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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3584/88

of 8 November 1988

opening and providing for the administration of a Community tariff quota for table cherries,
excluding Morello cherries, originating in Switzerland (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 Swiss Confederation 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 Council Decision 86/559/EEC ⁽¹⁾;

Whereas the Agreement in the form of an Exchange of Letters provides for the opening of a Community tariff quota at zero duty for table cherries, excluding Morello cherries, originating in Switzerland; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

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, however, since the quota

is to cover requirements which cannot be determined with sufficient accuracy, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under conditions and according to a procedure to be determined; 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 quota is used up and 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 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

1. From 1 January to 31 December 1989 the duty applicable to imports of the following product shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN code	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.0901	0809 20 10 0809 20 90	Table cherries excluding Morello cherries, originating in Switzerland	1 000	0

⁽¹⁾ OJ No L 328, 22. 11. 1986, p. 98.

Within the limit of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions of the Act of Accession.

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 the Swiss Confederation shall apply.

2. If imports of products covered by this tariff quota are made, or are foreseen within a maximum of 14 calendar days, the Member State concerned shall notify the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the quota so permits.

If a Member State does not use the quantities drawn within the said 14 days, it shall return the remaining unused portion as soon as possible, by telex addressed to the Commission.

Article 2

1. Member States shall take all appropriate measures to ensure that their drawings pursuant to Article 1 (3) are carried out in such a way that imports may be charged without interruption against their accumulated shares of the Community quota.

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

Done at Brussels, 8 November 1988.

2. Each Member State shall ensure that importers of the product concerned have access to the quota for such time as the residual balance of the quota volume so permits.

3. Member States shall charge imports of the goods against their drawings as and when the goods are entered for free circulation.

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 3

At the request of the Commission, Member States shall inform it of imports of the products concerned actually charged against the quota.

Article 4

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

Article 5

This Regulation shall enter into force on 1 January 1989.

For the Council
The President
A. PEONIS

COUNCIL REGULATION (EEC) No 3585/88

of 8 November 1988

opening and providing for the administration of a Community tariff quota for concentrated pear juice originating in Austria (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 Republic of Austria 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 with that country and adopted by Decision 86/555/EEC ⁽¹⁾;

Whereas the said Agreement provides in particular for the opening of a 2 000-hectolitre Community tariff quota at a reduced rate of duty for concentrated pear juice originating in Austria; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas it is necessary in particular, to ensure to all Community importers equal and uninterrupted access to the said quota and the consistent application of the rate laid down for that quota to all imports of the product concerned into all Member States until the quota has

been used up; whereas, however, since the quota is to cover requirements which cannot be determined with sufficient accuracy, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under conditions and according to a procedure to be determined; whereas this method of management 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 quota is used up and inform the Member States thereof;

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, all transactions concerning the administration of shares allocated to that economic union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1989 the duty applicable to imports of the following products shall be suspended at the level and within the limits of a Community tariff quota as shown herewith:

Order No	CN code	Description	Amount of tariff quota (in hl)	Rate of duty (in %)
09.0801	2009 80 11 2009 80 19	Concentrated pear juice, originating in Austria	2 000	30 + AGR possibly applicable

Within the limits of this tariff quota the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions laid down by the Act of Accession.

The Protocol on the definition of the concept of originating products and on methods of administrative co-operation, annexed to the Agreement between the

European Economic Community and the Republic of Austria, shall apply.

2. If imports of the product covered by this tariff quota are made, or are foreseen within a maximum of 14 calendar days, the Member State concerned shall notify the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the quota so permits.

⁽¹⁾ OJ No L 328, 22. 11. 1986, p. 57.

If a Member State does not use up the quantities drawn within the said 14 days, it shall return the remaining unused portion as soon as possible, by telex addressed to the Commission.

Article 2

1. Member States shall take all appropriate measures to ensure that their drawings pursuant to Article 1 (2) are carried out in such a way that imports may be charged without interruption against their accumulated shares of the Community quota.

2. Each Member State shall ensure that importers of the product concerned have access to the quota for such time as the residual balance of the quota volume so permits.

3. Member States shall charge imports of the said goods against their drawings as and when the goods are entered for free circulation.

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 3

At the request of the Commission, Member States shall inform it of imports actually charged against the quota.

Article 4

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

Article 5

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, 8 November 1988.

For the Council
The President
A. PEPONIS

COUNCIL REGULATION (EEC) No 3586/88

of 8 November 1988

opening, allocating and providing for the administration of a Community tariff quota for frozen peas originating in Sweden (1989)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

(tonnes)

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 has been concluded and approved by Council Decision 86/558/EEC⁽¹⁾;

Whereas the said Agreement provides for the opening of a 6 000-tonne Community tariff quota at a reduced rate of duty for frozen peas originating in Sweden, 4 500 tonnes of which are reserved for Spain; whereas therefore, the tariff quota in question should be opened for the period from 1 January to 31 December 1989;

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 until the quota is exhausted; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas in order to correspond as closely as possible to the real trend of the market for the product in question the allocation should reflect the requirements of the Member States based on statistics of imports of the said products 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 of peas from Sweden into each of the Member States, other than Spain, were as follows:

