

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 726 final

Brussels, 23 December 1985

Proposal for a  
COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of Community tariff quotas for the importation in Spain for certain fishery products falling within headings 03.01, 03.03 and 16.04 and subheading 23.01 B of the Common Customs Tariff, originating in the Canary Islands (1986)

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(submitted to the Council by the Commission)

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## EXPLANATORY MEMORANDUM

Article 3 of Protocol No 2 to the Act of Accession of Spain and Portugal provides for reduced customs duties for limited quantities of certain fishery products originating in the Canary Islands or Ceuta and Melilla. Under general Community rules, such provisions are applied by means of a single Community tariff quota open to all Member States. However, in order to respect the terms of the above mentioned Article, which in itself constitutes a derogation to these general rules and which, moreover, makes a distinction between the transition period and the subsequent period, two tariff measures have to be introduced, one of which will apply to the customs territory of Spain while the other will be applicable in the eleven other Member States.

It is agreed that this derogation shall be limited to the transitional period.

### A. Provisions relating to Spain :

1. Article 3 of Protocol No 2 of the 1985 Act of Accession provides that fishery products falling within headings 03.01, 03.03, 16.04 and subheading 23.01 B of the CCT originating in the Canary Islands shall qualify for duty-free entry into the part of Spain which is included in the customs territory of the Community, within the limits of annual Community tariff quotas. Calculated on the basis of the provisions of Article 3 cited above, the quotas amount to :
  - 16 116 tonnes for products falling within tariff heading 03.01,
  - 21 003 tonnes for products falling within tariff heading 03.03,
  - 9 359 tonnes for products falling within tariff heading 16.04  
and
  - 27 483 tonnes for products falling within tariff subheading 23.01 B.

When the said products are imported under these quotas they may not be deemed to be in free circulation in that part of Spain, within the meaning of Article 10 of the EEC Treaty, when they are reconsigned to another Member State.

These tariff quotas should be opened for the period from 1 January to 31 December 1986.

2. For administrative purposes the Commission proposes that the "first come first served" system be applied.
3. This is the subject of the attached proposal (Annex A)

B. Provisions relating to the Member States

1. Article 3 of Protocol No 2 and Article 10 of Protocol No 3 to the Act of Accession of Spain and Portugal, provide that fishery products falling within headings 03.01, 03.03 and 16.04 of the CCT, originating in the Canary Islands or in Ceuta and Melilla shall benefit, when imported into the Community with the exception of Spain, from reduced customs duties within the limits of annual Community tariff quotas. The quotas for products originating in the Canary Islands, calculated on the basis of the above-mentioned Article 3, amount to :

- 247 tonnes for products falling within tariff heading 03.01,
- 26 tonnes for products falling within tariff heading 03.03 and
- 200 tonnes for products falling within tariff heading 16.04.

There is no pattern of trade in the said products originating in Ceuta and Melilla.

When the said products are imported under these quotas they shall benefit from a progressive reduction of customs duties according to the same timetable and under the same conditions as those provided for by Article 173 of the Act of Accession, subject to compliance with the reference prices.

When the product are imported into Portugal, the duties to be applied are to be calculated in accordance with the relevant provisions of the Act of Accession.

Given that the 1970 EEC-Spain Agreement remains applicable until the end of February and that the first step of the tariff dismantling laid down by the above-mentioned Article 173 will take place on 1 March 1986, the tariff measures in question should not come into effect until this latter date. Accordingly, these tariff quotas should be opened for the period from 1 March to 31 December 1986.

