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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 249/88

of 25 January 1988

opening, allocating and providing for the administration of Community tariff quotas for cod and fish of the species *Boreogadus saida*, dried, salted or in brine, originating in Norway (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 Act of Accession of Spain and Portugal,

Having regard to the proposal from the Commission,

Whereas an Agreement between the European Economic Community and the Kingdom of Norway was concluded on 14 May 1973 ; whereas, consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community, an Agreement in the form of an Exchange of Letters was concluded and approved by the Decision 86/557/EEC [1] ;

Whereas the latter Agreement provides for the opening, on a date to be fixed by common accord, of Community tariff quotas at reduced or zero duty for cod and fish of the species *Boreogadus saida* originating in Norway ; whereas the tariff quotas in question should therefore be opened for the period agreed for 1988, namely 1 April to 31 December 1988 ;

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 accomodate specific Community measures that nomenclature has been expanded into an integrated tariff of the European Communities (Taric) ; whereas 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 equal and continuous access to the quotas should be ensured for all importers and the rates laid down for the quotas should be applied consistently to all imports of the products in question until the quotas are exhausted ; whereas, in the light of these principles, allocation of the tariff quotas among the Member States would seem to preserve the Community nature of the quotas ; whereas in order to correspond as closely as possible to the real trend of the market for the products in question the allocation should reflect the requirements of the Member States based on statistics of imports of the said products from Norway during a representative reference period and on the economic outlook for the quota year in question ;

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

(tonnes)

Member State	ex 0305 51 10 0305 59 11			ex 0305 51 90 0305 59 19			ex 0305 62 00 0305 69 10		
	1984	1985	1986	1984	1985	1986	1984	1985	1986
Benelux	89	80	54	441	372	110	1	2	2
Denmark	2	0	1	5	3	3	319	3	1 966
Germany	59	49	19	543	473	400	2	—	1
Greece	44	26	19	223	417	84	148	336	619
Spain	—	—	—	—	—	—	858	430	1 074
France	47	36	19	3 816	3 573	3 496	1 044	666	701
Ireland	—	—	—	—	—	—	—	—	—
Italy	4 087	4 457	3 375	5 280	4 231	1 550	1 808	2 159	1 827
Portugal	—	—	—	13 230	6 217	6 401	5 143	4 235	1 675
United Kingdom	20	35	18	2	6	9	16	—	—
	4 348	4 683	3 505	23 540	15 292	12 053	9 339	7 831	7 865

[1] OJ No L 328, 22. 11. 1986, p. 76.

Whereas, during the years under consideration, the products in question were imported only by certain Member States and not at all by the other Member States; whereas, under these circumstances, initial shares should be allocated to the importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas when imports into those States of the products concerned are notified; whereas these allocation arrangements will ensure the uniform application of the applicable customs duties;

Whereas, in view of these factors, the initial percentage shares of the quota volumes can be expressed approximately as follows:

Member State	ex 0305 51 10 0305 59 11	ex 0305 51 90 0305 59 19	ex 0305 62 00 0305 69 10
Benelux	1,78	1,82	0,02
Denmark	0,02	0,02	9,14
Germany	1,01	2,78	0,01
Greece	0,71	1,42	4,41
Spain	—	—	9,44
France	0,82	21,39	9,63
Ireland	—	—	—
Italy	95,08	21,74	23,14
Portugal	—	50,80	44,15
United Kingdom	0,58	0,03	0,06

Whereas, to allow for the trend of imports of the products concerned in the various Member States, each of the quota volumes should be divided into the parts, the first being allocated among certain Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial shares and any requirements which might arise in the other Member States; whereas, to afford importers in each Member State some degree of certainty, an appropriate level for the first part of the Community quotas would, in the present circumstances, be 75 % of the quota volume;

Whereas the initial shares of the Member States may be used up at different rates; whereas, in order to avoid any break in the continuity of supplies on this account, it should be provided that any Member State which has almost used up one of its initial shares should draw an additional share from the corresponding reserve; whereas each time one of its additional shares is almost used up a Member State should draw a further share and so on as many times as the reserve allows; whereas each of the initial and additional shares must be valid until the end of the quota period; whereas this form of administration requires close cooperation between the Member States and the Commission and the latter must be able to monitor the extent to which the quota volumes have been used up and inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of one of a Member State's initial shares remains unused, it is essential that the Member State concerned should return a significant proportion thereof to the corresponding reserve in order to prevent part of one of the Community tariff quotas 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 concerning 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

1. From 1 April to 31 December 1988 the customs duties applicable to imports of the following products originating in Norway shall be suspended at the levels indicated and within the limits of Community tariff quotas as shown below:

