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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2355/86

of 24 July 1986

opening, allocating and providing for the administration of Community tariff quotas for certain fishery products originating in Sweden

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 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 Sweden was concluded on 22 July 1972; whereas following Spain's and Portugal's accession to the Community, a supplementary Protocol is to be signed in the near future; whereas pending the entry into force of the said Protocol, Council Regulation (EEC) No 573/86 [1] laid down the arrangements applicable to trade in fishery products with Sweden as a result of those 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 fishery products originating in Sweden; 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 'prorata 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 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 Sweden 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, imports into each of the Member States were as follows:

(tonnes)

Member State	CCT heading No											
	03.01 B I h) 1 03.01 B I ij) 1 03.01 B I k) 1		ex 03.01 B II a)		16.04 A II		16.04 C II		16.04 G II		ex 16.05 B	
	1983	1984	1983	1984	1983	1984	1983	1984	1983	1984	1983	1984
Benelux	91	81	32	7	0	0	9	11	57	75	0	0
Denmark	14637	23280	173	222	0	1	92	60	51	78	21	8
Germany	116	152	125	113	0	38	190	177	30	26	20	13
Greece	0	0	0	0	0	20	0	0	0	0	0	1
Spain	2411	3001	743	997	2	3	9	6	1	2	1	1
France	240	273	36	42	0	33	1	1	0	1	44	37
Ireland	0	0	0	0	0	0	0	0	0	0	0	0
Italy	1	0	0	0	0	0	0	0	0	0	50	41
Portugal	0	37	0	0	0	0	0	0	0	0	2	3
United Kingdom	230	502	0	0	0	1	15	10	5	3	1	0
	17726	27326	1109	1381	2	96	316	265	144	185	139	104

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

Whereas, during the 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 ;

Whereas in taking into account these factors, the Member States' initial percentage shares in the quota volumes can be set as follows :

Member State	CCT heading No					
	03.01 B I h) 1 03.01 B I ij) 1 03.01 B I k) 1	ex 03.01 B II a)	16.04 A II	16.04 C II	16.04 G II	ex 16.05 B
Benelux	0,38	1,57	—	3,44	40,12	—
Denmark	84,16	15,86	1,02	26,16	39,22	11,93
Germany	0,59	9,56	38,77	63,18	17,02	13,58
Greece	—	—	20,41	—	—	0,41
Spain	12,01	69,88	5,10	2,58	0,91	0,82
France	1,14	3,13	33,67	0,34	0,30	33,33
Ireland	—	—	—	—	—	—
Italy	0,01	—	—	—	—	37,46
Portugal	0,08	—	—	—	—	2,06
United Kingdom	1,63	—	1,02	4,30	2,43	0,41

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 60 % 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 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 fishery products originating in Sweden shall be suspended at the levels and within the limits of the Community tariff quotas shown against each one of them :

CCT heading No	Description	Quota volume (in tonnes)	Rate of duty (%)
03.01	Fish, fresh (live or dead), chilled or frozen :		
	B. Saltwater fish :		
	I. Whole, headless or in pieces :		
	(h) Cod (Gadus morhua, Boreogadus saida, Gadus ogac) :		
	1. Fresh or chilled		
	(ij) Saithe (Pollachius virens) :	3 500	0
	1. Fresh or chilled		
	(k) Haddock (Melanogrammus aeglefinus) :		
	1. Fresh or chilled		
	II. Fillets		
	ex (a) Fresh or chilled		
	— of cod	1 500	0
16.04	Prepared or preserved fish, including caviar and caviar substitutes :		
	A. Caviar and caviar substitutes :		
	II. Other	60	0
	C. Herring :		
	II. Other	250	0
	G. Other :		
	II. Other	200	0
16.05	Crustaceans and molluscs, prepared or preserved :		
	ex B. other :		
	— shrimps and prawns, shelled and frozen, excluding shrimps of the genus Crangon spp.	120	7,5

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

(Duties as a percentage)

CCT heading No	Spain	Portugal
03.01 B I h) 1	0	0
03.01 B I ij) 1	0	0
03.01 B I k) 1	0	0
ex 03.01 B II a)	0	0
16.04 A II	12,1	26,3
16.04 C II	12,1	26,3
16.04 G II	12,1	26,3
ex 16.05 B	6,3	27,2

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

3. 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 Sweden 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 shared among certain Member States ; the respective shares, which, subject to Article 5, shall be valid until 31 December 1986, shall be as follows :

(1) OJ No L 379, 31. 12. 1981, p. 1.

(tonnes)

Member State	CCT heading No					
	03.01 B I h) 1 03.01 B I ij) 1 03.01 B I k) 1	ex 03.01 B II a)	16.04 A II	16.04 C II	16.04 G II	ex 16.05 B
Benelux	8	19	—	7	64	—
Denmark	1 767	190	1	52	63	11
Germany	12	115	18	126	27	13
Greece	—	—	10	—	—	1
Spain	252	838	2	5	1	1
France	24	38	16	1	1	32
Italy	1	—	—	—	—	35
Portugal	2	—	—	—	—	2
United Kingdom	34	—	1	9	4	1
	2 100	1 200	48	200	160	96

3. The second instalment of each quota being respectively :

— for subheadings 03.01 B I (h) 1, 03.01 B I (ij) 1 and 03.01 B I (k) 1 : 1 400 tonnes,

— for subheading ex 03.01 B II (a) : 300 tonnes,

— for subheading 16.04 A II : 12 tonnes,

— for subheading 16.04 C II : 50 tonnes,

— for subheading 16.04 G II : 40 tonnes and

— for subheading ex 16.05 B : 24 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 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 mount 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 paragraph 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 than 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 quotas.

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 Sweden 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 following its publication in the *Official Journal of the European Communities.*

This Regulation is applicable from 1 March 1986.

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

Done at Brussels, 24 July 1986.

For the Council

The President

A. CLARK