2. The proposal for a Regulation opening these tariff quotas provides, as is the rule in these matters, for a division of each of the quotas into two parts the first being allocated as shares to the Member States and the second constituting the reserve.  
As regards the allocation of the first part of each quota, account has been taken of the fact that in certain Member States there have been few, if any, imports in recent years. The initial shares have therefore been attributed only to the importing Member States although other member States are guaranteed access to the quotas if imports into these countries are recorded.
3. For administrative purposes, the Commission proposes that the "first come first served" system should be applied by all Member States.
4. This is the subject of the attached proposal (Annex B)

Proposal for a  
Council Regulation (EEC)

opening, allocating and providing for the administration  
of Community tariff quotas for the importation in Spain for  
certain fishery products falling within headings 03.01,  
03.03 and 16.04 and subheading 23.01 B of the Common Customs Tariff,  
originating in the Canary Islands (1986)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Act of Accession of Spain and Portugal, and in  
particular Article 3 of Protocol No 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas Article 3 of Protocol No 2 of the Act of Accession of Spain and  
Portugal (1) provides that fishery products falling within headings and  
subheadings 03.01, 03.02, 03.03, 05.15 A, 16.04, 16.05 and 23.01 B of the  
Common Customs Tariff, originating in the Canary Islands or in Ceuta and  
Melilla, shall qualify for duty-free entry into that part of Spain which  
is included in the customs territory of the Community within the limits  
of annual Community tariff quotas; whereas this tariff preference applies  
only to products which have been imported over the last three years;  
whereas there is no pattern of trade in the said products originating in  
Ceuta and Melilla and thus no need to open tariff quotas for products  
originating in these territories; whereas for the said products  
originating in the Canary Islands the quota amounts calculated on the  
basis of Article 3 cited above amount to :

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(1) OJ No L 302 of 15.11.1985, p. 400

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- 16 116 tonnes for the products of tariff heading 03.01, excluding subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I o) 1,
- 21 003 tonnes for products of tariff heading 03.03, excluding subheadings 03.03 B I a) and 03.03 B III,
- 9 359 tonnes for products of tariff heading 16.04 and
- 27 483 tonnes for products of tariff subheading 23.01 B;

whereas the other products are not imported ; whereas when the said products are imported into the part of Spain included in the Customs territory of the Community they may not be deemed to be in free circulation in that part of Spain within the meaning of Article 10 of the EEC Treaty when they are reconsigned to another Member State ; whereas the tariff quotas in question should therefore be opened for the period from 1 January to 31 December 1986 ; whereas Article 2 (2) of the Treaty of Accession provides that the Community Institutions may adopt the measures referred to in Article 3 of Protocol No 2 before the accession, these measures entering into force under reserve of, and at the same date as, the entry into force of the said Treaty,

HAS ADOPTED THIS REGULATION :

#### Article 1

1. From 1 January to 31 December 1986 duty-free Community tariff quotas shall be opened for the importation into the part of the Spain which is included in the Customs territory of the Community of the following products originating in the Canary islands, within the limits set out below :

## Annex A

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CCT Heading No	Description	Quota volume
ex 03.01	Fish, fresh (live or dead), chilled or frozen, excluding products of subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I o) 1	16 116 tonnes
ex 03.03	Crustaceans or molluscs, whether in shell or not, fresh (live or dead), chilled, frozen, salted, in brine or dried; crustaceans, in shell, simply boiled in water, excluding products of subheadings 03.03 B 1 a) and 03.03 B III	21 003 tonnes
16.04	Prepared or preserved fish, including caviar and caviar substitutes :	9 359 tonnes
23.01	Flours and meals, of meat, offals, fish, crustaceans or molluscs, unfit for human consumption; greaves;  B. Flours and meals of fish, crustaceans or molluscs :	27 483 tonnes

2. The products imported under the said tariff quotas may not be deemed to be in free circulation in that part of Spain within the meaning of Article 10 of the EEC Treaty when they are reconsigned to another Member State.



3. The products referred to in this Article may not receive the benefit of the tariff quotas unless, at the time of their presentation to the authorities responsible for import formalities in the customs territory of Spain, in whatever form, they are presented in packings bearing the following information in a clearly visible and perfectly legible form :

- the marking, "Origin: Canary Islands" printed in Latin characters of a height of not less than 20 millimeters
  - the species of fish
  - the net weight in kilograms of the fish contained in the packings.
- In addition, pre-packaged foodstuffs falling within CCT heading 16.04 must carry, on each immediate packing, in an easily visible, clearly legible and indelible form the marking "made in the Canaries".

The provisions of this paragraph shall apply without prejudice to the specific rules laid down by Regulations (EEC) 103/76 (1) and 104/76 (2).

