COUNCIL REGULATION (EEC) No 4112/87

of 22 December 1987

Opening, allocating and providing for the administration of Community tariff quotas for certain kinds of prepared or preserved fish coming from Portugal (1988)

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 362 thereof,

Having regard to the proposal from the Commission,

Whereas Article 362 of the Act of Accession provides that during the period of progressive elimination of customs duties between the Community as constituted on 31 December 1985 and Portugal, certain kinds of sardines, tunas, fish of the genus *Euthynnus*, certain kinds of mackerel and fish of the species *Orcynopsis unicolor*, prepared or preserved, falling within codes ex 1604 13 10, ex 1604 20 50, 1604 14 10, 1604 19 30, 1604 20 70, 1604 15 10, 1604 19 50 and ex 1604 20 50 of the combined nomenclature, from Portugal, may be imported free of duty into the Community as constituted on 31 December 1985 within the limits of annual Community tariff quotas of 5 000 tonnes, 1 000 tonnes and 1 000 tonnes respectively; whereas these quotas should be opened for 1988;

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

Whereas it is in particular necessary to ensure for all importers of the Community as constituted on 31 December 1985 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 the Member States until the quotas have been used up; whereas, having regard to the above principles, 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 concerned, such allocation should be in proportion to the requirements of the Member States, assessed by reference to the statistics of each State's imports from Portugal over a representative reference period and also to the economic outlook for the quota period concerned;

Whereas during the last three years for which statistics are available imports into the Member States were as follows:

(tonnes)

Member States	1984	1985	1986
Sardines of the species *Sardina pilchardus*			
Benelux	954	741	741
Denmark	302	306,31	234
Germany	3 277	3 239	4 659
Greece	14	—	155
France	2 410	2 190	1 783
Ireland	13	30	19
Italy	643	820,8	634
United Kingdom	6 574	4 210	3 949
Tunas and fish of the genus *Euthynnus*			
Benelux	3	1	13
Denmark	—	—	—
Germany	18	18,2	22
Greece	—	54	—
France	118	55	16
Ireland	—	—	—
Italy	1 504	2 456,5	2 141
United Kingdom	—	—	9
Mackerel of the species *Scomber scombrus* und *Scomber japonicus* and fish of the species *Orcynopsis unicolor*			
Benelux	130	135	176
Denmark	—	—	—
Germany	—	—	21
Greece	—	—	—
France	5	—	3
Ireland	—	—	—
Italy	1 576	2 216,7	1 463
United Kingdom	40	—	—

Whereas in view of these factors and of the estimates submitted by certain Member States, initial quota shares may be set approximately at the following percentages:

Member States	Sardines	Tunny	Mackerel
Benelux	6,43	—	8,85
Denmark	2,42	—	—
Germany	29,49	—	—
Greece	0,61	—	—
France	16,84	4,00	—
Ireland	—	—	—
Italy	5,33	96,00	91,15
United Kingdom	38,88	—	—

Whereas in the last three years the products in question were imported regularly by certain Member States only, and not at all or only occasionally by the other Member States; whereas in these circumstances initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the tariff quotas when imports into these Member States are notified; whereas these arrangements for allocation will equally ensure the uniform application of the combined nomenclature;

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 parts, the first being shared among certain Member States and the second constituting a reserve to cover the subsequent requirements of the Member States where they have used up their initial shares and also any 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 part of the Community quotas could be set at 67 % of the quota volumes;

Whereas the initial quota shares of the Member States 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 share should draw an additional quota 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 quota shares must be valid until the end of the quota period; whereas this method of administration requires close cooperation between Member States and the Commission and the latter must, in particular, be able to monitor the extent to which the quota volumes have been used up and to inform the Member States accordingly;

Whereas if, at a given date in the quota period, a substantial quantity of one of the initial shares remains unused in one or other Member State it is essential that the Member State concerned should return a significant proportion to the reserve to prevent a part of any Community quota from remaining unused in one member State when it could be used in other;

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 operations relating to the administration of the quota 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 duties on imports from Portugal into the Community as constituted on 31 December 1985 for the following products shall be suspended at the levels indicated and within the limits of Community tariff quotas as shown herewith:

Order No	CN code	Description	Quantities (tonnes)	Quota duties
	1604	Prepared or preserved fish:		
		caviar and caviar substitutes prepared from fish eggs:		
09.0501	ex 1604 13 10 ex 1604 20 50	– Sardines of the species *Sardina pilchardus*	5 000	free
09.0502	1604 14 10	– Tunas and skipjack	1 000	free
	1604 19 30	– Fish of the genus *Euthynnus*, other than skipjack		
	1604 20 70	– Tunas, skipjack and other fish of the genus *Euthynnus*		
09.0503	1604 15 10	– Mackerel of the species *Scomber scombrus* and *Scomber japonicus*	1 000	free
	1604 19 50	– Fish of the species *Orcynopsis unicolor*		
	ex 1604 20 50	– Mackerel of the species *Scomber scombrus* and *Scomber japonicus* and fish of the species *Orcynopsis unicolor*		

Article 2

1. Each of the tariff quotas referred to in Article 1 shall be divided into two parts.

2. (a) The first part of each quota shall be allocated among certain Member States; the respective shares shall, subject to Article 5, be valid until 31 December 1988, and shall be as follows:

(tonnes)

Member States	Prepared or preserved		
	Sardines	Tunas	Mackerel
Benelux	215	—	60
Denmark	80	—	—
Germany	990	—	—
Greece	20	—	—
France	565	30	—
Ireland	—	—	—
Italy	180	640	610
United Kingdom	1 300	—	—
Total	3 350	670	670

(b) The second part of each quota, namely 1 650, 330 and 330 tonnes respectively, shall constitute the corresponding reserve.

3. If an importer notifies a Member State that a consignment of the products in question is to be imported and applies to use the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its 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 of that share less the portion returned to the reserve, where Article 5 is applied, has been used up, that Member State shall without delay, by notifying the Commission, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next whole number, to the extent permitted by the amount of the reserve.

2. If, after its initial share has been used up, 90 % or more of the second share drawn by a Member State has been used, that Member State shall, using the procedure provided for in paragraph 1, draw a third equal to 5 % of its initial share, rounded up where necessary to the next whole number.

3. If, after its second share has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, using the same procedure provided for in paragraph 1, draw a fourth share equal to the third.

This process shall continue 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 fixed in those paragraphs if there is reason to believe that these might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Each of the additional shares drawn pursuant to Article 3 shall be valid until 31 December 1988.

Article 5

The Member States shall return to the reserve, not later than 1 October 1988, the unused portion of their initial share which, on 15 September 1988, is in excess of 20 % of the initial volume. They may return a larger quantity if there are grounds for believing that it might not be used.

The Member States shall, not later than 1 October 1988, notify the Commission of the total quantities of the products concerned imported up to 15 September 1988 and charged against the Community quotas and of any quantities of the initial shares returned to each reserve.

Article 6

The Commission shall keep an account of the shares drawn by the Member States pursuant to Articles 2 and 3 and shall, as soon as it is notified, 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 1988 of the amount in the reserve after the return of quantities 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 the balance to the Member State making the last drawing.

Article 7

1. The Member States shall take all measures necessary to ensure that additional drawing of shares pursuant to Article 3 carried out in such a way that imports may be charged are without interruption against their accumulated shares of the tariff quotas.

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

3. The Member States shall charge the imports of the products concerned against their shares as and when the products are entered with 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 coming from Portugal entered with customs authorities for free circulation.

Article 8

At the Commission's request 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