COUNCIL REGULATION (EEC) No 4242/88

of 21 December 1988

repealing and replacing Regulation (EEC) No 3587/88 opening, allocating and providing for the administration of Community tariff quotas for certain fishery products originating in Sweden (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 Sweden was concluded on 22 July 1972; 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 Decision 86/558/EEC (1);

Whereas the said Agreement provides for the opening of Community tariff quotas at a reduced rate of duty or at zero duty for certain fishery products originating in Sweden; whereas, therefore, the tariff quotas in question should be opened for the period 1 January to 31 December 1989;

Whereas the system of administering the tariff quota should be adjusted and therefore Regulation (EEC) No 3587/88 (2) should be repealed and replaced by this Regulation;

Whereas equal and continuous access to the quotas should be ensured for all Community importers and the rates laid down for the quotas should be applied consistently to all imports 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, the allocation should reflect the requirements of the Member States based on statistics of imports from Sweden 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 each of the Member States were as follows:

(tonnes)

Member States	Cod, saithe, haddock, fresh or chilled			Fillets of cod, fresh or frozen			Caviar substitutes		
	1985	1986	1987	1985	1986	1987	1985	1986	1987
Benelux	189	182	65	24	9	0	0	0	1
Denmark	20 288	18 568	16 934	392	270	6	19	1	1
Germany	413	32	54	128	43	171	6	22	14
Greece	0	0	0	0	0	0	7	4	14
Spain	2 021	742	1 417	985	276	0	5	5	4
France	158	170	212	24	4	0	23	5	39
Ireland	0	0	0	0	0	0	0	0	0
Italy	0	0	0	0	0	0	0	0	2
Portugal	0	0	207	0	0	0	0	0	0
United Kingdom	516	454	401	0	0	2	0	0	0
	23 585	20 168	19 290	1 553	602	179	60	37	75

(1) OJ No L 328, 22. 11. 1986, p. 89.

(2) OJ No L 314, 22. 11. 1988, p. 8.

(tonnes)

Member States	Prepared or preserved herring			Other prepared or preserved fish			Shrimps and prawns		
	1985	1986	1987	1985	1986	1987	1985	1986	1987
Benelux	10	15	12	66	52	41	17	0	0
Denmark	30	70	98	58	59	189	10	31	0
Germany	64	68	37	34	36	32	9	10	7
Greece	0	0	0	0	0	0	0	0	0
Spain	0	7	10	3	3	1	1	3	8
France	1	23	16	1	6	0	3	1	19
Ireland	0	0	0	0	0	0	0	0	0
Italy	0	0	0	0	0	0	62	58	50
Portugal	0	0	0	0	0	0	0	3	0
United Kingdom	9	14	8	2	0	1	12	16	1
	114	197	181	164	156	265	104	122	85

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 tariff quotas when notification is given of imports into those States of the products concerned; whereas these arrangements for allocation will also ensure uniform application of the duties of the Common Customs Tariff;

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, in view of these factors, of market forecasts for the products in question and of the actual use of the quotas opened, for 1986 to 1988, the initial percentage shares of the quota can be expressed approximately as follows:

(tonnes)

Member States	Cod, saithe haddock	Fillets of cod	Caviar substitutes	Prepared herring	Other prepared fish	Shrimps and prawns
Benelux	0,69	1,41	0,74	7,52	27,18	5,47
Denmark	88,50	28,62	14,81	40,24	52,30	9,97
Germany	0,79	14,65	14,81	34,35	17,44	8,36
Greece	—	—	15,56	—	—	—
Spain	6,63	54,03	6,67	3,46	1,20	3,86
France	0,86	1,20	45,93	8,13	1,37	7,40
Ireland	—	—	—	—	—	—
Italy	—	—	1,48	—	—	54,66
Portugal	0,36	—	—	—	—	0,96
United Kingdom	2,17	0,09	—	6,30	0,51	9,32

Whereas, to allow for the trends of imports of the products concerned in the various Member States, the quota volumes should be divided into two 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, the first part of the tariff quotas should be set at a level which in this case could be 54 % of each 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 so 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, 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

1. From 1 January to 31 December 1989 the customs duty applicable to imports of the following products originating in Sweden shall be suspended at the levels indicated and within the limits of Community tariff quotas as shown below:

