COUNCIL REGULATION (EEC) No 3590/88

of 8 November 1988

opening, allocating and providing for the administration of a Community tariff quota for certain prepared or preserved fish, originating in Norway (1989)

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, following the accession of Spain and Portugal to the Community, an Agreement in the form of an Exchange of Letters was concluded and approved by Council Decision 86/557/EEC (1);

Whereas the said Agreement provides in particular for the opening of a Community tariff quota at reduced rates of duty for certain prepared or preserved fishery products originating in Norway; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas equal and uninterrupted access to the 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 quota is exhausted; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States will preserve the Community nature of the quota; whereas, to match as closely as possible the actual development of the market in the said products, the allocation should follow proportionately the requirements of the Member States calculated with reference to statistics of imports from Norway during a representative reference period and to economic outlook for the relevant quota year;

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

(tonnes)

Member States	1985	1986	1987
Benelux	11	4	4
Denmark	7	2	7
Germany	22	3	21
Greece	0	0	0
Spain	3	1	1
France	1 604	1 354	1 273
Ireland	0	0	0
Italy	106	309	0
Portugal	0	0	0
United Kingdom	354	161	124
	2 107	1 834	1 430

Whereas, during the years under consideration, the products in question were imported only by certain Member States and there were no such imports into 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 tariff quota upon imports into those States of the products concerned being notified; whereas these arrangements for allocation will also enable the uniform application of the Common Customs Tariff to be ensured;

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

Benelux	0,40
Denmark	0,34
Germany	0,86
France	78,77
Italy	7,73
United Kingdom	11,90

Whereas, to accommodate any changes in imports for these products, the quota volume should be divided into two instalments, 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 afford importers some degree of certainty, the first instalment of the tariff quota should be fixed at a high level, which in this case could be 54% of the quota;

(1) OJ No L 328, 22. 11. 1986, p. 76.

Whereas initial shares may be used up at different rates; whereas, 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 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 time in the course of the quota period any substantial quantity of a Member State's initial share remains unused, it is essential that the Member State concerned 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 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 January to 31 December 1989 the customs duty on imports of the following products, originating in Norway, shall be suspended at the level and within the limit of the Community tariff quota shown herewith:

Order No	CN code	Description	Quota volume (tonnes)	Rate of duty (%)
09.0711		Prepared or preserved fish, including caviar and caviar substitutes prepared from fish eggs:	400	10
	ex 1604 13 90	Other:		
		– Sardinella, brisling or sprats, not including fillets, raw, merely coated with batter or breadcrumbs, whether or not pre-fried in oil, deep-frozen		
	ex 1604 19 99	Other, not including smoked saithe		
	ex 1604 20 90	Fish other than herring and smoked saithe		

Under this tariff quota, the Kingdom of Spain and the Portuguese Republic shall charge duties of 11,9 % and 20 % respectively.

2. Imports of the products in question shall not qualify for the tariff quota referred to in paragraph 1 unless the free-at-frontier-price, which is determined by the Member States according to Article 21 of Council Regulation (EEC) 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), as last amended by Regulation (EEC) No 3759/87 (2), is at least equal to the reference price where such a price has been fixed by the Community for the product or categories of products under consideration.

3. The Protocol on the definition of the concept of originating products and on methods of administrative cooperation, annexed to the Agreement between the European Economic Community and the Kingdom of Norway, shall be applicable.

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 359, 21. 12. 1987, p. 1.

Article 2

1. The tariff quota laid down in Article 1 (1) shall be divided into two instalments.

2. A first instalment of this quota shall be allocated among certain Member States. The respective shares, which, subject to Article 5, shall be valid until 31 December 1989, shall be as follows:

	(in tonnes)
Benelux	1
Denmark	1
Germany	2
France	170
Italy	17
United Kingdom	25

3. The second instalment of the quota, being 184 tonnes, shall constitute the reserve.

4. If an importer notifies the imminent import of the products in question into a Member State which does not participate in the initial allocation and requests the

benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to these 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 its initial share as fixed in Article 2 (2), or of that share minus any proportion returned to the reserve pursuant to Article 5, 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, in the manner and to the extent provided in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up as necessary to the 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, in the manner and to the extent 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 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 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

Member States shall, not later than 1 October 1989, return to the reserve such unused portion of their initial share as, on 15 September 1989, exceeds 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.

Member States shall, not later than 1 October 1989, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1989 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 operated by the Member States pursuant to Articles 2 and 3 and shall, as soon as the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 5 October 1989, inform the Member States 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 cumulative shares of the Community quota.

2. The Member State 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 the 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

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 1989.

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

Done at Brussels, 8 November 1988.

For the Council
The President
A. PEPONIS