of this protocol, the Council, by Regulation (EEC) No 573/86 [1], laid down the trade arrangements for certain fishery products with Norway consequent upon these accessions;

Whereas Regulation (EEC) No 573/86 provides for the opening, to run from 1 March 1986, of Community tariff quotas at a reduced rate of duty or duty-free for certain cod and fillets of cod originating in Norway; whereas therefore the tariff quotas in question should be opened for the period 1 March to 31 December 1986; whereas, in the absence of a *pro rata temporis* clause, the proposed annual quota volumes should be opened for the period under consideration;

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 priciples 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 Norway during a representative reference period and according to the economic outlook for the quota year in question;

Whereas, during the last two years for which statistics are available, average imports into each of the Member States were as follows:

(in tonnes)

	ex 03.02 A I b) (NIMEXE code 03.02-12)	ex 03.02 A I b) NIMEXE code 03.02-13)	03.02 A II a) (NIMEXE code 03.02-22)
Benelux	455	1	0
Denmark	3	540	42
Germany	586	1	8
Spain	0	839	20
Greece	365	190	0
France	3 684	1 271	44
Ireland	0	0	0
Italy	4 956	2 112	4 670
Portugal	9 727	5 034	0
United Kingdom	3	8	0
	19 779	9 996	4 785

Whereas, during the last two years under consideration, the products in question were imported only by certain Member States and not at all by the other Member States; whereas, under these circumstances, initial shares should be allocated to the importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas upon imports into those States of the products concerned being notified; whereas these arrangements for allocation will equally ensure the uniform application of the Common Customs Tariff;

[1] OJ No L 56, 1. 3. 1986, p. 110.

Whereas in taking into account these factors and the allocation which was applied in the 25 000 tonnes tariff quota which was opened for some of these products by Regulation (EEC) No 3544/85 (1), initial percentage shares in the quota volumes can be set approximately as follows :

	ex 03.02 A I b) (NIMEXE code 03.02-12)	ex 03.02 A I b) (NIMEXE code 03.02-13)	03.02 A II a) (NIMEXE code 03.02-22)
Benelux	0,94	—	—
Denmark	—	4,32	0,88
Germany	1,21	—	0,17
Spain	—	9,55	0,42
Greece	0,76	1,53	—
France	7,62	10,18	0,92
Ireland	—	—	—
Italy	10,25	16,91	97,61
Portugal	79,22	57,44	—
United Kingdom	—	0,07	—

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 certain Member States and the second constituting a reserve to cover the subsequent requirements of these Member States where they have used up their initial shares and any additional requirements which might arise in the other Member States ; whereas, in order to give importers in each Member State a certain degree of security, it is appropriate to fix the first instalment of the Community quotas at a level which, in the circumstances, could be 85 % and 80 % respectively of each of the quota volume ;

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 Community 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. Until 31 December 1986 the Common Customs Tariff duties on the following products, originating in Norway, shall be totally suspended within the limits of the Community tariff quotas shown against each one of them :

CCT heading No	Description	Quota volume in tonnes
03.02	Fish, dried, salted or in brine ; smoked fish, whether or not cooked before or during the smoking process :	
	A. Dried, salted or in brine	
	I. Whole, headless or in pieces :	
	ex b) Cod *(Gadus morhua, Boreogadus saida, Gadus ogac)*	
	— Dried and salted	13 250
	— Wet, salted or in brine	10 000
	II. Filets :	
	a) Of Cod *(Gadus morhua, Boreogadus saida, Gadus ogac)*	3 000

(1) OJ No L 338, 17. 12. 1985, p. 8.

2. Within the limits of these tariff quotas, the Kingdom of Spain and the Portuguese Republic shall apply the following duties :

CCT heading No	Spain	Portugal
ex 03.02 A I b)	6 %	0 %
03.01 A II a)	6 %	0 %

3. Imports of the products in question shall not benefit from the quotas referred to in paragraph 1 unless the free-at-frontier price, which is determined by the Member States according to Article 21 of Regulation (EEC) No 3796/81, is at least equal to the reference price if such a price has been fixed by the Community for the product under consideration.

4. The Protocol on the definition of the concept of originating products and on methods of administrative cooperation, annexed to the Agreement between the European Economic Community and the Kingdom of Norway, shall be applicable.

Article 2

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

2. A first instalment of each quota shall be allocated among certain Member States ; the shares which, subject to Article 5, shall be valid until 31 December 1986, shall be as follows :

(in tonnes)

	ex 03.02 A I b) (NIMEXE code 03.02-12)	ex 03.02 A I b) (NIMEXE code 03.02-13)	03.02 A II a) (NIMEXE code 03.02-22)
Benelux	106	—	—
Denmark	—	367	21
Germany	136	—	4
Spain	—	812	10
Greece	85	130	—
France	857	865	22
Ireland	—	—	—
Italy	1 153	1 437	2 343
Portugal	8 913	4 883	—
United Kingdom	—	6	—
	11 250	8 500	2 400

3. The second instalment of each quota, being respectively 2 000, 1 500 and 600 tonnes, shall constitute the corresponding reserve.

4. If an importer notifies the imminent import of the products in question into a Member State that does not participate in the initial allocation and if such importer requests the benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the reserve so permits.

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 each of the reserves 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 31 December 1986.

Article 5

The Member States shall return to the reserve, not later than 15 November 1986, such unused portion of their initial share as, on 1 November 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 that 15 November 1986 of the total quantities of the products in question imported up to 1 November 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 20 November 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 every measure 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. 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 shares shall be determined on the basis of the imports of the products concerned originating in Norway 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 the day of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 March 1986.

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

Done at Brussels, 6 May 1986.

For the Council

The President

P. H. van ZEIL