COMMISSION REGULATION (EEC) No 546/86

of 27 February 1986

laying down detailed rules for applying the supplementary trade mechanism to fishery products

THE COMMISSION 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 174 and 361 thereof,

Whereas the Act of Accession introduced a supplementary trade mechanism applicable to imports of certain products into the new Member States and laid down the general rules therefor, particularly as regards determination of the annual intra-Community share in such imports;

Whereas this mechanism is intended to ensure that the markets of the new Member States concerned are gradually opened up to imports from other Member States of the Community; whereas the estimated level of imports determined for a given marketing year must not thereby be lower than for the preceding marketing year;

Whereas, to enable the quantities imported under the supplementary trade mechanism to be managed in line with market conditions the intra-Community share should be divided into quarterly instalments, which may be reviewed if necessary;

Whereas the grant of a licence by each of the new importing Member States prior to any importation into its territory should facilitate monitoring of the imports concerned; whereas, to take account of the experience acquired by the new Member States in managing a system of import licences for fishery products, those States should be allowed to lay down certain administrative procedures relating to the issue of such licences;

Whereas the conditions for implementing the appropriate measures limiting or suspending imports provided for in Articles 174 (4) and 361 (4) of the Act of Accession should be defined;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for applying the supplementary trade mechanism referred to in Articles 174 and 361 of the Act of Accession of Spain and Portugal, hereinafter referred to as the 'Act of Accession'.

Article 2

1. Before 31 December each year the Commission shall establish, in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81, for the whole of the next marketing year and for each of the new Member States, an overall forward supply estimate for each of the products referred to in Articles 174 (1) and (2) and 361 (1) and (2) of the Act of Accession. This estimate shall be established by defining an estimated overall level of imports 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 estimated overall level of imports shall include an intra-Community share as defined in paragraph 3 and a remainder determined, if appropriate, at the time of the annual fixing of the quantitative restrictions referred to in Council Regulation (EEC) No 360/86 [1].

2. For the products referred to in Articles 174 (1) and 361 (1) of the Act of Accession, when the overall level of imports is established, a distinction shall be made in each case between imports from the other Member States and imports from third countries.

For the products referred to in Articles 174 (2) and 361 (2) of the Act of Accession, when the overall level of imports is established, a distinction shall be made in each case between imports from the other acceding country and imports from all other sources, including the Member States of the Community as constitued on 31 December 1985.

3. Imports from the other Member States as referred to in the first subparagraph of paragraph 2, and imports from the other acceding country as referred to in the second subparagraph 2 shall be increased by 15 % at the time of each annual determination. They shall constitute or be considered as the intra-Community share of the overall level of imports referred to in the second subparagraph of paragraph 1.

The intra-Community share determined for a given marketing year may in no case be below the level applied in the preceding year.

Article 3

1. The intra-Community share defined in Article 2 shall be divided, when it is being determined, into four quarterly instalments shose volume may be reviewed, if necessary, in the course of the marketing year.

[1] OJ No L 43, 20. 2. 1986, p. 8.

2. 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.

Article 4

1. Any import into Spain and Portugal of the products referred to in Articles 174 (1) and (2) and 361 (1) ans (2) of the Act of Accession must be effected on the basis of an import licence issued in advance by the competent agency of the importing Member State. A single licence shall be issued for each import operation.

Licences shall be issued on application by the importer, within five working days of the lodging of the application and after providing security in accordance with the detailed rules laid down pursuant to Regulation (EEC) No 360/86. Licences shall not be transferable.

2. Import licences shall be valid only for the products for which they where requested and, without prejudice to Article 6, shall carry 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 4.

3. Without prejudice to Article 6, licences granted in respect of imports from other Member States of the Community shall be valid for a period of 60 days from their date of issue.

4. 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, for authorized import quantities of at least 100 tonnes per quarter, may in no case exceed 5 % of the estimated overall level of imports. However, applications for licences as referred to in paragraph 1 must contain at least the following information, which must be included on the licence :

— the name and address of the importer,

— a precise description of the product, in particular :

  — the usual commercial name,

  — the definition under the Common Customs Tariff nomenclature,

  — the country of origin,

— the quantity of product in tonnes,

— the value of the product in terms of the cif price,

— the probable date and place of import.

5. The Member States in question shall communicate to the Commission the rules which they intend to adopt pursuant to paragraph 4. In the absence of observations by the Commission within one month, the proposed rules shall be deemed to be accepted.

Article 5

1. At the time of placing the products into 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 10 days after 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.

On the basis of this information, the Commission shall determine for each product the intra-Community share of total imports effected during the current marketing year.

Article 6

Where the market of one of the new Member States is disturbed or threatened with disturbance as a result of imports of one or more products covered by this Regulation, the Commission, acting on its own initiative or at the request of the new Member State concerned, may adopt in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81, appropriate measures as provided for in Articles 174 (4) und 361 (4) of the Act of Accession. The importing Member State concerned shall supply the Commission with all the additional information, in particular on the market situation, necessary for the purpose of this Article.

Article 7

Where the supplementary trade mechanism does not apply for the whole of a calendar year, special provisions for any reduction of the overall forward supply estimate shall be drawn up in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81.

Article 8

This Regulation shall enter into force on the third day following 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, 27 February 1986.

For the Commission

António CARDOSO E CUNHA

Member of the Commission