COUNCIL REGULATION (EEC) No 4109/87

of 22 December 1987

opening, allocating and providing for the administration of a Community tariff quota for certain cod and fish of the species *Boreogadus saida,* dried, salted or in brine, whole, headless or in pieces (1988)

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 proposal from the Commission,

Whereas the Community has undertaken to open an annual duty free Community tariff quota at zero duty for 25 000 tonnes of cod of the species *Gadus morhua* and *Gadus ogac,* and fish of the species *Boreogadus saida,* dried, salted or in brine, whole, headless or in pieces; whereas therefore, the tariff quota in question should be opened on 1 January 1988 and allocated among the Member States;

Whereas the Community has adopted, with effect from 1 January 1988, a combined nomenclature for goods which meets the requirements of the Common Customs Tariff and the nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States; whereas in order to encompass specific Community measures this nomenclature has been expanded into an integrated tariff of the European Communities (TARIC); whereas, with effect from the date given above, the combined nomenclature and, where appropriate, the TARIC code numbers, should be used for the description of the products covered by this Regulation;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the tariff quota rate should be applied consistently to all imports until the quota is used up; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas in order to correspond as closely as possible to the actual development of the market, the allocation should reflect the requirements of the Member States based on statistics of imports from third countries during a representative reference period and to the economic outlook for the tariff year in question;

Whereas, during the last three years for which complete statistics are available, imports into each of the Member States represented the following percentages of total imports of the product in question from third countries which do not benefit from an equivalent preferential tariff measure:

Member States	1984	1985	1986
Benelux	0,62	0,39	0,51
Denmark	0,54	0,01	6,86
Germany	0,82	0,44	0,41
Greece	4,99	3,80	4,61
Spain	1,05	0,77	15,04
France	9,02	5,69	6,28
Ireland	0	0	0
Italy	18,63	14,11	13,31
Portugal	63,84	74,52	52,59
United Kingdom	0,49	0,27	0,39

Whereas, in view of these factors and of market forecasts for this product for 1988, the initial percentage shares in the quota volume can be expressed approximately as follows:

Benelux	0,50
Denmark	2,45
Germany	0,53
Greece	4,40
Spain	5,64
France	6,81
Ireland	0,01
Italy	15,10
Portugal	64,19
United Kingdom	0,37

Whereas to allow for possible imports trends for these fish, the quota volume should be divided into two parts; the first being allocated among 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 afford importers some degree of certainty, the first part of the tariff quota should be set at a high level, which in this case could be 75 % of the quota volume;

Whereas initial shares may be used up at different rates; whereas in order 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 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 be able to keep account of quota utilization rates and inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of a Member State's intial share remains unused, it is essential that such State should return a significant proportion of this to the reserve in order to prevent 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 shares allocated to that economic union may be carried out by any one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 January to 31 December 1988, the customs duty applicable to imports of the following products shall be suspended at the level and within the limit of a Community tariff quota as shown herewith:

Order No	CN code	Description	Amount of quota (tonnes)	Rate of duty (%)
09.0007	ex 0305 51 10 ex 0305 51 90 0305 59 11 0305 59 19 ex 0305 62 00 0305 69 10	Cod of the species *Gadus morhua,* and *Gadus ogac,* and fish of the species *Boreogadus saida,* dried, salted or in brine, whole, headless or in pieces	25 000	0

Within the limit of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions laid down by the Act of Accession of Spain and Portugal.

Article 2

1. The Community tariff quota referred to in Article 1 shall be divided into two instalments.

2. A first instalment of 18 750 tonnes shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid until December 1988 shall be as follows:

	(tonnes)
Benelux	94
Denmark	459
Germany	99
Greece	825
Spain	1 058
France	1 277
Ireland	2
Italy	2 831
Portugal	12 036
United Kingdom	69

3. The second instalment of 6 250 tonnes shall constitute the reserve.

Article 3

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 5, it shall forthwith, by notifying the Commission, and to the extent that the reserve so permits, draw a second share 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 its second share as well, it shall forthwith, as provided in paragraph 1, draw a third share equal to 5 % of the 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 its third share, it shall, as 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 smaller than those specified in the said paragraphs if there are grounds for believing that those specified might 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 December 1988.

Article 5

By 1 November 1988, at the latest, Member States must return to the reserve the unused portion of their initial share which, on 15 October 1988, 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.

By 1 November 1988, at the latest, Member States must notify the Commission of the total quantities of the product in question imported up to and including 15 October 1988 and charged against the Community 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 inform each State as soon as the information reaches it of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 November 1988, 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. The 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 without interruption against their accumulated shares of the Community quota.

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

3. The 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 imports charged in accordance with paragraph 3.

Article 8

At the request of the Commission, the Member States shall inform it of imports 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 January 1988.

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

Done at Brussels, 22 December 1987.

For the Council

The President

N. WILHJELM