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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1448/87

of 26 May 1987

opening, allocating and providing for the administration of a Community tariff quota for herrings falling within subheading 03.01 B I a) 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 113 thereof,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to the proposal from the Commission,

Whereas the Community undertook to open an annual duty-free Community tariff quota for 34 000 tonnes of herrings, whole, headless or in pieces, falling within subheading 03.01 B I a) 2 of the Common Customs Tariff, imported from 16 June to 14 February in a fresh, chilled or frozen state, subject to compliance with the reference price; whereas, therefore, it is appropriate to open, for the period 16 June 1987 to 14 February 1988, the duty-free tariff quota in question, bearing in mind the obligation to comply with the reference price fixed;

Whereas equal and continuous access to the said quota should be ensured for all importers and the rate of levy for the tariff quota should be applied consistently to all imports until the said quota is used up; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States would seem to preserve the Community nature of the quota; whereas, to represent as closely as possible the actual development of the market in the said goods, this allocation should follow proportionately the requirements of the Member States calculated both from statistics of imports from third countries during a representative reference period and according to the economic outlook for the quota period in question;

Whereas, during the last three years for which complete statistics are available, the imports of each Member State represent the following percentages in relation to the total imports of the products in question:

	1983	1984	1985
Benelux	5,99	4,06	3,70
Denmark	69,61	66.39	68,88
Germany	21,94	24,44	19,30
Greece	—	—	—
Spain	—	—	—
France	1,48	2,35	5,47
Ireland	—	0,02	—
Italy	—	0,02	—
Portugal	—	—	—
United Kingdom	0,98	2,72	2,65

Whereas, in view of the above and of the foreseeable trend of the market for these products in the quota period, the initial quota shares may be as indicated in Articles 2 and 3;

Whereas, to take account of the possible import trends for this product, the quota volume should be divided into two parts, the first being allocated between the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share; whereas, to give importers some degree of certainty, the first part of the tariff quota should be fixed at a high level, which in this case could be 30 000 tonnes;

Whereas initial shares may be used up at different rates; whereas, to take account of this fact and to avoid any interruption, 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 should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must, in particular, 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 if, at a given date of the quota period, a considerable quantity of a Member State's initial share remains unused, it is essential that such State should return a significant proportion thereof to the reserve, in order to prevent a part of the Community tariff quota from remaining unused in one Member State while 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 measure concerning the administration of the share allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 16 June 1987 to 14 February 1988, the Common Customs Tariff duty on the following product shall be suspended at the level and within the limit of a Community tariff quota as shown below:

Order No	CCT heading No	Description	Quota volume (tonnes)	Quota duty (%)
09.0005	03.01	Fish, fresh (live or dead), chilled or frozen: B. Saltwater fish: I. Whole, headless or in pieces: a) Herring: 2. from 16 June to 14 February: aa) fresh or chilled bb) frozen	34 000	0

2. Within the limit of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply duties which are calculated according to the relevant provisions laid down in the 1985 Act of Accession.

3. Imports of herrings shall not be charged against this tariff quota if they are already free of customs duties under other preferential tariff treatment.

4. The use of the tariff quota referred to in paragraph 1 shall be subject to compliance with any reference price which may be fixed.

Article 2

1. The Community tariff quota referred to in Article 1 (1) shall be divided into two parts.

2. The first part, amounting to 30 000 tonnes, shall be allocated among certain Member States; the shares which, subject to Article 6, shall be valid from 16 June 1987 to 14 February 1988, shall be as follows:

	(tonnes)
Benelux	1 419
Denmark	20 508
Germany	6 612
France	858
United Kingdom	603

3. The second part, constituting the reserve, shall consist of 4 000 tonnes.

Article 3

If an importer who intends to import the products in question into Greece, Ireland, Italy, Portugal or Spain requests the benefit of the quota, the Member State concerned shall draw a quota share equal to these needs from the reserve, to the extent that the reserve so permits.

Article 4

1. If a Member State has used 90 % or more of its initial share as fixed in Article 2 (2), or of that share minus any portion returned to the reserve pursuant to Article 6, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 10 % 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, under the conditions set out in paragraph 1, draw a third share equal to 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, under the conditions set out 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, each 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 5

Additional shares drawn pursuant to Article 4 shall be valid until 14 February 1988.

Article 6

Member States shall, not later than 15 November 1987, return to the reserve the unused portion of their initial shares which, on 1 November 1987, is in excess of 10 % 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 November 1987, notify the Commission of the total quantities of the product in question imported up to and including 1 November 1987 and charged against the Community quota, and of any portion of their initial share returned to the reserve.

Article 7

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2, 3 and 4 and shall, as soon as the information reaches it, inform each Member State of the extent to which the reserve has been used up.

It shall, not later than 20 November 1987, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 6.

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 8

1. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 4 are opened in such a way that importations may be charged without interruption against their accumulated share of the Community quota.

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

3. Member States shall charge imports of the product in question against their shares as and when the product is 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 against it in accordance with paragraph 3.

Article 9

When so requested by the Commission, Member States shall inform it of imports actually charged against their shares.

Article 10

Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 11

This Regulation shall enter into force on 16 June 1987.

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

Done at Brussels, 26 May 1987.

For the Council

The President

L. TINDEMANS