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(1) OJ L 20, 28.1.1976, p. 29

(2) OJ L 20, 28.1.1976, p. 35

Article 2

1. The Member State in question shall ensure that importers of the products concerned have free access to the tariff quotas referred to in Article 1.
2. It shall charge imports of the products concerned against the tariff quotas as and when these products are entered for free circulation.
3. The extent to which the tariff quotas have been used up shall be determined on the basis of the imports charged in accordance with paragraph 2.

Article 3

At the Commission's request the Member State in question shall inform it of imports actually charged against the tariff quotas.

Article 4

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

Annex A

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Article 5

This Regulation shall enter into force on 1 January 1986, subject to the entry into force of the Treaty of Accession of Spain and of Portugal.

This Regulation shall be binding in its entirety and directly applicable in the Member State in question.

Done at Brussels,

For the Council  
The President

Proposal for a  
Council Regulation (EEC)

opening, allocating and providing for the administration of Community tariff quotas for certain fishery products falling within headings 03.01, 03.03 and 16.04 of the Common Customs Tariff, originating in the Canary Islands (1986)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 3 of Protocol No 2 annexed thereto,

Having regard to the proposal from the Commission,

Whereas Article 3 of Protocol No 2 and Article 10 of Protocol No 3 of the Act of Accession of Spain and Portugal(1) provide that fishery products falling within headings and subheadings 03.01, 03.02, 03.03, 05.15 A, 16.04, 16.05 and 23.01 B of the Common Customs Tariff, originating in the Canary Islands or in Ceuta and Melilla, shall qualify for reduced duties within the limits of annual Community tariff quotas on importation into the customs territory of the Community, excluding Spain;

Whereas this tariff preference is only applicable to products which have been imported over the last three years; whereas there is no pattern of trade in the said products originating in Ceuta and Melilla and thus no need to open tariff quotas for products originating in these territories; whereas for the said products originating in the Canary Islands the quota amounts calculated on the basis of Article 3 cited above amount to :

- 247 tonnes for the products of tariff heading 03.01, excluding subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I o) 1,
- 26 tonnes for products of tariff heading 03.03, excluding subheadings 03.03 B I a) and 03.03 B III, and
- 200 tonnes for products of tariff heading 16.04;

Whereas the other products are not imported;

Whereas when the said products are imported within the limits of these tariff quotas they shall qualify for a progressive reduction of customs duties in accordance with the same timetable and under the same conditions as those laid down by article 173 of the Act of Accession, subject to compliance with the reference prices; whereas, however, when the said products are imported into Portugal, the duties applicable shall be calculated on the basis of the relevant provisions of the Act of Accession; whereas in accordance with the relevant provisions of the above-mentioned Act of Accession, the tariff measures shall not have effect until 1 March 1986; whereas the tariff quotas in question should therefore be opened for the period from 1 March to 31 December 1986 ;

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(1) O.J. N° L 302 of 15.11.1985, p. 400 and 410

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quotas and uninterrupted application of the rates laid down for these quotas to all imports of the products concerned into all Member States until the quotas have been used up ; whereas, having regard to the principles mentioned above, the Community nature of the quotas can be respected by allocating the Community tariff quotas among the Member States ; whereas, in order to reflect as accurately as possible the true trend of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics for imports of the products concerned originating in the Canary Islands over a representative reference period and also to the economic outlook for the quota period in question ;

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

ANNEX B

Member States	heading 03.01 fish, fresh			heading 03.03 crustaceans and molluscs		
	1982	1983	1984	1982	1983	1984
Benelux	-	-	-	-	-	-
Denmark	-	58	95	-	-	-
Germany	21	-	19	1	-	-
Greece	-	-	-	-	-	-
France	32	66	64	11	5	-
Ireland	-	-	-	-	-	-
Italy	-	-	38	-	-	62
United Kingdom	37	178	135	-	-	-
Portugal	-	-	-	-	-	-
EEC	90	302	351	12	5	62