Member State	1985	1986	1987
Benelux	20	0	0
Denmark	42	273	363
Germany	2 567	3 475	2 924
Greece	272	91	315
France	0	0	20
Ireland	0	0	0
Italy	14 879	14 643	12 953
Portugal	0	262	208
United Kingdom	1 160	1 499	40
	18 940	20 243	16 823

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

Whereas in view of these factors, the initial percentage shares of the quota volume of the Member States other than Spain can be expressed approximately as follows:

Benelux	0,04
Denmark	1,21
Germany	16,00
Greece	1,21
France	0,04
Italy	75,84
Portugal	0,84
United Kingdom	4,82

Whereas to allow for the trend of imports of the product concerned, the quota volume should be divided into two parts, the first being allocated among the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share; whereas, to afford importers in each Member State some degree of certainty, the first part of the tariff quota should be set at a high level, which in this case could be 98 % of the quota volume;

⁽¹⁾ OJ No L 328, 22. 11. 1986, p. 89.

Whereas the initial shares 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 its initial share should draw an additional share from the 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 cooperation between the 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 inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused, it is essential that the Member State concerned should return a significant proportion thereof to the reserve in order to prevent part of the Community tariff quota from

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

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 level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN code	Description	Amount of quota (tonnes)	Rate of duty (%)
09.0613	0710 21 00 ex 0710 29 00	Frozen peas originating in Sweden	6 000	4,5 in Spain 6 in the other Member States

2. 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 quota referred to in Article 1 (1) shall be divided into two parts.

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

(in tonnes)

Benelux	1
Denmark	17
Germany	224
Greece	17
Spain	4 500
France	1
Italy	1 069
Portugal	12
United Kingdom	67.

3. The second part of the quota amounting to 100 tonnes shall constitute the reserve.

4. If an importer gives notification of imminent imports of the products in question into a Member State not

covered by the initial allocation and applies to take advantage of the 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 has used 90 % or more of its initial share, as specified in Article 2 (2), or of that share less any portion returned to the reserve pursuant to Article 5, 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 its initial quota share 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, rounded up where necessary to the next whole number.

3. If, after 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.

This process shall continue until the reserve is used up.

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

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

By 1 October 1989 at the latest Member States must return to the reserve the unused portion of their initial share which, on 15 September 1989, is in excess of 20 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 October 1989 at the latest Member States must notify the Commission of the total quantities of the product concerned imported on or before 15 September 1989 and charged against the Community quota and of any portion of their initial share that they are returning to the reserve.

Article 6

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

It shall inform the Member States not later than 5 October 1989 of the state of the reserve following any return of quota shares pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve does not exceed the balance available, and to

this end notify the amount of that balance to the Member State making the final drawing.

Article 7

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 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 product concerned have free access to the quota shares allocated to them.

3. Member States shall charge imports of the product 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 the imports charged in accordance with paragraph 3.

Article 8

At the request of the Commission, Member States shall inform it of imports actually charged against their quota shares.

Article 9

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

Article 10

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, 8 November 1988.

For the Council

The President

A. PEPONIS

COUNCIL REGULATION (EEC) No 3587/88

of 8 November 1988

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 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 1988;

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.

(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, in view of these factors, the initial percentage shares of the quota volumes can be expressed 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, at a given date in the quota period, a considerable quantity of a Member State's initial share remains unused, it is essential that the Member State concerned should return a significant proportion thereof to the corresponding reserve in order to prevent part of the Community tariff quotas from 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

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 (%)
09.0601	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat falling within CN code 0304:	3 500	0
	ex 0302 50 10	— Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>), excluding livers and roes:		
		— Of the species <i>Gadus morhua</i>		
		— Other fish, excluding livers and roes:		
09.0603	0302 62 00	— — Haddock (<i>Melanogrammus aeglefinus</i>)	1 500	0
	0302 63 00	— — Coalfish (<i>Pollachius virens</i>)		
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:		
	0304 10	— Fresh or chilled:		
09.0605	ex 0304 10 31	— — Fillets:	250	0
		— — — Other:		
		— — — — Of cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>) and of fish of the species <i>Boreogadus saida</i> :		
		— — — — Of the species <i>Gadus morhua</i>		
09.0607	1604	Prepared or preserved* fish; caviar and caviar substitutes prepared from fish eggs:	200	0
	1604 12	— Fish, whole or in pieces, but not minced:		
		— — Herrings:		
		— — — Other:		
09.0609	1604 13	— — Sardines, sardinella and brisling or sprats:	60	0
	1604 13 90	— — — Other		
	1604 19	— — Other:		
	1604 19 99	— — — Other		
09.0611	1604 20	— Other prepared or preserved fish:	120	7,5
	1604 20 90	— — Of other fish		
	1604 30	— Caviar and caviar substitutes:		
	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	18,8

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

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 has used 90 % or more of one of its initial shares as specified in Article 2 (2), or of that share less any portion returned to the corresponding reserve pursuant to Article 5, 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, rounded up where necessary to the next whole number.

3. If, after its second share has been used up, a Member State has used 90 % or more of its third share,

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

it shall, using the procedure provided for in paragraph 1, draw a fourth share equal to the third.

