

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 648 final
Brussels, 19.12.1994

Proposal for a

COUNCIL REGULATION (EC)

opening and providing for the administration of Community tariff quotas for
certain agricultural and fishery products originating in Norway

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In 1986 the EEC concluded agreement with Norway. This was approved by Council Decision N° 86/557/EEC of 15 September 1986.¹
2. Then on 2 May 1992 the Agreement setting up the European Economic Area was signed in Porto, linking the European Economic Community, the European Coal and Steel Community and their Member States with the countries of the European Free Trade Area (EFTA). Bilateral agreements on the arrangements for various agricultural products were concluded at the same time.
3. Under the 1986 agreement, as amended or supplemented by the EEA Agreement, and the bilateral agreement signed along with the EEA Agreement, the Community has undertaken to open annual reduced or zero-duty tariff quotas for certain agricultural and fishery products originating in Norway. The quotas are to be opened for 1995, either for the calendar year or for the period shown in Annex I to the proposal.
4. The purpose of the annexed proposal is to implement this tariff quota for an indefinite period. Accordingly and for reasons of efficiency and simplifying the implementation of the measures concerned it seems desirable that the regulation should be pluriannual.
5. Furthermore, as the adaptations arising from the combined nomenclature of the TARIC and those concerning quotas volumes and quota rates laid down in Council or Commission decisions involve no change of substance, it is proposed that the Council should empower the Commission to implement these measures by adopting regulations following receipt of an opinion from the Customs Code Committee.
6. As in the case of other Community tariff quotas, the proposal does not provide for the allocation among the Member States of the quota volumes but enables the Member States to draw from the quota volumes the quantities required to cover the actual imports recorded.

¹ OJ N° L 328, 22.11.1986,

Proposal for a
COUNCIL REGULATION (EC)

of

opening and providing for the administration of Community tariff quotas for
certain agricultural and fishery products originating in Norway

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Community has concluded Agreement in the form of exchanges of letters in particular with Norway and approved by Decision 86/557/EEC²;

Whereas the above Agreement has been amended or supplemented by the Agreement on the European Economic Area, and by the bilateral Agreement in the form of exchanges of letters with Norway and approved by Decision 93/737/EC³;

Whereas under the above Agreement the Community has undertaken, subject to certain conditions, to open Community tariff quotas each year at a reduced or zero rate of duty for a number of agriculture and fishery products originating in this country; whereas the tariff quotas should accordingly be opened, specifying where necessary any conditions of eligibility laid down;

Whereas, for reasons of simplification, provision should be made to empower the Commission to give effect, following receipt of the opinion of the Customs Code Committee, to necessary amendments and technical adaptations of this regulation arising from amendments of the combined nomenclature and TARIC codes and to adaptations of volume, periods and quota rates arising from decisions by the Council or by the Commission;

Whereas the tariff quota provided in the agreement in question relates an indefinite period and accordingly, for reasons of efficiency and simplifying the implementation of the measures concerned, it appears suitable to provide that the application of this regulation should be placed on a pluriannual footing;

Whereas all Community importers should be ensured equal and continuous access to the said quota and the duty rate laid down for the quota should be applied consistently to all imports of the product in question into all Member States until the quota is exhausted, during the whole period of validity of the EEC-Norway Agreement.

Whereas the decision for the opening, in the execution of its international obligations, of tariff quotas should be taken by the Community; whereas, to ensure the efficiency of a common administration of these quotas, there is no reasonable obstacle to authorizing the Member States to draw from the quota-volumes the necessary quantities corresponding to actual imports; whereas this method of administration requires close cooperation between the Member States and the Commission and the latter must in particular be able to monitor the rate at which the quotas are used up and inform the Member States accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December of each year or for the periods shown in Annex I, the customs duties applicable to the products referred to in this Regulation shall be suspended or reduced to the levels indicated for each product, within the limit of the Community tariff quota shown for each product.

2. Imports of products referred to in the Annex under Orders Nos 09.0703 and 09.0711 shall not qualify for the tariff quotas unless the free-at-frontier price established by the Member States in accordance with Article 22 of Council Regulation (EEC) N° 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products⁴ is at least equal to any reference price which has been fixed by the Community for the products or categories of products in question. For the calculation of the reference price, the following coefficients shall be applicable:

- whole herring: 1,
- flaps of herring: 2,32,
- pieces of herring: 1,96.

3. The Protocol on the definition of the concept of originating products and on methods of administrative cooperation annexed to the agreement between the European Community and the Kingdom of Norway shall apply.

² OJ N° L 328, 22.11.1986

³ OJ N° L 346, 31.12.1993

⁴ OJ N° L 388, 31.12.1992, p. 1. Regulation as last amended by Regulation (EEC) N° 1891/93 (OJ N° L 172, 15.7.1993, p. 1).

Article 2

The tariff quotas referred to in Article 1 shall be administered by the Commission, which may take any appropriate administrative measures in order to ensure efficient administration.

Article 3

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 quota volume by means of notification to the Commission, a quantity corresponding to those 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 corresponding quota volume.

If the quantities requested are greater than the available balance of the quota volume, allocation shall be made on a pro rata basis with respect to the requests. Member States shall be informed thereof by the Commission.

Article 4

Each Member State shall guarantee importers of the products in question equal and continuous access to the quotas as long as the balance of the corresponding quota volume allows.

Article 5

1. The provisions necessary for the application of this Regulation, in particular:

- (a) the amendments and technical adaptations, insofar as necessary, arising from amendments of the combined nomenclature and Taric codes, and

(b) The necessary adaptations of volume, periods and quota duty arising from decisions adopted by the Council or the Commission

shall be adopted in accordance with the procedure laid down in Article 6 (2).