Order No	CN Code	Description	Volume of quota (tonnes)	Rate of duty (%)
	0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; fish meal fit for human consumption:		
		– Dried fish, whether or not salted but not smoked:		
	0305 51	– – Cod *(Gadus morhua, Gadus ogac, Gadus macrocephalus)*:		
09.0707	ex 0305 51 10	– – – Dried, unsalted:		
		– Excluding cod of the species *Gadus macrocephalus*	3 900	0
	0305 59	– – Other:		
		– – – Fish of the species *Boreogadus saida*:		
	0305 59 11	– – – – Dried, unsalted		

Order No	CN Code	Description	Volume of quota (tonnes)	Rate of duty (%)
	0305 51	– – cod *(Gadus morhua, Gadus ogac, Gadus macrocephalus)*:		
09.0703	ex 0305 51 90	– – – Dried, salted:		
		– Excluding cod of the species *Gadus macrocephalus*	13 250	0
	0305 59	– – Other:		
		– – – Fish of the species *Boreogadus saida*:		
	0305 59 19	– – – – Dried, salted		
		– Fish, salted but not dried or smoked and fish in brine:		
09.0705	ex 0305 62 00	– – Cod *(Gadus morhua, Gadus ogac, Gadus macrocephalus)*:	10 000	0
		– Excluding the species *Gadus macrocephalus*		
	0305 69	– – Other:		
	0305 69 10	– – – Fish of the species *Boreogadus saida*		

Within the limits of the above tariff quotas the Kingdom of Spain and the Portuguese Republic shall apply duties of 4,3 and 0 % respectively.

2. Where the Community has fixed a reference price for the products or categories of products concerned, imports of those products shall benefit from the quotas referred to in paragraph 1 only if the free-a-frontier price determined by the Member States in accordance with Article 21 of Regulation (EEC) No 3796/81 is at least equal to the reference price.

3. The Protocol concerning the definition of the concept of 'originating products' and methods of administrative cooperation annexed to the Agreement between the European Economic Community and the Kingdom of Norway shall apply.

Article 2

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

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

(tonnes)

Member States	Order number		
	09.0707	09.0703	09.0705
Benelux	52	182	2
Denmark	1	2	685
Germany	29	278	1
Greece	21	142	331
Spain	—	—	708
France	24	2 139	722
Ireland	—	—	—
Italy	2 781	2 174	1 735
Portugal	—	5 080	3 311
United Kingdom	17	3	5
	2 925	10 000	7 500

3. The second part of each quota, amounting to 975, 3 250 and 2 500 tonnes respectively, shall constitute the corresponding reserves.

4. If an importer gives notification of imminent imports of the products concerned into a Member State not covered by the initial allocation and applies to take advantage of 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 a Member State has used 90 % or more of one of its initial shares as specified in Article 2 (2), or of that share less any portion returned to the corresponding 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 where necessary to the next whole number.

2. If, after one of its initial quota shares has been used up, a Member State has used 90 % or more of its second share as well, it shall, using the procedure provided for in paragraph 1 and to the extent that the reserve so permits, draw a third share equal to 5 % of the initial share, rounded up where necessary to the next whole number.

3. If, after one of its second shares has been used up, a Member State has used 90 % or more of its third share, it shall, using the 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, Member States may draw smaller shares than those specified in the said paragraphs if there is reason to believe that they might not be used in full. Member States shall inform the Commission of their 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

By 1 October 1988 at the latest Member States must return to the reserve 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 greater portion if there is reason to believe that it might not be used.

By 1 October 1988 at the latest Member States must notify the Commission of the total quantities of the products concerned imported on or before 15 September 1988 and charged against the Community quotas and of any portion of their initial shares that they are returning to the corresponding reserves.

Article 6

The Commission shall keep account of the shares drawn by Member States pursuant to Articles 2 and 3 and shall inform each Member State of the extent to which the reserves have been used up as soon as it has been notified.

It shall inform the Member States not later than 5 October 1988 of the state of each of the reserves following any return of quota 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 final drawing.

Article 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 enable imports to be charged without interruption against their accumulated shares of the Community tariff quotas.

2. Member States shall ensure that importers of the products concerned have free access to the quota shares allocated to them.

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

4. The extent to which Member States have used up their shares shall be determined on the basis of imports of the products concerned originating in Norway and entered with the customs authorities for free circulation.

Article 8

At the request of the Commission, Member States shall inform it of imports actually charged against their quota 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 April 1988.

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

Done at Brussels, 25 January 1988.

For the Council

The President

H.-D. GENSCHER