COUNCIL REGULATION (EEC) No 446/86

of 24 February 1986

opening, allocating and providing for the administration of Community tariff quotas for certain fishery products falling within heading Nos 03.01, 03.03, 16.04 and subheading 23.01 B of the Common Customs Tariff, originating in the Canary Islands (1986)

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 Article 3 of Protocol No 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas Article 3 of Protocol No 2 and Article 10 of Protocol No 3 annexed to the Act of Accession [1] provide that fishery products falling within headings and subheadings 03.01, 03.02, 03.03, 05.15 A, 16.04, 16.05 and 23.01 B of the Common Customs Tariff, originating in the Canary Islands or in Ceuta and Melilla, shall qualify for reduced duties within the limits of annual Community tariff quotas on importation into the customs territory of the Community, excluding Spain; whereas this tariff preference is only applicable to products which have been imported over the years 1982, 1983 and 1984; whereas there is no pattern of trade in the said products originating in Ceuta and Melilla and thus no need to open quotas for products originating in those territories; whereas for the products originating in the Canary Islands the quota amounts calculated on the basis of Article 3 cited above amount to:

— 604 tonnes for the products of heading No 03.01, excluding subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I o) 1,

— 3 429 tonnes for products of tariff heading 03.03, excluding subheadings 03.03 B I a) and 03.03 B III,

— 539 tonnes for products of heading No 16.04, and

— 227 tonnes for products of subheading 23.01 B;

Whereas the other products are not imported;

Whereas when the products are imported within the limits of these quotas they shall qualify for a progressive reduction of customs duties in accordance with the same timetable and under the same conditions as those laid down by Article 173 of the Act of Accession, subject to compliance with the reference prices; whereas, however, when the products in question are imported into Portugal, the duties applicable shall be calculated on the basis of the relevant provisions of the Act of Accession; whereas in accordance with the said provisions, the tariff measures shall not have effect until 1 March 1986; whereas the tariff quotas in question should therefore be opened for the period from 1 March to 31 December 1986;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quotas and uninterrupted application of the rates laid down for these quotas to all imports of the products concerned into all Member States until the quotas have been used up; whereas, having regard to the principles mentioned above, the Community nature of the quotas can be respected by allocating the Community tariff quotas among the Member States; whereas, in order to reflect as accurately as possible the true trend of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics for imports of the products concerned originating in the Canary Islands over a representative reference period and also to the economic outlook for the quota period in question;

Whereas, during the last three years for which statistics are available, imports into each of the Member States were as follows (in tonnes):

[1] OJ No L 302, 15. 11. 1985, p. 400 and 410.

Member States	Heading No 03.01 Fish, fresh			Heading No 03.03 Crustaceans and molluscs			Heading No 16.04 Prepared or preserved fish			Subheading 23.01 B Flours and meals of fish		
	1982	1983	1984	1982	1983	1984	1982	1983	1984	1982	1983	1984
Benelux	471	31	—	—	6	—	—	74	208	—	—	—
Denmark	—	—	—	—	—	—	—	—	—	—	—	—
Germany	54	29	7	34	1	—	697	74	93	—	—	—
Greece	27	1	20	215	937	778	34	—	—	—	—	—
France	32	332	297	25	2	12	—	18	—	—	—	—
Ireland	—	—	—	—	—	—	—	—	—	—	—	—
Italy	99	12	16	1 934	3 510	2 641	—	—	72	—	682	—
United Kingdom	—	14	43	—	—	4	—	21	—	—	—	—
Portugal	157	53	118	44	28	117	56	269	—	—	—	—
Community	840	472	501	2 252	4 484	3 552	787	456	373	—	682	—

Whereas over the last three years only certain Member States have effected regular imports of the products in question, while there has been no importation whatsoever, or only sporadic importation, into the other Member States; whereas in these circumstances it is advisable, as a first step, to allocate initial quota shares to those Member States which actually import the products concerned, while guaranteeing the other Member States access to the tariff quotas when imminent imports into these countries are recorded; whereas this method of allocation ensures a uniform application of the Common Customs Tariff;

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, the first instalment of the Community quotas should, under the circumstances, be fixed at 80 % respectively of the quota volumes;

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. During the period form 1 March until 31 December 1986 Community tariff quotas shall be opened in the Community excluding Spain for the following products, originating in the Canary Islands, within the limits set out below:

(in tonnes)

Common Customs Tariff heading No	Description	Quota volume
ex 03.01	Fish, fresh (live or dead) chilled or frozen, excluding products of subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I c) 1	604
ex 03.03	Crustaceans and molluscs, whether in shell or not, fresh (live or dead), chilled, frozen, salted, in brine or dried; crustaceans, in shell, simply boiled in water, excluding products of subheadings 03.03 B I a) and 03.03 B III	3 429
16.04	Prepared or preserved fish, including caviar and caviar substitutes	539
23.01	Flours and meals, of meat, offals, fish, crustaceans or molluscs, unfit for human consumption; greaves;	
	B. Flours and meals of fish, crustaceans or molluscs:	227