This process shall continue until the reserve is used up.

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

Each of the additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

By 1 October 1989 at the latest Member States must return to the reserve the unused portion of their initial share which, on 15 September 1989, is in excess of 20 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 October 1989 at the latest Member States must notify the Commission of the total quantities of the products concerned imported on or before 15 September 1989 and charged against the Community quotas and of any portion of their initial shares that they are returning to the reserve.

Article 6

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

It shall inform the Member States not later than 5 October 1989 of the state of each of the reserves following any return of quota shares pursuant to Article 5.

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

Done at Brussels, 8 November 1988.

It shall ensure that the drawing 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 final drawing.

Article 7

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

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 originating in Sweden and 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

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

Article 10

This Regulation shall enter into force on 1 January 1989.

For the Council
The President
A. PEONIS

COUNCIL REGULATION (EEC) No 3588/88

of 8 November 1988

opening and providing for the administration of a Community tariff quota for certain oils and fats of marine animals originating in Norway (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 Norway was concluded on 14 May 1973; 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 86/557/EEC ⁽¹⁾;

Whereas the said Agreement provides in particular for the opening of a Community tariff quota at a reduced rate of duty for certain oils and fats of marine animals, other than whale oil and sperm oil, originating in Norway; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas it is necessary, in particular, to ensure to all Community importers equal and uninterrupted access to the quota and consistent application of the rate laid down for that quota to all imports of the products concerned into all Member States until the quota has been used up; whereas,

however, since the quota is to cover requirements which cannot be determined with sufficient accuracy, it should not be allocated among the Member States, without prejudice to the drawing against the quota volume of such quantities as they may need, under the conditions and according to a procedure to be determined; whereas this method of management 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 quota is used up and inform the Member States thereof;

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, all transactions concerning the administration of 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 shall be suspended at the level and within the limits of a Community tariff quota as shown herewith:

Order No	CN code	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.0701	ex 1504 20 10 ex 1504 30 19 ex 1516 10 90	Oils and fats of marine animals, other than whale oil and sperm oil, in packings of a net capacity of more than 1 kg originating in Norway	1 000	8,5

Within the limits of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply duties calculated in accordance with the relevant provisions laid down by the 1985 Act of Accession.

2. 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 the Kingdom of Norway shall be applicable.

3. If imports of products covered by this tariff quota are made, or are foreseen within a maximum of 14 calendar days, the Member State concerned shall notify the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the quota so permits.

⁽¹⁾ OJ No L 328, 22. 11. 1986, p. 76.

If a Member State does not use up the quantities drawn within the said 14 days, it shall return the remaining unused portion as soon as possible, by telex addressed to the Commission.

Article 2

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

2. Each Member State shall ensure that importers of the product concerned have free access to the quota for such time as the residual balance of the quota volume so permits.

3. Member States shall charge imports of the said goods against their drawings as and when the goods are entered with the customs authorities.

4. The extent to which the quota has been used up shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 3

At the request of the Commission, Member States shall inform it of imports actually charged against the quota.

Article 4

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

Article 5

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, 8 November 1988.

For the Council
The President
A. PEPONIS

COUNCIL REGULATION (EEC) No 3589/88

of 8 November 1988

opening, allocating and providing for the administration of a Community tariff quota for fillets of certain cod and of fish of the species *Boreogadus saida*, originating in Norway (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 Norway was concluded on 14 May 1973; 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 86/557/EEC (1);

Whereas the said Agreement provides in particular for the opening of a Community tariff quota at zero duty for fillets of certain cod and of fish of the species *Boreogadus saida*, originating in Norway; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas equal and continuous access to the quota should be ensured for all importers and the rate laid down for the quota should be applied consistently to all imports until the quota is used up; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas, in order to correspond as closely as possible to the actual development of the market in the said product, the allocation should reflect proportionately the requirements of the Member States calculated with reference to statistics of imports from Norway during a representative reference period and to the economic outlook for the quota year in question;

Whereas during the latest years for which statistics are available, imports into each of the Member States were as follows:

Member States	(tonnes)			
	1984	1985	1986	1987
Benelux	0	0	1	0
Denmark	72	10	2	21
Germany	0	0	0	0
Greece	0	11	0	0
Spain	37	0	0	14
France	58	8	19	24
Ireland	0	0	0	0
Italy	4 589	2 691	2 354	1 390
Portugal	0	0	0	0
United Kingdom	0	0	0	0
	4 756	2 720	2 376	1 449

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 in these circumstances initial shares should be allocated to the importing Member States and the other Member States should be guaranteed access to the tariff quota when imports into those States of the products concerned are notified; whereas these arrangements for allocation will equally ensure the uniform application of the Common Customs Tariff;

Whereas, in view of these factors, the initial percentage shares of the quota volume can be expressed approximately as follows:

Denmark	0,50
Greece	0,18
Spain	0,21
France	0,79
Italy	98,32

Whereas, to allow for import trends for the products concerned, the quota volume should be divided into two parts, the first being allocated among the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share; whereas, to afford importers some degree of certainty, the first part of the tariff quota should be set at a high level, which in this case could be 54 % of the quota volume;

(1) OJ No L 328, 22. 11. 1986, p. 76.

