COUNCIL REGULATION (EC) No 1326/95

of 6 June 1995

opening and providing for the administration of a Community tariff quota for live fry and juveniles of sea bream (*Sparus aurata*) and bass (*Dicentrarchus labrax*), originating in Ceuta

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular the final subparagraph of Article 25 (4) thereof,

Having regard to Article 3 (3) of Protocol 2 to the Act of Accession, concerning the Canary Islands and Ceuta and Melilla,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas, by virtue of Article 3 (2) of the said Protocol 2, certain fishery products originating in Ceuta and Melilla are eligible, as from 1 January 1993, for exemption from customs duties in the customs territory of the Community; whereas that exemption is to be granted within the limit of tariff quotas calculated by product with reference to the average quantities actually disposed of during 1982, 1983 and 1984 in that part of Spain which is included in the customs territory of the Community or exported to the Community as at present constituted;

Whereas the products originating in Ceuta which have enjoyed the benefit of the tariff arrangements set up by Protocol 2 are no longer exported to the Community because of a decrease in volume of fish catches put on to the market; whereas the tariff quotas opened for Ceuta were not extended beyond 31 December 1992 on this account; whereas live fry and juveniles of sea bream and bass henceforth replace these products in trade with the Community;

Whereas in 1993 Ceuta exported to the Community 2,5 tonnes of live fry and juveniles of sea bream and bass of CN code ex 0301 99 90; whereas these products, while covered by Article 3 of the Protocol in question, are, however, ineligible for the abovementioned tariff quotas because aquaculture was started only recently in Ceuta;

Whereas Ceuta's location as an enclave on the African continent poses specific problems; whereas the lack of both agriculture and industry sectors leaves fishing as Ceuta's primary sector; whereas, since the crisis is occurring in that sector, aquaculture has the potential to offer Ceuta's economic operators an alternative source of income to sea fishing;

Whereas the Community accords some non-member countries preferential tariff treatment in the form of exemption from customs duties for products of CN code 0301 99 90; whereas steps should be taken to ensure that the tariff treatment of such products originating in Ceuta and imported into the Community is comparable to that accorded to certain non-member countries; whereas the tariff arrangements applied to Ceuta need to be adjusted accordingly;

Whereas the joint declaration on Protocol 2 concerning the Canary Islands, Ceuta and Melilla is intended to permit the substitution of products covered by Article 3 of the Protocol in question;

Whereas the Kingdom of Spain has asked the Commission to open a zero-duty Community tariff quota for live fry and juveniles of sea bream and bass originating in Ceuta;

Whereas a zero-duty Community tariff quota should therefore be opened for the products in question and the annual quota volume fixed on the basis of annual production at three million individual fish; whereas steps should be taken, order to follow the market trends for these products, to open this quota in an initial stage for the period 1 January to 31 December 1995; whereas application of the tariff quota is subject to compliance with the rules laid down for the common organization of the markets;

Whereas it is, in particular, necessary to guarantee all Community importers equal and continuous access to the quota and ensure the uninterrupted application of the rate laid down for the quota to all imports of the products in question into all Member States until the quota is exhausted;

Whereas it is for the Community, in compliance with its international obligations, to decide to open tariff quotas; whereas there is, however, no reason why the Member States should not be authorized, in the interest of the common efficient administration of the quota, to draw from the quota volumes the quantities needed to cover actual imports; whereas, however, this method of administration calls for close cooperation between the Member States and the Commission, which must in particular be able to monitor the rate at which the quota volumes are used up and inform the Member States accordingly,

(1) OJ No C 18, 23. 1. 1995, p. 426.

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply without prejudice to the arrangements provided for by Protocol 2 to the Act of Accession and its detailed rules of application to the products not covered by this Regulation.

Article 2

From 1 January to 31 December 1995, the customs duty applicable on importation into the Community of live fry and juveniles of sea bream and bass originating in Ceuta shall be suspended at the level and within the limit of the Community tariff quota shown below:

Order No	CN code	Taric subdivision	Description	Amount of quota (individual fish)	Quota duty (in %)
09.0321	ex 0301 99 90	*20	Live fry and juveniles of sea bream *(Sparus aurata)* and bass *(Dicentrarchus labrax)*	3 000 000	0

Article 3

The product's originating status shall be proved in accordance with Article 6 of Regulation (EEC) No 1135/88 (1).

Article 4

The tariff quota referred to in Article 1 shall be administered by the Commission, which may take all appropriate measures to ensure efficient administration thereof.

Article 5

Where an importer declares in a Member State a product covered by this Regulation for release for free circulation and applies to take advantage of the preferential arrangements and that declaration is accepted by the customs authorities, the Member State concerned shall, by notifying the Commisison, draw an amount corresponding to its requirements from the quota volume.

Requests for drawings, indicating the date of acceptance of the said declarations, must be sent to the Commission without delay.

The drawings shall be granted by the Commission by reference to the date of acceptance of the declaration for release for 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 to the corresponding quota volume as soon as possible.

If the quantities requested are greater than the available balance of the quota volume, the balance shall be allocated on a pro rata basis. The Commission shall inform the Member States of the drawings made.

Article 6

Each Member State shall ensure that importers of the products in question have equal and continuous access to the quotas for as long as the balance of the relevant quota volume so permits.

Article 7

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

Article 8

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

It shall apply with effect from 1 January 1995.

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

Done at Luxembourg, 6 June 1995.

For the Council

The President

M. BARNIER

(1) Council Regulation (EEC) No 1135/88 of 7 March 1988 concerning the definition of the concept of 'originating products' and methods of administrative cooperation in the trade between the customs territory of the Community, Ceuta and Melilla and the Canary Islands (OJ No L 114, 2. 5. 1988, p. 1). Regulation as amended by Regulation (EEC) No 3902/89 (OJ No L 375, 23. 12. 1989, p. 5).