Member States	heading 16.04 prepared or preserved fish		
	1982	1983	1984
Benelux	-	93	186
Denmark	-	-	-
Germany	-	-	-
Greece	-	-	-
France	-	-	-
Ireland	-	-	-
Italy	-	20	-
United Kingdom	18	282	-
Portugal	-	-	-
EEC	18	395	186

Whereas over the last three years only certain Member States have effected regular imports of the products in question, while there has been no importation whatsoever, or only sporadic importation, into the other Member States; whereas in these circumstances it is advisable, as a first step, to allocate initial quota shares to those Member States which actually import the products concerned, while guaranteeing the other Member States access to the tariff quotas when imports into these countries are recorded; whereas this method of allocation ensures a uniform application of the Common Customs Tariff;

Whereas, in order to take into account import trends for the products concerned in the various Member States, each quota should be divided into two instalments, the first being shared among certain Member States and the second constituting a reserve to cover the subsequent requirements of these Member States where they have used up their initial shares and any additional requirements which might arise in the other Member States;

whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quotas should, under the circumstances, be fixed at 80% respectively of the quota volumes ;

Whereas, the Member States' initial shares may be used up at different times ; whereas, in order to take this fact into account and avoid any break in continuity, any Member State which has almost used up its initial quota shares should draw an additional share from the corresponding reserve ; whereas this must be done by each Member State as and when each of its additional shares is almost used up, and repeated 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 method of administration requires close cooperation between the Member States and the Commission and the latter must be in a position to monitor the extent to which the quota amounts have been used up and to inform Member States thereof ;

Whereas, if, at a given date in the quota period, a substantial quantity remains unused in any Member State, it is essential that that Member State should return a significant proportion to the corresponding reserve to prevent a part of any 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 relating to the administration of the quota shares allocated to that economic union may be carried out by any of its members,

Whereas Article 2 (3) of the Treaty of Accession provides that the institutions of the Community may adopt the measures referred to in Article 3 of Protocol No 2 before the Accession, these measures entering into force subject to and on the date of the entry into force of the said Treaty,

HAS ADOPTED THIS REGULATION :

ANNEX B

Article 1

1. From 1 March until 31 December 1986 Community tariff quotas shall be opened in the Community excluding Spain for the following products, originating in the Canary Islands, within the limits set out below :

CCT No	Description	Quota
ex 03.01	Fish, fresh (live or dead) chilled or frozen, excluding products of subheadings 03.01 A I c) and d), 03.01 A IV, 03.01 B I a) 1, 03.01 B I b) 1, 03.01 B I c) 1 and 03.01 B I o) 1	247 tonnes
ex 03.03	Crustaceans and molluscs, whether in shell or not, fresh (live or dead), chilled, frozen, salted, in brine or dried; crustaceans, in shell, simply boiled in water, excluding products of subheadings 03.03 B I a) and 03.03 B III	26 tonnes
16.04	Prepared or preserved fish, including caviar and caviar substitutes	200 tonnes



ANNEX B

2. Within the limits of these tariff quotas the quota duties set out below for each of the tariff headings and subheadings shall be applicable :

Heading and subheading of the Common Customs Tariff	Quota duty %	Heading and subheading of the Common Customs Tariff	Quota duty
03.01 A I a)	10,5	03.03 A I	10,9
b)	2,1	II	free
II	3,0	III a)	7,7
III	7,0	b), c)	13,1
B I a) 2	13,1	IV a)	10,5
b) 2	11,3	b), c)	15,7
c) 2	19,2	V	10,5
d)	20,1	B I b)	13,7
e),f),g)	7,0	II	6,5
h)	11,2	IV a) 1 aa)	5,2
i),j),k)l)	13,1	bb)	5,2
m),n)		cc)	5,2
o) 2	17,5	dd)	7,0
p),q),r)s)	13,1	2,3,4}	7,0
t),u),v)w)		5,6}	
x),y)			
II a)	15,7	b) 1 aa)	5,2
b) 1,2,3	13,1	bb)	5,2
4	11,2	cc)	7,0
5,6	13,1	dd)	7,0
7	15,7	2	7,0
8,9,10,11,12,13	13,1	16.04 A	26,2
14,15,16,17		B I	5,1
C		II	6,1
		C I	13,1
	II	17,5	
	D	22,7	
	E	21,0	
	F	21,8	
	G I	13,1	
	II	17,5	

Within the limit of these tariff quotas, Portugal shall apply customs duties calculated in accordance with the relevant provisions of the 1985 Act of Accession.