Whereas initial shares 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 its initial share should draw an additional share from the 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 cooperation between the 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 inform the Member States accordingly;

Whereas if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused, it is essential that the Member State concerned return a significant proportion thereof to the reserve in order to prevent part of the Community tariff quota from

remaining unused in one Member State while 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 product shall be suspended at the level indicated and within the limits of a Community tariff quota as shown herewith:

Order No	CN code	Description	Quota volume (tonnes)	Rate of duty (%)
09.0709	ex 0305 30 19	Fillets of cod of the species <i>Gadus morhua</i> and <i>Gadus ogac</i> , and fish fillets of the species <i>Boreogadus saida</i> , dried, salted or in brine, originating in Norway	3 000	0

Within the limits of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply duties of 3,4 % and 0 % respectively.

2. Imports of the products in question shall not be eligible under the tariff quota 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⁾, as last amended by Regulation (EEC) No 3759/87 ⁽²⁾, is at least equal to the reference price set or to be set by the Community for the product or categories of products under consideration.

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 Economic Community and the Kingdom of Norway, shall apply.

	(in tonnes)
Denmark	8
Greece	3
Spain	3
France	13
Italy	1 593

3. The second part of the quota, amounting to 1 380 tonnes, shall constitute the reserve.

4. If an importer indicates that a consignment of the products in question is to be imported into a Member State not included in the initial allocation and applies to use the 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 2

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

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

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 359, 21. 12. 1987, p. 1.

Article 3

1. If a Member State has used 90 % or more of its initial share as specified in Article 2 (2), or of that share less any proportion returned to the reserve pursuant to Article 5, 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 its initial share has been used up, a Member State has used 90 % or more of the second share as well,

it shall forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next whole number.

3. If, after 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.

This process shall apply until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, Member States may draw shares lower than those specified in those paragraphs if there are grounds for believing that they may not be used in full. Member States shall inform the Commission of their reasons for applying this paragraph.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1989.

Article 5

Member States shall, not later than 1 October 1989, return to the reserve the unused portion of their initial share which, on 15 September 1989, 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 1989, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1989 and charged against the Community quota and 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, inform each State of the extent to which the reserve has been used up.

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

Done at Brussels, 8 November 1988.

It shall, not later than 5 October 1989, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 5.

It shall ensure that the drawing 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. The Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 are carried out in such a way that imports may be charged without interruption against their accumulated shares of the Community quota.

2. The Member States shall ensure that importers of the product in question have free access to the shares allocated to them.

3. The Member States shall charge imports of the product in question against their shares as and when the product is 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

At the request of the Commission, the 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

This Regulation shall enter into force on 1 January 1989.

For the Council
The President
A. PEPONIS

COUNCIL REGULATION (EEC) No 3590/88

of 8 November 1988

opening, allocating and providing for the administration of a Community tariff quota for certain prepared or preserved fish, originating in Norway (1989)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

(tonnes)

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 Norway was concluded on 14 May 1973; 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 Council Decision 86/557/EEC ⁽¹⁾;

Whereas the said Agreement provides in particular for the opening of a Community tariff quota at reduced rates of duty for certain prepared or preserved fishery products originating in Norway; whereas, therefore, the tariff quota in question should be opened for the period 1 January to 31 December 1989;

Whereas equal and uninterrupted access to the quota should be ensured for all importers and the rate of levy for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States will preserve the Community nature of the quota; whereas, to match as closely as possible the actual development of the market in the said products, the allocation should follow proportionately the requirements of the Member States calculated with reference to statistics of imports from Norway during a representative reference period and to economic outlook for the relevant quota year;

Whereas, during the last three years for which statistics are available, imports into each of the Member States were as follows:

Member States	1985	1986	1987
Benelux	11	4	4
Denmark	7	2	7
Germany	22	3	21
Greece	0	0	0
Spain	3	1	1
France	1 604	1 354	1 273
Ireland	0	0	0
Italy	106	309	0
Portugal	0	0	0
United Kingdom	354	161	124
	2 107	1 834	1 430

Whereas, during the years under consideration, the products in question were imported only by certain Member States and there were no such imports into 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 quota upon imports into those States of the products concerned being notified; whereas these arrangements for allocation will also enable the uniform application of the Common Customs Tariff to be ensured;

Whereas, in view of these factors, the initial percentage shares in the quota volume can be set approximately as follows:

Benelux	0,40
Denmark	0,34
Germany	0,86
France	78,77
Italy	7,73
United Kingdom	11,90

Whereas, to accommodate any changes in imports for these products, the quota volume should be divided into two instalments, the first being allocated between the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share; whereas to afford importers some degree of certainty, the first instalment of the tariff quota should be fixed at a high level, which in this case could be 54 % of the quota;

⁽¹⁾ OJ No L 328, 22. 11. 1986, p. 76.

