COUNCIL REGULATION (EEC) No 862/92

of 30 March 1992

opening, allocating and providing for the administration of a Community tariff quota for prepared or preserved sardines, originating in Morocco, for the period 1 March to 30 April 1992

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 Article 4 of Protocol 1 to the Agreement on relations in the sea-fisheries sector between the European Economic Community and the Kingdom of Morocco (1) states that prepared or preserved sardines falling within CN codes ex 1604 13 10 or ex 1604 20 50 and originating in Morocco shall be imported duty-free into the Community within the limits of a Community tariff quota of 17 500 tonnes (net weight); whereas, in order to ensure a regular flow to the Community market under this quota, the quantities destined for that market may not exceed 35 % of the total volume of the quota in the first quarter of the year; whereas at the end of this period, the unused quantities of the products in question should automatically be transferred to the quantities provided for the second quarter;

Whereas the said Agreement on fisheries was due to expire at the end of February 1992 and whereas, pursuant to Article 12 of the Agreement, the Contracting Parties have begun negotiations with a view to the possible conclusion of a new Agreement; whereas, pending the conclusion of these negotiations, an initial quota was opened by the Council under Regulation (EEC) No 3732/91 (2), to cover the period from 1 January to 29 February 1992, for a quantity of the abovementioned products which amounts to 4 083 tonnes, calculated *pro rata temporis*;

Whereas, in order to avoid hindering the progress of the said negotiations, which are not yet at the final stage and, also, to avoid interrupting the supply of the goods in question to the Community market, the Council, by Decision 92/211/EEC (3), approved the Agreement in the form of an exchange of letters extending until 30 April 1992 the Agreement between the Community and the Kingdom of Morocco on relations in the sea-fisheries sector; whereas, the provisions of this Decision introduce the opening of a second Community tariff quota for the period from 1 March to 30 April 1992, with the principles of regular flow and the volume as established by the principles laid down in the abovementioned Agreement, but taking accountg of the quantities covered by the initial quota; whereas, as a result, the quota volume to be opened amounts to 3 500 tonnes (net weight), of which only 2 042 tonnes may be discharged to the Community market up to 31 March 1992;

Whereas, within the limits of the tariff quota, Spain and Portugal shall apply customs duties calculated according to Council Regulation (EEC) No 3189/88 of 14 October 1988 laying down the arrangements to be applied by Spain and Portugal to trade with Morocco and Syria (4);

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate laid down for the quota should be applied consistently to all imports of the products in question into all the Member States until the quota is exhausted;

Whereas the prepared and preserved sardines sector is encountering, in certain regions of the Community, economic constraints of a particular nature, bearing in mind notably the importance which sardine production may have in the fisheries production structure as a whole, thus making it legitimate to expect that the traditional commercial outlets for producers on external markets and, as a matter of priority, on the Community market, should not be adversely affected; whereas these specific economic circumstances make it necessary to maintain the allocation between the Member States of the quota concerned for the period of application of this Regulation;

Whereas, bearing in mind the way in which trade has developed traditionally, the allocation maintained among Member States should, in order to correspond as closely as possible to the real trend of the market for the products in question, be carried out on a pro rata basis according to the needs of the Member States, calculated on the basis of statistics of imports of the said products from Morocco during a representative reference period and on the economic outlook for the quota period in question;

Whereas in the last three years the products in question have been imported regularly only by certain Member States and not at all or only occasionally by the other Member States; whereas, in these circumstances, in the

(1) OJ No L 99, 16. 4. 1988, p. 49.
(2) OJ No L 352, 21. 12. 1991, p. 1.
(3) See page 27 of this Official Journal.
(4) OJ No L 287, 20. 10. 1988, p. 1.

first phase, initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the tariff quota when imports actually take place; whereas these arrangements for allocation will equally ensure the uniform collection of the duties applicable;

