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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 785/88

of 14 March 1988

opening, allocating and providing for the administration of autonomous Community tariff quotas for certain fishery products (1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the proposal from the Commission,

Whereas Community supplies of certain species of fish or fish fillets and fish meat currently depend on imports from third countries; whereas it is in the Community's interest to suspend partially the customs duties for the products in question, within Community tariff quotas of an appropriate volume; whereas, in order not to jeopardize the development prospects of this production in the Community and to ensure an adequate supply to satisfy user industries, it is advisable to open these quotas for the period until 31 December 1988 applying customs duties varied according to sensitivity of the different products on the Community market;

Whereas, in particular, equal and continuous access to the quotas should be ensured for all Community importers and the rate of duty for these quotas should be applied consistently to all imports until the quotas are exhausted; whereas, in the light of these principles, arrangements for the utilization of the said quotas based on an allocation among Member States would seem to be consistent with the Community nature of the quotas; whereas, to correspond as closely as possible to the actual trend in the market in the products in question, allocation of the quotas should be in proportion to the requirements of the Member States as calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota period in question;

Whereas, in the case in point, there are no statistical data broken down by quality of products in question; whereas the quotas are autonomous Community tariff quotas intended to cover import needs arising in the Community, and so the quota volumes may be allocated on the basis of the temporary requirements as regards imports from third countries expressed by each of the Member States; whereas these arrangements for allocation will also ensure the uniform application of the duties;

Whereas, to take account of possible imports trends for the products concerned, the quota volumes should be divided into two instalments, the first being allocated among certain Member States and the second held as a reserve to meet subsequent requirements of Member States which have used up their initial shares and any additional requirements which might arise in the other Member States; whereas, to give importers of the Member States some degree of certainty, the first instalment of the Community tariff quotas should be set at a relatively high level, which in this case could be 67 % of the quota volumes;

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 one of its initial shares should drawn an additional share from the corresponding 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 must 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 latter 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, 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 the date on which this Regulation enters into force until 31 December 1988, the customs duties applicable on importation to products listed below shall be suspended at the levels and within the limits of the Community tariff quotas indicated for each product:

Order No	CN code	Description	Amount of quota (in tonnes)	Quota duty (%)
09.2722	ex 0304 20 99 ex 0304 90 99	Fillets and fish meat of Alaska pollack (*Theragra chalcogramma*), frozen, for processing (1)	20 000	5
09.2724	ex 0304 20 57 ex 0304 90 47	Fillets and fishmeat of hake (*Merluccius* spp., excluding the genus *Merluccius merluccius, Merluccius Bilinearis* and *Merluccius carpensis*), frozen, for processing (1)	25 000	5
09.2751	ex 0304 20 19 ex 0304 90 10	Pike and flesh of pike, frozen, for processing (1)	500	0
09.2753	ex 0302 50 ex 0302 69 35 ex 0303 60 ex 0303 79 41 ex 0304 10 99 ex 0304 90 35 ex 0304 90 37	Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*), fish of the genus *Boreogadus saida*, excluding livers, roes, fillets and meat thereof, presented fresh, chilled or frozen, for processing (1)	45 000	3,7
09.2755	ex 0302 63 00 ex 0303 73 00 ex 0304 10 99 ex 0304 90 41	Coalfish (*Pollchius virens*), excluding livers, roes, fillets, and meat thereof, presented fresh, chilled or frozen, for processing (1)	15 000	3,7
09.2757	ex 0302 62 00 ex 0303 72 00 ex 0304 10 99 ex 0304 90 45	Haddock (*Melanogrammus aeglefinus*), excluding livers, roes, fillets and meat thereof, presented fresh, chilled or frozen, for processing (1)	4 000	3,7
09.2759	ex 0304 20 21 ex 0304 20 29	Frozen fillets of cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*) and fish of the species *Boreogadus saida*, for processing (1)	12 500	0
09.2761	ex 0304 20 31	Frozen fillets of coalfish (*Pollachius virens*), for processing (1),	12 500	0
09.2763	ex 0304 20 33	Frozen fillets of haddock (*Melanogrammus aeglefinus*), for processing (1)	3 000	0
09.2765	0305 62 00 0305 69 10	Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*) and fish of the species *Boreogadus saida*, salted or in brine, but not dried or smoked	52 500	5
09.2767	0305 51 10 0305 59 11	Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*) and fish of the species *Boreopgadus saida*, dried, unsalted	1 000	10