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 its initial share should draw an additional share from the 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 should 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 Commission 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, if at a given time in the course of the quota period any substantial quantity of a Member State's initial share remains unused, it is essential that the Member State concerned return a significant proportion thereof to the reserve, in order to prevent a part of the Community

tariff quota from remaining unused in one Member State while 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 on imports of the following products, originating in Norway, shall be suspended at the level and within the limit of the Community tariff quota shown herewith:

Order No	CN code	Description	Quota volume (tonnes)	Rate of duty (%)
09.0711	ex 1604 13 90	Prepared or preserved fish, including caviar and caviar substitutes prepared from fish eggs:	400	10
		Other:		
		— Sardinella, brisling or sprats, not including fillets, raw, merely coated with batter or breadcrumbs, whether or not pre-fried in oil, deep-frozen		
	ex 1604 19 99 ex 1604 20 90	Other, not including smoked saithe Fish other than herring and smoked saithe		

Under this tariff quota, the Kingdom of Spain and the Portuguese Republic shall charge duties of 11,9 % and 20 % respectively.

2. Imports of the products in question shall not qualify for the tariff quota referred to in paragraph 1 unless the free-at-frontier-price, which is determined by the Member States according to Article 21 of Council Regulation (EEC) 3796/81 of 29 December 1981 on the common organization of the market in fishery products ⁽¹⁾, as last amended by Regulation (EEC) No 3759/87 ⁽²⁾, is at least equal to the reference price where such a price has been fixed by the Community for the product or categories of products under consideration.

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 Economic Community and the Kingdom of Norway, shall be applicable.

Article 2

1. The tariff quota laid down in Article 1 (1) shall be divided into two instalments.

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

	(in tonnes)
Benelux	1
Denmark	1
Germany	2
France	170
Italy	17
United Kingdom	25

3. The second instalment of the quota, being 184 tonnes, shall constitute the 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 the

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 359, 21. 12. 1987, p. 1.

benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to these 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 proportion 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 % of 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 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 1989.

Article 5

Member States shall, not later than 1 October 1989, return to the reserve such unused portion of their initial share as, on 15 September 1989, exceeds 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 1989, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1989

and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 6

The Commission shall keep an account of the shares operated by the Member States pursuant to Articles 2 and 3 and shall, as soon as the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 5 October 1989, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 5.

It shall ensure that the drawing 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. The 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 cumulative shares of the Community quota.

2. The Member State shall ensure that importers of the product in question have free access to the shares allocated to them.

3. The Member States shall charge imports of the product in question against their shares as and when the product is 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

At the request of the Commission, the Member States shall inform it of imports actually charged against their shares.

Article 9

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

Article 10

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, 8 November 1988.

For the Council
The President
A. PEPONIS

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 4 November 1988

on a Community action in the field of information technology and telecommunications applied to health care — Advanced informatics in medicine (AIM) — Exploratory action

(88/577/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130Q (2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Community has as its task, by establishing a common market and progressively approximating the economic policies of Member States, *inter alia*, to promote throughout the Community a harmonious development of economic activity and closer relations between the States belonging to it;

Whereas the Heads of State and Government emphasized the importance of health care as a major factor for economic growth and social development;

Whereas the European Parliament, in its assessment of the situation and development, stressed the role of cooperation in health care and related areas for the future political, social and economic development of the Community;

Whereas the European Parliament, in its resolution on biotechnology in Europe and the need for an integrated policy ⁽⁴⁾, has stressed the importance of information technology and telecommunications applied to health care;

Whereas the Economic and Social Committee supports initiatives in this domain;

Whereas, with the emergence of advanced and mobile communication services and the progressive introduction of computing in health care and services, the conditions for major improvements for health care and possibilities for improved cost-effectiveness may be emerging;

Whereas it is important for increasing the quality, flexibility and accessibility of health care in the Community that there should be adequate consultation of organizations working in this field;

Whereas particular attention must be paid to questions of privacy, confidentiality and data protection and this can build on related work carried out in the framework of Esprit and RACE;

Whereas developments in health care will benefit the general public and the building of a competitive European industry for developing and sustaining advances in health services;

Whereas advances in health care will contribute to resolving pressing social needs associated with changing age structures

⁽¹⁾ OJ No C 355, 31. 12. 1987, p. 10.

⁽²⁾ OJ No C 235, 12. 9. 1988, p. 66, and OJ No C 290, 14. 11. 1988.

⁽³⁾ OJ No C 356 of 31. 12. 1987, p. 8.

⁽⁴⁾ OJ No C 76, 23. 8. 1987, p. 25.

in the Community, and to the earliest possible recognition of new diseases and health care problems;

Whereas concerted efforts in this domain will contribute to the creation of the internal market and prevent the formation of new internal frontiers to health care;

Whereas the development of common functional specifications for equipment and services will permit the less developed regions to benefit fully from the efforts of Member States piloting the improvements of health care, management and infrastructure developments in the Community;

Whereas the development of common functional specifications for equipment and services will enable the better targeting of effort and use of scarce resources;

Whereas the development of a European health care infrastructure technology will encourage and draw upon the best work in the Community and will ensure the passage of such work into the process of health care;

Whereas the development of health care infrastructure technology and services offers a wide range of opportunities for small- and medium-sized undertakings in the manufacture of equipment and in the provision of specialized services for the provision of health care within the Community;

