COUNCIL REGULATION (EEC) No 360/86

of 17 February 1986

laying down rules for the application by Spain and Portugal of quantitative restrictions on fishery products

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, and in particular Articles 176 and 363 thereof,

Having regard to the proposal from the Commission,

Whereas the Act of Accession provides that Spain and Portugal may maintain, for a specific period, quantitative restrictions applicable to the import of certain fishery products from third countries;

Whereas the limits and conditions for maintaining such quantitative restrictions in Spain and Portugal should be fixed, within the framework of genral Community rules;

Whereas, with a view to the application of the said quantitative restrictions, an annual import quota should be set for each product concerned; whereas, because imports of a given product are spread unevenly over the year, the annual quota set for each product should be divided into quarterly instalments which can be reviewed if necessary;

Whereas the grant of a licence, involving a system of deposits, by each of the new Member States prior to any import into its territory is likely to facilitate monitoring of the imports concerned; whereas, to take account of the experence acquired by the new Member States in managing a system of import licences for fishery products, those States should be allowed to define certain detailed rules relating to the issue of such licences;

Whereas, to enable the quantities imported during each quarter to be managed properly, it is necessary to specify the measures to be taken where the sum of quantities imported, or the quantities which are the subject of a licence application, does not correspond to the instalment fixed for the quarter in question,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down rules for applying the quantitative restrictions provided for in Articles 176 and 363 of the Act of Accession.

Article 2

1. For the purpose of applying the quantitative restrictions referred to in Article 1, annual import quotas shall be set before the beginning of each marketing year, in accordance with the procedure laid down in Article 33 of Council Regulation (EEC) No 3796/81 of 28 December 1981 on the common organization of the market in fishery products [1], as last amended by Regulation (EEC) No 3655/84 [2]. When they are set, the abovementioned quotas shall be divided into four quarterly instalments.

2. The quotas shall be set for each of the new Member States and for each product concerned, on the basis of:

— the average level of imports of the product in question into Spain and Portugal over the last three years for which statistics are available,

— the general market situation for the product in question,

— the progressive opening of these markets resulting in particular from the negotiations with third countries.

3. The volume of quotas and their division into quarterly instalments may be reviewed in the course of the year in accordance with the procedure referred to in paragraph 1.

Article 3

1. Any import into Spain and Portugal of the products referred to in Articles 176 (1) and 363 (1) of the Act of Accession must be effected under an import licence issued in advance by the competent agency of the importing Member State, for each of the quarters referred to in Article 2 (1). A single licence shall be issued for each transaction.

Licences shall be issued on application by the importer, within five working days of the lodging of the application.

Licences shall not be transferable.

2. The issuing of the import licence shall be subject to the lodging of a deposit as a guarantee of the undertaking to import during the period of validity of the licence; the deposit shall be forfeited in whole or in part if, within that period, the operation is not carried out, or is carried out only partially. The arrangements for applying this paragraph shall be laid down in accordance with the procedure laid down in Article 2 (1).

[1] OJ No L 379, 31. 12. 1981, p. 1.
[2] OJ No L 340, 28. 12. 1984, p. 1.

3. An import licence shall be valid only for the products for which it was issued and shall confer the right to import, under the licence and during its period of validity, the net quantity of product specified, from the country or group of countries mentioned on the licence, in accordance with paragraph 5.

4. Import licences shall be valid for a period of 60 days from their date of issue.

5. The importing Member State shall lay down detailed rules relating to the grant of import licences and shall in particular determine the maximum quantity which may be covered by each licence, which, in the case of quotas of a volume of more than 100 tonnes per quarter, may not exceed 5 % of the overall import quotas.

However, applications for licences as referred to in paragraph 1 must contain at least the following information, which must be included on the licence :

(a) the name and address of the importer ;

(b) a precise description of the product, in partcular :

— the usual commercial name,

— the description under the Common Customs Tariff nomenclature,

— the country of origin ;

(c) the quantity of the product in tonnes ;

(d) the value of the product, expressed as the cif price ;

(e) the probable date and place of import.

6. The Member States concerned shall notify the Commission of the procedures which they intend to take under paragraph 5. Should there be no observations forthcoming from the Commission within a period of one month, the procedures proposed shall be deemed to have been accepted.

Article 4

1. If, for a given product, actual imports in the course of a quarter are less than the instalment laid down for that quarter, the unused quantities shall be carried forward to the following quarter of the same year.

2. If, for a given product, the licence applications for a quarter exceed the instalment laid down for that quarter, the Member States concerned must suspend the issue of import licences for all quantities in excess of the instalment fixed for the quarter in question. However, licence applications which are refused may give rise to licences being issued for the following quarter of the same year.

Article 5

1. When the product is placed in free circulation, the import licence shall be stamped by the competent customs service, which shall enter or certify on the said licence the net quantity actually imported thereunder.

2. For the purpose of monitoring the quantities imported, the importer shall without delay send a copy of the licence referred to in paragraph 1 to the competent agency which issued him the licence.

3. The importing Member State shall notify to the Commission, within the first 10 days of the end of each quarter, by product and country of provenance :

— the overall quantity and value of the products which were the subject of applications for import licences in the preceding quarter,

— the quantity and value of the products actually imported in the preceding quarter.

Article 6

This Regulation shall apply to all imports from third countries into Spain and Portugal without prejudice to the protocols to be concluded with preferential third countries pursuant to Articles 179 (1) and 366 (1) of the Act of Accession, or, in the absence of such protocols, to the autonomous transitional measures referred to in Articles 180 and 367 of the said Act.

Article 7

When the quantitative restrictions do not apply for a whole calendar year, special provisions for any reduction of the initial quota shall be drawn up according to the procedure referred to in Article 2 (1).

Article 8

This Regulation shall enter into force on 1 March 1986.

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

Done at Luxembourg, 17 February 1986.

For the Council

The President

H. van den BROEK