Whereas, to allow for the trend of imports of the products concerned in the various Member States, the quota volume 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, an appropriate level for the first part of the Community quota would, in the present circumstances, be 20 % of the quota volume, the second part, 80 % constituting the reserve to which shall also be returned any amounts remaining from the shares allocated when the quota volume was divided up for March and April;

Whereas the initial shares may be used up at different rates in each of the periods concerned; whereas, to provide for this eventuality and to avoid any break in the continuity of supplies, any Member State which has entirely used up its initial share should draw additional shares in quantities corresponding to the period in question; whereas each Member State should effect its drawing whenever each of its additional shares is almost used up, and as many times as the reserve for that period allows; whereas this form of administration requires close cooperation between Member States and the Commission and the latter must be able to monitor the extent to which the quota volume has been used up and to inform the Member States accordingly;

Whereas if, during one of the periods concerned, the Community reserve is almost completely used up, it is essential that Member States return to the reserve the whole of the unused part of their initial shares and any drawings for that period, in order to prevent part of the Community tariff quota 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

From 1 March to 30 April 1992 the customs duty applicable to imports into the Community of the following products, originating in Morocco, shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN codes (1)	Description	Amount of quota (in tonnes)	Quota duty (%)
09.1101	ex 1604 13 10 ex 1604 20 50	Prepared or preserved sardines of the type *Sardina pilchardus*	*3 500 (net weight)*	*0*

(1) Taric codes: 1604 13 10*10
1604 20 50*11

Within the limits of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with Regulation (EEC) No 3189/88.

Article 2

1. The tariff quota referred to in Article 1 shall be divided into two parts.

2. The first part of the quota, 700 tonnes, shall be allocated among certain Member States; the quota shares corresponding to March and April respectively shall be as follows:

Member States	March	April
Benelux	37	27
Denmark	—	—
Germany	88	63
Greece	5	3
Spain	—	—
France	171	123
Ireland	—	—
Italy	23	16
Portugal	—	—
United Kingdom	84	60
	408	292

3. The second part of the quota, 2 800 tonnes, divided into 1 634 and 1 166 tonnes corresponding to March and April respectively, shall constitute the Community reserve.

4. If the products concerned are presented in the other Member States together with a declaration of entry into free circulation accepted by the customs authorities, the Member States concerned shall inform the Commission and draw a corresponding amount pursuant to Article 3.

5. Without prejudice to Article 4, the Member States referred to in paragraph 2 shall return immediately to the reserve any quantity of the quota shares allocated to them when the quota volumes relating to the first and second quarters were divided up which, on 31 March and 31 April 1992 are unused.

Article 3

If a Member State has used its entire initial share as specified in Article 2 (2), or that share less any portion returned to the reserve pursuant to Article 2 (5) or Article 4, the following provisions shall apply.

If an importer presents in a Member State a declaration of entry into circulation for a product covered by this Regulation and if this is accepted by the customs authorities, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements from the reserve referred to in Article 2 (3).

Request for drawings, with an indication of the date of acceptance of the said declarations, must be transmitted to the Commission without delay.

The drawing shall be granted by the Commission, by reference to the date of acceptance of the declarations 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 basis proportionate to the requests. Member States shall be so informed by the Commission.

Article 4

Once at least 80 % of each portion of the reserve, as defined in Article 2 (3), has been used up, the Commission shall notify the Member States thereof.

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 provisions laid down in the second and fifth paragraphs of Article 3, if these provisions are not already in effect.

Without a time limit fixed by the Commission as from the date referred to in the second paragraph, Member States shall be required to return to the reserve all their initial shares which have not been used on that date.

Article 5

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

It shall inform the Member States of the amount of each portion of the reserve following any return of quota shares pursuant to Article 4.

Article 6

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

Article 7

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

It shall apply as from 1 March 1992.

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

Done at Brussels, 30 March 1992.

For the Council

The President

Arlindo MARQUES CUNHA