Whereas cooperation in prenormative and precompetitive R&D towards the development of standards can make a major contribution, notably by facilitating the evolution towards future more effective health care also at regional and local levels;

Whereas, by Council Decision 87/516/Euratom, EEC of 28 September 1987 concerning the framework programme for Community activities in the field of research and technological development (1987 to 1991) ⁽¹⁾, as amended by Decision 88/193/EEC, Euratom ⁽²⁾, provision is made for research to be undertaken in the field of the application of information technology and telecommunications to meet common social needs; whereas the framework programme contains special provisions for a Community action in the field of information technology and telecommunications applied to health care;

Whereas under the terms of Article 130K of the Treaty the framework programme is to be implemented through specific programmes developed within each activity;

Whereas Decision 87/516/Euratom, EEC provides that a particular aim of Community research shall be to strengthen the scientific and technological basis of European industry,

especially in strategic areas of high technology, and to encourage it to become more competitive at international level; whereas the same Decision further provides that Community action is justified where research contributes *inter alia* to the strengthening of the economic and social cohesion of the Community and the promotion of its overall harmonious development, while being consistent with the pursuit of scientific and technical quality; whereas it is intended that the exploratory action for advanced informatics in medicine (AIM) should contribute to the achievement of these objectives;

Whereas the need is recognized to construct a specific European infrastructure in which existing and advanced technologies can be developed and focussed on solving problems of health care; whereas the end beneficiary must be the individual patient;

Whereas the building of this infrastructure and achieving the human objectives is an urgent necessity; whereas the attainment of these objectives is best brought about by unifying the efforts of health care providers, research establishment, undertakings including small and medium-sized undertakings and other bodies in the Community;

Whereas exploratory investigations have confirmed the need and the advantages of setting up a programme of Community cooperation in this field;

Whereas it is in the Community's interest to consolidate the scientific and financial basis of European research by means of the involvement to a greater extent of participants from European third countries in certain Community programmes and particularly in programmes involving cooperation in information technology and telecommunications applied to health care;

Whereas the AIM exploratory action will benefit from the results of Esprit and RACE as well as the on-going efforts in standardization;

Whereas the Community's programme in biotechnology (1985 to 1989) will include the application of information technology and telecommunications to this field and draw on the results of the work to be undertaken under AIM;

Whereas there exists a need for close coordination with actions on the national level and periodic reviews; whereas it is therefore necessary for the execution of the exploratory action that the Commission is assisted by a committee;

Whereas the implementation of concerted actions on the COST framework is an essential element to complement industrially-oriented R&D projects;

Whereas the Scientific and Technical Research Committee (Crest) has expressed its opinion,

⁽¹⁾ OJ No L 302, 24. 10. 1987, p. 1.

⁽²⁾ OJ No L 89, 6. 4. 1988, p. 35.

HAS ADOPTED THIS DECISION:

Article 1

1. An exploratory Community action in the field of information technology and telecommunications applied to health care, advanced informatics in medicine (AIM), hereinafter called the 'action', shall be adopted for a maximum period of 24 months starting on 1 June 1988.

2. The action is designed to make available to citizens and health services, at minimum cost and minimum delay, improvements in health care, thereby contributing to social and economic objectives.

3. The action is designed to promote development of a European infrastructure and framework within existing developments and new advances can be brought to health care by cooperation between public and private activities at national and international levels.

Article 2

1. The action shall consist of the development of a common conceptual framework for cooperation, prenormative work and technology exploration and the investigation of the non-technological factors as required for the objective of concerting European efforts in improving health care by means of the application of information technology and telecommunications to this field.

2. The action is intended to provide cost-effective advances in the care of the individual citizen and in the development, planning and management of health care services. In work relating to patient information, the action will place priority on the development of safe and reliable methods for the protection of medical records, in particular against loss, data corruption or unauthorized disclosure.

3. The field of application includes:

1. development of a common conceptual framework for cooperation;
2. medical informatics environment;
3. data structures and medical records;
4. communication and functional integration;
5. integration of knowledge-based systems into health care;
6. advanced instrumentation, equipment and services for health care and medical research environment;
7. non-technological factors.

The summary and objectives of AIM are set out in more detail in Annex II.

Article 3

1. Projects relating to the action shall be executed by means of shared-cost contracts. Contractors shall be expected to bear a substantial proportion of the costs, which should normally be at least 50 % of the total expenditure.

Alternatively, in respect of universities and research institutes carrying out projects or actions, the Community may bear up to 100 % of the additional expenditure involved.

2. The proposals for projects shall, as a rule, be submitted in reply to an open invitation to tender and involve the participation of at least two independent partners not all established in the same Member State. At least one of the partners shall be an industrial undertaking. Within each project, at least one partner should be concerned with health care. The invitation to tender shall be published in the *Official Journal of the European Communities*.