Order No	CN code	Description	Quota volume (tonnes)	Rate of duty (%)
	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat falling within CN code 0304:		
		– Cod *(Gadus morhua, Gadus ogac, Gadus macrocephalus)*, excluding livers and roes:		
09.0601	ex 0302 50 10	– – Of the species *Gadus morhua*	3 500	0
		– Other fish, excluding livers and roes:		
	0302 62 00	– – Haddock *(Melanogrammus aeglefinus)*		
	0302 63 00	– – Coalfish *(Pollachius virens)*		
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:		
	0304 10	– Fresh or chilled:		
		– – Fillets:		
09.0603		– – – Other:	1 500	0
	ex 0304 10 31	– – – – Of cod *(Gadus morhua, Gadus ogac, Gadus macrocephalus)* and of fish of the species *Boreogadus saida:*		
		– Of the species *Gadus morhua*		
	1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
		– Fish, whole or in pieces, but not minced:		
09.0605	1604 12	– – Herrings:	250	0
	1604 12 90	– – – Other:		

Order No	CN code	Description	Quota volume (tonnes)	Rate od duty (%)
09.0607	1604 13	– – Sardines, sardinella and brisling or sprats:	200	0
	1604 13 90	– – – Other		
	1604 19	– – Other:		
		– – – Other:		
	1604 19 99	– – – – Other		
	1604 20	– Other prepared or preserved fish:		
	1604 20 90	– – Of other fish		
09.0609	1604 30	– Caviar and caviar substitutes:	60	0
	1604 30 90	– – Caviar substitutes		
09.0611	1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved:	120	7,5
	ex 1605 20 00	– Shrimps and prawns:		
		– – Shelled, whether or not frozen, excluding shrimps and prawns of the Crangon variety		

2. Within the limits of the tariff quotas laid down in paragraph 1, the Kingdom of Spain and the Portuguese Republic shall apply the duties shown in the following table:

(%)

Order No	Spain	Portugal
09.0601	0	0
09.0603	0	0
09.0605	6,9	15
09.0607	6,9	15
09.0609	6,9	15
09.0611	6,8	15,8

3. Imports of the products in question may not be charged against the quotas referred to in paragraph 1 unless the free-at-frontier price, which is determined by the Member States pursuant to Article 21 of Regulation (EEC) No 3796/81 [1], is at least equal to the reference price, if such a price has been fixed by the Community for the products in question.

4. 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 Sweden, shall be applicable.

Article 2

1. The tariff quotas laid down in Article 1 (1) shall be divided into two parts.

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

(tonnes)

Member States	Order No 09.0601	Order No 09.0603	Order No 09.0605	Order No 09.0607	Order No 09.0609	Order No 09.0611
Benelux	13	11	10	29	1	4
Denmark	1 673	232	54	56	4	6
Germany	15	119	46	19	4	5
Greece	—	—	—	—	5	—
Spain	125	437	5	1	2	3
France	16	10	11	2	15	5
Italy	—	—	—	—	1	35
Portugal	7	—	—	—	—	1
United Kingdom	41	1	9	1	—	6
	1 890	810	135	108	32	65

[1] OJ No L 379, 31. 12. 1981, p. 1.

3. The second part of the quota, amounting to:

— for order No: 09.0601: 1 610 tonnes,
— for order No: 09.0603: 690 tonnes,
— for order No: 09.0605: 115 tonnes,
— for order No: 09.0607: 92 tonnes,
— for order No: 09.0609: 28 tonnes,
— for order No: 09.0611: 55 tonnes,

shall constitute the reserve.

4. If an importer gives notification of imminent imports of one of the products in question into a Member State not participating in the original allocation and applies to take advantage of the corresponding 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 used 90 % or more of one of its initial shares as specified in Article 2 (2), 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 forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of the initial share.

3. If, after one of its second share 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.

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

Without prejudice to Article 5, additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

1. Once at least 80 % of the reserve 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 Members 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 period laid down 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 the whole of the quantities which have not been used, by that date, within the meaning of Article 7 (3) and (4).

Article 6

The Commission shall keep account of the shares drawn by Member States pursuant to Articles 2, 3 and 5 and shall inform each Member State of the extent to which the reserves have been used up as soon as it has been notified.

Article 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 and 5 enable imports to be charged without interruption against their accumulated share of the Community tariff quota.

2. Member States shall ensure that importers of the products concerned have free access to the quotas 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 a Member State has used up its shares shall be determined on the basis of imports of the products concerned 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

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

Article 10

Regulation (EEC) No 3587/88 is hereby repealed.

Article 11

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, 21 December 1988.

For the Council
The President
V. PAPANDREOU