COUNCIL REGULATION (EEC) No 4184/88

of 16 December 1988

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 (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 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 1989 and allocated among the Member States;

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	1985	1986	1987
Benelux	0,39	0,05	0,07
Denmark	0,01	0,01	0,06
Germany	0,44	0	0,04
Greece	3,80	4,11	4,48
Spain	0,77	20,06	15,47
France	5,69	2,43	2,42
Ireland	0	0	0
Italy	14,11	7,31	7,34
Portugal	74,52	65,58	69,93
United Kingdom	0,27	0,45	0,19

Whereas, for 1989, maintenance of quotas for the Member States is necessary, bearing in mind that it is impossible for the administration concerned in each Member State to introduce, in 1989, the administrative and technical basis for Community administration of the quota; whereas it is, however, possible, bearing in mind the way in which trade has developed in recent years, to provide for a Community reserve of a significantly large amount;

Whereas, in view of these factors and of market forecasts for this product in 1989 initial percentage shares in the quota volume can be expressed approximately as follows:

Benelux	0,21
Denmark	0,02
Germany	0,21
Greece	4,07
Spain	9,98
France	3,92
Ireland	0,01
Italy	10,43
Portugal	70,85
United Kingdom	0,30

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 as well as the requirements of the Member States which do not participate in the initial allocation; 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 60 % 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 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, during the quota period, the Community reserve is almost totally used up, it is essential that Member States return to the said reserve the whole of the unused proportion of their initial quota and of any drawings made, in order to avoid one part of the Community tariff quotas 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 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 1989, 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	Amounts 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 15 000 tonnes shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid until 31 December 1989 shall be as follows:

	(tonnes)
Benelux	32
Denmark	3
Germany	32
Greece	611
Spain	1 497
France	587
Ireland	2
Italy	1 565
Portugal	10 626
United Kingdom	45

3. The second instalment of 10 000 tonnes shall constitute the reserve.

4. If an importer indicates that he is about to import any of the products in question into a Member State which does not participate in the initial allocation or which has exhausted its initial quota 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 quota so permits.

5. Without prejudice to Article 3, the drawings made pursuant to paragraph 4 shall be valid until the end of the quota period.

Article 3

1. Once at least 80 % of the reserve of one of the tariff quota, as defined in Article 2 (3), has been used up, the Commission shall inform the Member States thereof.

2. It shall also notify Member States in this case of the date from which drawings on the Community reserve must be made according to the following provisions:

If an importer presents in a Member State a declaration of entry into free circulation including a request for preferential benefit for a product covered by this Regulation, and if this declaration is accepted by the customs authorities, the Member State concerned shall draw, from the Community reserve, by means of notification to the Commission, a quantity corresponding to these needs.

The requests for drawing, with the indication of the date of acceptance of the said declarations, must be communicated to the Commission without delay.

The drawings are granted by the Commission on the basis of the date of acceptance of the declaration of entry into free circulation by the customs authorities of the Member State concerned, to the extent that the available balance so permits.

If a Member State does not use the quantities drawn, it shall return them as soon as possible to the reserve.

If the quantities requested are greater than the available balance of the reserve, allocation shall be made on a *pro rata* basis with respect to the requests. Member States shall be informed by the Commission in accordance with the same procedures.

3. Within a time limit fixed by the Commission as from the date referred to in the first subparagraph of paragraph 2, Member States shall be required to return to the reserve all the quantities which have not been used on that date, within the meaning of Article 5 (3) and (4).

Article 4

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

It shall inform the Member States, of the amounts still in reserve after amounts have been returned thereto pursuant to Article 3.

It shall ensure that the drawing which uses up 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 5

1. The Member States shall take all measures necessary to ensure that drawings of shares pursuant to Article 2 (4) and Article 3 are carried out in such a way that imports may be charged without interruption against their accumulated shares in the Community tariff quotas.

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

3. The Member States shall charge imports of the products against their shares as and when they are 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 6

At the request of the Commission, the Member States shall inform it of imports of the products concerned actually charged against their shares.

Article 7

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

Article 8

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, 16 December 1988.

For the Council

The President

G. GENNIMATAS