3. In exceptional cases concerning projects indispensable for implementing key requirements of the workplan:

— where a proposal would involve:

- (i) an unreasonable burden on the participants, particularly small- and medium-sized enterprises and research establishments;
- (ii) only one independent partner;
- (iii) only independent partners established in the same Member State, or

— where an open tendering procedure would be unjustified on grounds of cost or efficiency, or

— where the amount of the Community's contribution to the cost does not exceed 0,25 million ECU,

it may be decided, in accordance with the procedures laid down in Article 8, to depart from the general provisions set out in paragraphs 1 and 2 of this Article.

4. The contracts for all parts of the action shall be concluded with undertakings, including small and medium-sized undertakings, service providers, universities, research establishments and other bodies established in the Community.

Article 4

Where framework agreements for scientific and technical cooperation between non-Community European countries and the European Community have been concluded, organizations and undertakings established in these countries may, in accordance with the procedures laid down in Articles 3 and 8, become partners to a project undertaken within this action.

Article 5

1. The funds estimated as necessary for the Community contribution to the execution of the action amount to 20 million ECU over a maximum period of 24 months, including expenditure on a staff of 12.
2. The indicative allocation of these funds is set out in Annex I.

Article 6

1. The Commission shall ensure that the action is properly performed and establish the appropriate implementation measures.
2. The Commission shall establish a draft work plan defining the detailed objectives, the type of projects and actions to be undertaken and the corresponding financial plan.
3. The procedure laid down in Article 8 shall apply to:
 - the establishment of the work plan referred to in paragraph 2 of this Article,
 - any departure from the general conditions laid down in Article 3 (1) and (2),
 - the measures to be undertaken to evaluate each part of the action carried out by appropriate organizations, groups and other bodies,
 - the assessment of the proposed projects and the estimated amount of the Community's financial contribution to them when this contribution is in excess of 0,4 million ECU,
 - the participation in any project by European organizations and undertakings as provided for in Article 4.
4. The Commission may consult the committee referred to in Article 7 on any matter falling within the scope of this Decision.

Article 7

The Commission shall be assisted in the performance of its tasks by a committee, hereinafter referred to as 'the committee'. The committee, consisting of two representatives of each Member State, shall be set up by the Commission on the basis of nominations by the Member States.

Members of the committee may be assisted by experts or advisers depending on the nature of the issues under consideration.

The committee shall be chaired by a Commission representative.

The proceedings of the committee shall be confidential. The committee shall adopt its own rules of procedure. The secretarial services shall be provided by the Commission.

Article 8

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the committee, either on his own initiative or at the request of one of its members.
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 shall normally be one month and shall in no case exceed two months. 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.
3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period which may in no case exceed two months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission for matters falling under Article 6 (3).

Article 9

1. The result of the action shall be reviewed by the Commission after 12 months. The Commission shall report to the European Parliament and the Council on the results of this review.
2. After completion of the action, the Commission shall send to the European Parliament and the Council a report on the performance and results of the action.
3. The abovementioned report will be carried out in relation to the precise objectives set out in Annex II to this Decision and in accordance with Article 2 (2) of Decision 87/516/Euratom, EEC.

Article 10

1. With regard to the cooperation between the activities provided for in Article 1, the Member States and the Commission shall exchange all appropriate information to which they have access and which they are free to disclose

concerning activities in the areas covered by this Decision, whether or not planned or carried out under their authority.

2. Information shall be exchanged according to a procedure to be defined by the Commission after consulting the committee, and shall be treated as confidential at the supplier's request.

Article 11

This Decision shall apply with effect from 1 June 1988.

Article 12

This Decision is addressed to the Member States.

Done at Brussels, 4 November 1988.

For the Council

The President

A. TSOCHATZOPOULOS

ANNEX I

INDICATIVE ALLOCATION OF FUNDS FOR THE AIM EXPLORATORY ACTION

Summary of Areas	Estimated Community contribution in million ECU
ACTION LINE I	
Improvement of the effectiveness of public and private actions	4,80
1. Development of a common conceptual framework for cooperation	
ACTION LINE II	
Strengthening Europe's position in the application of information technology and telecommunications to health care	10,70
2. Medical informatics environment	
3. Data structures and medical records	
4. Communication and functional integration	
5. Integration of knowledge based systems into health care	
6. Advanced instrumentation, equipment and services for health care and medical research environment	
ACTION LINE III	
Creation of an environment favourable to the rapid introduction and appropriate application of medical and bio-informatics (MBI) in health care	2,25
7. Non-technological factors	
Personnel costs	1,69
Administrative costs	0,56
TOTAL	20,00

ANNEX II

SUMMARY AND OBJECTIVES OF THE AIM ACTION

1. RATIONALE

The accurate understanding of the nature, role and use of information in the medical domain is fundamental to the success of any system designed to be an effective aid to satisfy society's health needs because health care is in a process of continuous evolution and so is the technology supporting it. Information-related activities are growing rapidly and the cost of such activities in many health care organizations has become very significant.

The impetus behind a progressive implementation of an integrated health environment (IHE) at the national and international level stems from various factors.