ANNEX B

3. In order to benefit from the tariff quotas, the products concerned must comply with the reference prices applicable to them.
  
4. The fishery products covered by this article may not receive the benefit of the tariff quotas unless, at the time of their presentation, in whatever form, to the authorities responsible for import formalities with a view to their release for free circulation within the Community's customs territory, they are presented in packings bearing the following information in a clearly visible and perfectly legible form :
  - the marking "Origin : Canary Islands" printed in Latin characters of a height of not less than 20 millimetres,
  - the species of the fish
  - the net weight in kilogrammes of the fish contained in the packings

In addition, pre-packed foodstuffs falling within CCT heading 16.04 must carry on each immediate packing in an easily visible, clearly legible and indelible form the marking "made in the Canaries".

The provisions of this paragraph are applicable without prejudice to the specific rules in Regulations (EEC) no.103/76 (1) and no. 104/76 (2).

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(1) O.J. n° L 20 of 28.1.1976, p. 29.  
(2) O.J. n° L 20 of 28.1.1976, p. 35.

ANNEX B

Article 2

1. The tariff quotas referred to in Article 1 shall be divided into two parts.
2. The first part of each tariff quota shall be allocated among certain Member States in the form of quota shares which, subject to Article 5, shall be valid until 31 December 1986. For each of these Member States the shares shall be as follows :

a) for the products of heading ex 03.01 :

Denmark	40 tonnes,
Germany	10 tonnes,
France	44 tonnes,
Italy	10 tonnes,
United Kingdom	94 tonnes.

b) for the products of heading ex 03.03 :

France	4 tonnes,
Italy	16 tonnes.

c) for the products of heading 16.04 :

Benelux	73 tonnes,
Italy	7 tonnes,
United Kingdom	80 tonnes.

3. The second part of each quota, respectively
  - 47 tonnes for the products of heading ex 03.01,
  - 6 tonnes for the products of heading ex 03.03, and
  - 40 tonnes for the products of heading 16.04shall constitute the corresponding Community reserve.

4. If an importer notifies the imminent import of the product in question into the other member States and requests the 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 90 % or more of a Member State's initial share as specified in Article 2 (2), or 90 % of that share minus the portion returned to the corresponding reserve where Article 5 has been applied, has been used up, then, to the extent permitted by the amount of the reserve, that Member State shall forthwith, by notifying the Commission, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next unit.

2. If, after one of its initial shares has been used up, 90 % or more of the second share drawn by a Member State has been used up, then that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next unit.

3. If, after one of its second shares has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions laid down 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, a Member State may draw shares smaller than those fixed in those paragraphs if there is reason to believe that they might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

*Article 4*

The additional shares drawn pursuant to Article 3 shall be valid until 31 December 1986.

*Article 5*

The Member States shall return to the reserve, not later than 1 October 1986, such unused portion of their initial share as, on 15 September 1986, is in excess of 20 % of the initial volume. They may return a larger quantity if there are grounds for believing that this quantity may not be used.

The Member States shall notify the Commission, not later than 1 October 1986 of the total quantities of the products in question imported up to 15 September 1986 and charged against the tariff quota and of any quantity of the 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, as soon as it is notified, shall inform each State of the extent to which the reserves have been used up.

It shall inform the Member States, not later than 5 October 1986 of the amount in each reserve after quantities have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts any 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 measures necessary to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their accumulated shares of the tariff quota.

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

3. Member States shall charge imports of the products in question against their shares as and when the products are entered with the customs authorities for free circulation.

4. The extent to which a Member States has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

*Article 8*

At the Commission's request, the Member States shall inform it of imports of the products concerned actually charged against their 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 1986, subject to the entry into force of the Treaty of Accession of Spain and Portugal. It shall apply from 1 March 1986.

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

Done at Brussels,

*For the Council*  
*The President*