(1) Use of the products for the particular purpose laid down shall be monitored pursuant to the relevant Community provisions.

2. Within the limits of these tariff quotas, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions in the Act of Accession.

3. Imports of the products in question shall not be covered by the quotas referred to in paragraph 1 unless the free-at-frontier price, which is determined by the Member States in accordance with Article 21 of Regulation (EEC) No 3796/81 (1), is at least equal to the reference price fixed, or to be fixed, by the Community for the products under consideration or the categories of the products concerned.

Article 2

1. The Community tariff quotas, referred to in Article 1 shall be divided into two instalments.

2. A first instalment of each of these quotas shall be allocated among certain Member States ; the shares, which, subject to Article 5, shall be valid until 31 December 1988 shall be as follows :

(1) OJ No L 379, 31. 12. 1981, p. 1.

	Order No										
	09.2722	09.2724	09.2751	09.2753	09.2755	09.2757	09.2759	09.2761	09.2763	09.2765	09.2767
Benelux	828	303	—	—	80	—	105	42	—	—	—
Denmark	18	—	—	13 659	7 424	1 458	44	2 394	—	—	—
Germany	7 602	7 444	—	4 770	1 236	184	2 229	3 913	369	—	—
Greece	—	—	—	—	—	—	—	—	—	2 198	—
Spain	91	1 787	—	1 908	—	—	—	—	—	4 281	—
France	3 946	5 834	335	—	1 200	26	1 675	2 026	87	704	26
Ireland	—	—	—	—	—	—	—	—	—	—	—
Italy	—	—	—	—	—	—	—	—	—	1 558	636
Portugal	—	—	—	—	—	—	—	—	—	26 434	—
United Kingdom	915	1 382	—	9 663	60	1 012	4 322	—	1 494	—	8
	13 400	16 750	335	30 000	10 000	2 680	8 375	8 375	1 950	35 175	670

3. The second tranche of each quota, that is:

— for order No 09.2722: 6 600 tonnes
— for order No 09.2724: 8 250 tonnes
— for order No 09.2751: 165 tonnes
— for order No 09.2753: 15 000 tonnes
— for order No 09.2755: 5 000 tonnes
— for order No 09.2757: 1 320 tonnes
— for order No 09.2759: 4 125 tonnes
— for order No 09.2761: 4 125 tonnes
— for order No 09.2763: 1 050 tonnes
— for order No 09.2765: 17 325 tonnes
— for order No 09.2767: 330 tonnes

shall constitute the corresponding 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 that the imports be covered by the quota, the Member State concerned shall, by notifying the Commission, 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 its initial share as fixed in Article 2 (2), or of that share minus any portion 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 % op 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 next 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 1988.

Article 5

Member States shall, not later than 1 October 1988, 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 are grounds for believing that it may not be used in full.

Member States shall, not later than 1 October 1988 notify the Commission of the total quantities of the product in question imported up to and including 15 September 1988 and charged against the Community tariff quota, and also of any portion of their initial shares returned to the reserve.

Article 6

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 the information reaches it, notify each Member States of the extent to which the reserve has been used up.

It shall, not later than 5 October 1988, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 5.

It shall ensure that the drawin 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. 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 accumulated shares of the Community quotas.

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

3. Member States shall charge imports of the products in question against their shares as the products 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 the imports charged in accordance with paragraph 3.

Article 8

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

Article 9

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 14 March 1988.

For the Council

The President

J. WARNKE