COUNCIL REGULATION (EEC) No 3285/86

of 27 October 1986

opening, allocating and providing for the administration of a Community tariff quota for deep frozen fillets and minced blocks of hake falling within subheadings ex 03.01 B II b) 9 and ex 03.01 B I t) 2 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,

Whereas, by its Regulation (EEC) No 2061/86 [1], the Council opened and allocated among certain Member States a Community tariff quota of 7 250 tonnes at a rate of 5 % for deep-frozen fillets and minced blocks of hake *(Merluccius Hubbsi)* falling within subheadings ex 03.01 B II b) 9 and ex 03.01 B I t) 2 of the Common Customs Tariff for the period up to 31 December 1986;

Whereas, on the basis of the most recent data concerning these products, there is no doubt that the volume of this tariff quota will not cover all the Community import requirements from third countries; whereas the additional import requirements may at present be assessed at 4 000 tonnes until 31 January 1987 and whereas they are in main concerned with species other than those covered by the aforesaid Regulation; whereas therefore a Community tariff quota should be opened for a period up to 31 January 1987, at a rate of 5 %, the volume thereof should be fixed at 4 000 tonnes and the benefit of the quota in question should be extended to hake species other than that covered by the aforesaid Regulation (EEC) No 2061/86;

Whereas, in particular, equal and continuous access to the quota should be ensured for all Community importers and the rate of duty for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas, in the light of these principles, arrangements for the utilization of the tariff quota based on an allocation among Member States would seem to be consistent with the Community nature of the quota; whereas, to correspond as closely as possible to the actual trend in the market in the product in question, allocation of the quota should be in proportion to the requirements of the Member States calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota period in question;

Whereas in the case in point there are no statistical data broken down by quality of products in question, whereas the quota is an autonomous Community tariff quota intended to cover import needs arising in the Community, the quota volume may be allocated on the basis of the temporary import needs from third countries expressed by each of the Member States; whereas these arrangements for allocation will equally ensure the uniform application of the Common Customs Tariff;

Whereas, to take account of possible import trends for the product concerned, the quota volume should be divided into two instalments, the first being allocated between certain Member States and the second held as a reserve to meet subsequent requirements of Member States which have used up their initial shares and any additional requirements which might arise in the other Member States; whereas, to give importers of the Member States some degree of certainty, the first instalment of the tariff quota should be fixed at a relatively high level, which in this case could be 3 900 tonnes;

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 must 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 latter 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, 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 measures 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 the date on which this Regulation enters into force until 31 January 1987 the Common Customs Tariff duty for certain deep-frozen fillets and minced blocks of hake (*Merluccius spp.*, except for the species *Merluecius Merluccius, Merluccius bilinearis* and *Merluccius*

[1] OJ No L 176, 1. 7. 1986, p. 12.

carpensis) falling within subheadings ex 03.01 B II b) 9 and ex 03.01 B I t) 2 of the Common Customs Tariff shall be suspended at a level of 5 % within the limit of a Community tariff quota of 4 000 tonnes.

2. Within the limits of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions in the Act of Accession.

3. Imports of the products in question shall not benefit from the tariff quota referred to in paragraph 1 unless the free-at-frontier price, which is determined by the Member States in accordance with Article 21 of Regulation (EEC) No 3796/81 (1), is at least equal to the reference price fixed or to be fixed by the Community for the products under consideration or the categories of the products concerned.

Article 2

1. A first instalment of 3 900 tonnes of this Community tariff quota shall be allocated among certain Member States, the shares, which subject to Article 5 shall be valid until 31 January 1987, shall amount to the following quantities :

	(tonnes)
Benelux	100
Denmark	50
Germany	2 500
France	1 100
Italy	100
United Kingdom	50

2. The second instalment of 100 tonnes shall constitute the reserve.

3. Should an importer give notification of imminent importation of the product in a Member State and request the benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements to the extent that the available balance of the reserve so permits.

Article 3

1. If a Member State has used 90 % or more of its initial share as fixed in Article 2 (1), it shall forthwith by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 5 % 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 2,5 % 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.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 January 1987.

Article 5

Member States shall, not later than 15 January 1987, return to the reserve the unused portion of their initial share which, on 1 January 1987, 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 15 January 1987, notify the Commission of the total quantities of the product in question imported up to and including 1 January 1987 and charged against the Community tariff 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 20 January 1987, 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. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that imports may be charged

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

without interruption against their aggregate shares of the Community tariff quota.

2. Member States shall ensure that importers of the product in question have free access to the shares allotted to them.

3. Member States shall charge imports of the product in question against their shares as the product is entered with the customs authorities for free circulation.

4. The extent to which Member States have used up their shares shall be determined on the basis of imports charged against them under the conditions set out in paragraph 3.

Article 8

At the Commission's request, the Member States shall inform it of imports 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 shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 27 October 1986.

For the Council

The President

G. HOWE