Firstly, there is the rising cost of medical care, the major element of which comes from hospital services. In the context of a more efficient use of resources devoted to health care, there is a strong need:

- to obtain adequate indicators of performance and of quality of care,
- to make these indicators available and comparable on computerized systems in order to better understand variations in costs as well as in practices and outcomes of care,
- to provide the primary care physician with the advanced IT tools needed to allow him to perform his 'gate-keeping function' by referring patients only when appropriate for hospital investigation or specialist opinion,
- to define the requirements for allowing a breakthrough in the provision of hospital information services which today are not optimized because clinical and administrative processes and procedures are generating numerous records for each patient, complicating storage, retrieval, and analysis of information required to support hospital functions,
- to shorten the delays related to health care process by increasing the level of interaction between the health care providers through the facilitation of the flow and utilization of the existing skills and structures in the system (specialist availability, clinical data, health and pharmaceutical information, administrative mailing, professional documentation).

Secondly, the rapid development of information technology and telecommunications provides a great opportunity to improve quality, accessibility, efficiency and economy of health care services. But this can be achieved only if a progressive standardization matches the growth of computerized information in health care which is now leading to a proliferation of independent systems in Europe. International, or at least European standardization does not mean a strict uniformity of measurement systems, but rather an increase in consistency of approaches through a better transparency of results and a more systematic exchange of comparable information. Early agreement by sector actors on open standards and requirements supporting IHE implementation will simultaneously provide transparency in practices, outcomes and costs of health care, a larger potential market in Europe, economies of scale to producers and a minimization of investment risks.

2. GLOBAL OBJECTIVES AND DELIVERABLES

The development and application of information and telecommunications to health care will allow a breakthrough in the performance of health care systems, a major increase of the productivity of medical and bio(techno)logical research and development, and a significant reduction in the growth rate of health expenditures.

AIM will set a framework for possible government support to speed implementation of potentially beneficial developments in both the provision and management of health care in Europe.

AIM will be a very significant contribution to the creation of IHE. This means that it will be concerned with all forms of care, from preventive medicine through primary care to secondary care.

This Community programme will initially focus on common users requirements and technological and functional options concerning the development and application of information technology and telecommunications to health care. It will concentrate on complementing the cooperative efforts in which research institutions, hospitals and industry are already engaged, taking into account the requirements of public administrations, and on harmonizing industrial and medical priorities to advance the prenormative work needed for the introduction of IHE throughout Europe.

Both industry and health care professionals need, and have asked for, the cooperation of public authorities because the new systems which could be introduced require:

- common standards at the European level, and if possible at the international level;
- design, development and management,
- certification of those systems which are concerned with public health, data protection and ethical aspects in general,
- public and political acceptance as reflected in regulatory provisions.

The theme of AIM is the sustained improvement of health care in the Community within economically acceptable limits by exploiting the potential of information technology and telecommunications being applied to it.

Given this general objective, AIM will be concerned with realization of the following goals, namely to:

1. improve the quality, accessibility and flexibility of health care;
2. increase the effectiveness of patient care, bringing about a reduction of unit costs;
3. contribute to the establishment of minimum standards and common functional specifications;
4. contribute to agreed codes of good practice, protection of privacy and reliability;
5. stimulate collaboration and concertation in the analysis of the requirements and opportunities of medical and bio-informatics and its application;
6. contribute to the common adaptation of the regulatory framework to advances in the nature of health care.

These goals are best served by a phased approach in which this action covers the exploratory phase concentrating on the identification of user requirements, R&D systems elucidating cost-benefits as well as the choice of technological options, and the development of the appropriate evaluation tools.

The deliverables and precise objectives of the AIM exploratory action include:

- development of a practical approach to interdisciplinary working on a European scale in this domain mobilizing the different actors involved in health care and setting up the required fora for the identification of common needs, definition of the best approaches and consensus building,
- development of a conceptual model for health care information systems, by identifying its functions, components, requirements and interrelations. This model should cover the different levels of care (primary, secondary and tertiary care) and should be the basis for a common understanding of health care, leading to the further development of compatible procedures, services and systems,
- definition of data requirements and information flows at the different levels of the health care system, taking into consideration the specific needs and constraints at the patient, clinical, scientific and administrative level. This should lead to the study of the medical record architecture and be followed by the evaluation of the different codification systems, their state of advance in the different countries and the agreement on common codification systems,
- identification and definition of the minimum standards, recommendations and common agreed practices required to facilitate harmonious development of hospital information systems. This work should be done in close coordination with other international organizations in this field,
- tailoring of existing or developing technologies for their introduction and acceptance in the health care environment. The work will be focused on specific requirements, such as the human factor, the integration

of systems and the acceptability and practical use in daily work. The different applications of knowledge-based systems and the advanced instrumentation will be considered,

- the implementation of pilot projects aimed at testing the application and integration of developing technologies and methodologies in health care,
- detailed evaluation of the potential of information technology and telecommunications to meet ethical, social and economic needs arising in the field of health care. This evaluation will pay special attention to the protection of privacy of information, authorized access to systems, data security, the impact on the doctor-patient relationship, the human factor in systems engineering in order to facilitate the acceptability of new systems, and legal aspects concerning issues of liability and the practical use of advanced systems in health care.

These deliverables, as detailed in the draft work plan, will represent useful results in their own right. In addition, the scope and orientation of the work has been chosen to prepare and facilitate future European collaboration in this domain independent of the framework in which this may be undertaken.