Article 6

1. The Commission shall be assisted by the Customs Code Committee set up by Article 247 of Regulation (EEC) No 2913/92⁽¹⁾.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures, which apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission shall defer application of the measures which it has decided for three months from the date of such communication;
- the Council, acting by qualified majority, may take a different decision within the period referred to in the previous paragraph.

3. The Committee may examine any question concerning the application of this Regulation which is raised by its chairman either on his own initiative or at the request of a Member State.

(1) OJ N° L 302, 19.10.1992

Article 7

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 the day following its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1995 for the whole period of validity of the Agreement..

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

Done at Brussels,

For the Council
The President

ANNEX I

Order No	CN code	Description	Amount of quotas (tonnes)	Quota duty (%)
09.0701	ex 1504 20 10 ex 1504 30 19 ex 1516 10 90 0305	Oils and fats of marine animals, other than whale oil and sperm oil, in packings of a net capacity of more than 1 kg Fish, dried, salted, or in brine; smoked fish, whether or not cooked before or during the smoking process; fish meal fit for human consumption: - Dried fish, whether or not salted but not smoked:	1 000	8,5
	0305 51	- - Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>):		
09.0703	ex 0305 51 90	- - - Dried, salted: - Excluding cod of the species <i>Gadus macrocephalus</i>	13 250	0
	0305 59	- - Other: - - - Fish of the species <i>Boreogadus saida</i> :		
	0305 59 19	- - - - Dried, salted: from 1 April to 31 December Prepared or preserved fish, including caviar and caviar substitutes prepared from fish eggs:		
	ex 1604 13 90	- - - Other: - - - - Sardinella; brisling or sprats excluding raw fillets merely coated with batter or bread-crumbs, whether or not prefried in oil, deep-frozen - - - - Other:	400	5,8
	1604 19 92	- - - - - Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>)		
09.0711	ex 1604 19 93	- - - - - Coalfish (<i>Pollachius virens</i>), excluding smoked coalfish		
	1604 19 94	- - - - - Hake (<i>Merluccius</i> spp., <i>Urophycis</i> spp.)		
	1604 19 95	- - - - - Alaska pollack (<i>Theragra chalcogramma</i>) and pollack (<i>Pollachius pollachius</i>)		
	1604 19 98	- - - - - Other		
	ex 1604 20 90	Fish other than herring and smoked saithe: - Other than mackerel - Mackerel (<i>Scomber australasicus</i>)		10
09.0751	ex 0704 10 10	Cauliflowers, fresh or chilled, from 1 August to 31 October	2 000	0
09.0753	ex 0704 90 90	Broccoli, fresh or chilled, from 1 July to 31 October	1 000	0
09.0755	ex 0704 90 90	China cabbages, fresh or chilled, from 1 July to end February	3 000	0
09.0757	08092051 08092059 08092061 08092069 ex 08092071 ex 08092079	Cherries, fresh, from 16 July to 31 August	600	0
09.0759	ex 08094030 ex 08094040 ex 08094090	Plums, fresh, from 1 September to 15 October	600	0
09.0761	ex 0810 10 10	Strawberries, fresh, from 15 July to 31 July	750	0
09.0762	ex 0810 10 90	Strawberries, fresh, from 1 August to 15 September	750	0

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ANNEX II

TARIC CODES

Order No	CN codes	Taric codes
09.0701	ex 1504 20 10 ex 1504 30 19 ex 1516 10 90	1504 20 10*90 1504 30 19*90 1516 10 90*11
09.0703	ex 0305 51 90 ex 1604 13 90	0305 51 90*10 *20 1604 13 90*91 *99
09.0711	ex 1604 19 93 ex 1604 20 90	1604 19 93*90 1604 20 90*30 *40 *90
09.0751	ex 0704 10 10	0704 10 10*30
09.0753	ex 0704 90 90	0704 90 90*13
09.0755	ex 0704 90 90	0704 90 90*92 *94 *97
09.0757	ex 08092071 ex 08092079	08092071*10 08092079*11 08092079*19
09.0759	ex 08094030 ex 08094040 ex 08094090	08094030*51 52 53 54 55 56 08094040*20 08094090*50
09.0761	ex 0809 10 10	0810 10 10*60 *80
09.0762	ex 0810 10 90	0810 10 90*12 *14

FINANCIAL STATEMENT

1. Budget heading involved : Chapter 12 Article 120
2. Legal basis : Art. 113 of the Treaty
3. Title of tariff measure : Proposal for a Council regulation opening and providing for the administration of Community tariff quotas for certain agricultural and fishery products originating in Norway.
4. Aim : to comply with the Community's commitments
5. Method of calculation :

Description	Quantity	Price ECU/unit	Normal duty (%)	Quota duty (%)	Lost of revenue ECU
Cauliflowers	2 000 T	1 201 ECU/T	17 %	0	408.340
Broccoli	1 000 T	1 201 ECU/T	17 %	0	204.170
China cabbages	3 000 T	782 ECU/T	15 %	0	351.900
Fresh cherries	600 T	859 ECU/T	15 %	0	77.310
Fresh plums	600 T	617 ECU/T	Ave. duty 11,5 %	0	42.573
Fresh strawberries	750 T	1 950 ECU/T	16 %	0	234.000
Fresh strawberries	750 T	1 858 ECU/T	14 %	0	204.750
Oils and fats of marine animals	1 000 T	594 ECU/T	17 %	8,5	50.490
Cod and fish of the species Boreogadus saida	13 250 T	5 074 ECU/T	13 %	0	8.739.965
Sardines, sardinella	400 T	4 224 ECU/T	20 %	0	168.960

10.865.618

Average annual loss of 10.865.618 ECU.

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