2. Within the limits of the tariff quotas, the duties set out below for each of the headings and subheadings shall be applicable:

Common Customs Tariff heading and subheading No	Quota duty %
03.01 A I a)	10,5
b)	1,7
II	2,6
III	7,0
B I a) 2	13,1
b) 2	11,3
c) 2	19,2
d)	20,1
e), f)	7,0
g) 1	7,0
g) 2	free
h)	10,5
ij), k), l), m), n)	13,1
o) 2	17,5
p), q), r), s), t), u), v), w), x), y)	13,1
II a)	15,7
b) 1, 2, 3	13,1
4	10,5
5, 6	13,1
7	15,7
8, 9, 10, 11, 12, 13, 14, 15, 16, 17	13,1
C	8,7
03.03 A I	10,9
II	free
III a)	7,0
b), c)	13,1
IV a)	10,5
b), c)	15,7
V	10,5
03.03 B I b)	15,7
(cont.) II	6,5
IV a) 1 aa)	5,2
bb)	5,2
cc)	7,0
dd)	7,0
2, 3, 4, 5, 6	7,0
b) 1 aa)	5,2
bb)	5,2
cc)	7,0
dd)	7,0
2	7,0
16.04 A	26,2
B I	4,8
II	6,1
C I	13,1
II	17,5
D	22,7
E	21,0
F	21,8
G I	13,1
II	17,5
23.01 B	1,7

Within the limit of the tariff quotas, Portugal shall apply customs duties calculated in accordance with the relevant provisions of the Act of Accession.

3. In order to benefit from the tariff quotas, the products concerned must comply with the reference prices applicable to them.

4. The fishery products covered by this article may not receive the benefit of the tariff quotas unless, at the time of their presentation, in whatever form, to the authorities responsible for import formalities with a view to their release for free circulation within the Community's customs territory, they are presented in packings bearing the following information in a clearly visible and perfectly legible form:

— the marking 'Origin: Canary Islands' or a translation thereof in another official Community language printed in Latin characters of a height of not less than 20 millimetres,

— the net weight in kilograms of the fish contained in the packings.

In addition, pre-packaged foodstuffs falling within heading No 16.04 must carry, on each immediate packing, in an easily visible, clearly legible and indelible form the marking 'Made in the Canaries', or a translation thereof in another official language of the Community.

This paragraph shall apply without prejudice of the specific rules laid down by Council Regulation (EEC) No 103/76 of 19 January 1976 laying down common marketing standards for certain fresh or chilled fish [1], as last amended by Regulation (EEC) No 3396/85 [2] and by Council Regulation (EEC) No 104/76 of 19 January 1976, laying down common marketing standards for shrimps of the genus *Crangon* spp. [3], as last amended by Regulation (EEC) No 3118/85 [4].

Article 2

1. The tariff quotas referred to in Article 1 shall be divided into two parts.

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

(a) for the products of heading ex 03.01:

Benelux:	137 tonnes,
Germany:	25 tonnes,
France:	180 tonnes,
Italy:	34 tonnes,
Portugal:	89 tonnes,
United Kingdom:	15 tonnes;

(b) for the products of heading ex 03.03:

Greece:	520 tonnes,
Italy:	2 230 tonnes;

(c) for the products of heading No 16.04:

Benelux:	80 tonnes,
Germany:	240 tonnes,
Italy:	20 tonnes,
Portugal:	90 tonnes;

(d) for the products of subheading 23.01 B:

Italy:	180 tonnes.

3. The second part of each tariff quota, respectively

— 124 tonnes for the products of heading ex 03.01,

— 679 tonnes for the products of heading ex 03.03, and

— 109 tonnes for the products of heading No 16.04, and

— 47 tonnes for the products of subheading 23.01 B,

shall constitute the corresponding Community reserve.

4. If an importer notifies the imminent import of the product in question into the other Member States 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 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 the reserve is used up.

(1) OJ No L 20, 28. 1. 1976, p. 29.
(2) OJ No L 322, 3. 12. 1985, p. 1.
(3) OJ No L 20, 28. 1. 1976, p. 35.
(4) OJ No L 297, 9. 11. 1985, p. 3.

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 1 October 1986, such unused portion of their initial share as, on 15 September 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 1 October 1986 of the total quantities of the products in question imported up to 15 September 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 5 October 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 all measures 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 share shall be determined on the basis of the imports charged in accordance with paragraph 3.

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 1 March 1986.

However, Article 1 (4), last subparagraph, shall only apply from 1 July 1986.

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

Done at Brussels, 24 February 1986.

For the Council

The President

G. BRAKS