

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 210 final

Brussels, 29th April 1981

DRAFT COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration
of a Community tariff quota for certain eels falling within
subheading ex 03.01 A II of the Common Customs Tariff
(1 July 1981 to 30 June 1982)

(presented by the Commission to the Council)

COM(81) 210 final

Explanatory memorandum

1. In recent years, eel fishing has been prohibited or has become impossible in certain Community production centres owing to pollution of the waters. Efforts have been made to increase production in other centres in order to compensate at least for the losses of the quantities available. Despite these efforts, it has been observed that Community production has remained insufficient to supply the demands of the Member States' fish processing industries.

This situation prompted the Council -on a proposal from the Commission- to open from 1971 a duty-free Community tariff quota for certain fresh eels live or dead, chilled or frozen, falling within subheading ex 03.01 A II of the Common Customs Tariff.

The situation of the eel market was reexamined at a meeting of the Working Party on Economic Tariff Problems held on 29 January 1981.

At that meeting it emerged that the supply situation had not undergone any appreciable change and consequently it seemed advisable to envisage a prorogation of the tariff measures currently in force by opening an annual tariff quota for the period from 1 July 1981 to 30 June 1982. The volume of this tariff quota could be fixed at 7 400 tonnes, this corresponding broadly to the stated requirements of the Member States for imports from third countries. Any subsequent requirements could be covered by a decision to increase the quota volume following a reexamination of the situation.

As regards the subdivision of the above-mentioned volume of 7 400 tonnes, a first instalment of 5 920 tonnes is allocated among the Member States in proportion to requirements. The balance of 1 480 tonnes will constitute the Community reserve.

This is the objective of the attached draft.

2. The question was also raised concerning the basis on which the customs duties must be calculated on imports from Greece of eels, which are subject to the tariff quota, during the period when this quota is opened.

In this connexion, it is appropriate to reiterate that customs duties on imports between the Community of the Nine and the Hellenic Republic are determined by Article 25 of the 1979 Act of Accession and are conditional upon the basic duty defined in Article 24 as being the duty actually applied on 1 July 1980.

On that date, moreover, the Community of the Nine totally suspended the Common Customs Tariff duty, within the limits of an erga omnes Community tariff quota of 7 400 tonnes, no part of which was reserved for the benefit of any third country, including Greece.

With regard to the eels in question, it follows that the basic duty to be used in application of Article 25 is to be determined by the zero duty applicable within the limits of the tariff quota opened in 1980 until this quota has been totally used up, and by the residual duties actually applied on 1 July 1980 in each Member State, after this quota has been used up.

Accordingly, the duty on imports of such eels from Greece will be (i) zero duty until a tariff quota of a volume equivalent to that opened in 1980, viz. 7 400 tonnes, has been used up, and (ii) the residual duty applicable on 1 July 1980 in each Member State, reduced by 10 %, after this quota has been used up.

Invoking the provisions of Article 26 is therefore not justified at present. The question would be reconsidered if the quota volume were to be increased during the year.

However, as the provisions of the Act of Adhesion are directly applicable, no precisions on the tariff regime in force inside the Community should figure in the text of the Regulation on this tariff quota.

3. The customs duties applicable in Greece on import from the Community of Nine, are determined conforming to the same provisions of the Act of Adhesion corresponding, without prejudice to the application of Article 27, to the duties applicable on 1 July 1980.
4. As concerns the duty applicable in Greece in the context of this tariff quota the Regulations foresee that the duty is fixed in application of the provisions of the Act of Adhesion.

Draft

COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of a Community tariff quota for certain eels falling within subheading ex 03.01 A II of the Common Customs Tariff (1 July 1981 to 30 June 1982)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the draft Regulation submitted by the Commission,

Whereas eel fishing has been prohibited or has become impossible in certain Community production centres; whereas this has led to a drop in Community production of eels in general and particularly of fresh eels (live or dead), chilled or frozen, falling within subheading ex 03.01 A II of the Common Customs Tariff, intended for processing by curing or skinning enterprises or for use in the industrial manufacture of products falling within heading No 16.04 thereof; whereas the processing industries in the Community consequently depend to a large extent on imports for their supplies of eels; whereas, from 1 July 1981 to 30 June 1982, the application of the autonomous Common Customs Tariff duty should therefore be suspended totally on imports of the relevant products up to an appropriate quantitative limit; whereas the introduction of a Community measure of this nature is unlikely to harm Community production;

Whereas current demand not met by Community production which must therefore be met by imports can be estimated at 7 400 tonnes for the period 1 July 1980 to 30 June 1981; whereas a tariff quota for the relevant types of eel should therefore be opened for this period on the conditions set out above; whereas the fixing of the quota volume at this level does not, however, prevent its readjustment during the quota period;

Whereas it is in particular necessary to ensure to all importers in the Member States equal and uninter-

rupted access to the abovementioned quota and uninterrupted 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, in the light of these principles, the Community nature of the quota can be respected by allocating the tariff quota among the Member States listed below; whereas statistics available for these products do not give a clear picture of the market situation for them; whereas, therefore, it is not possible to allocate the quota among the Member States on the basis of import trends for the relevant products over the past few years; whereas, however, according to the estimates put forward by the Member States, initial shares may be fixed at the quantities set out in Article 2;

Whereas, in order to take into account import trends for the products concerned, the quota amount should be divided into two instalments, the first instalment being allocated, and the second forming a reserve intended subsequently to cover the requirements of the Member States which have used up their initial shares; whereas, in order to ensure a certain degree of security for importers, the first instalment of the Community tariff quota should be fixed at a level which, under present circumstances, may be approximately 80 % of the quota amount;

Whereas the initial shares may be used up at different rates; whereas, in order to take this fact into account and to avoid any break in continuity, any Member State which has almost used up its total initial share should draw an additional share from the reserve; whereas this must be done by each Member State as and when each of its additional shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial additional shares must be valid until the end of the quota period; whereas this method of administration requires close cooperation between Member States and the Commission, which must be able to keep account of the extent to which the quota amount has been used up and to inform the Member States accordingly;

Whereas if, at a given date in the quota period, a considerable balance remains in one or other Member State it is essential, to prevent a part of the Community tariff quota from remaining unused in one Member State while it could be used in others, that that Member State should return a significant proportion thereof to the reserve ;

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. During the period 1 July 1981 to 30 June 1982, a Community tariff quota of 7 400 tonnes shall be opened for fresh eels (live or dead) chilled or frozen, falling within subheading ex 03.01 A II of the Common Customs Tariff, intended for processing by curing or skinning enterprises or for use in the industrial manufacture of products falling within heading No 16.04 of the Common Customs Tariff.

Control of the use for this special purpose shall be carried out pursuant to the relevant Community provisions.

2. Within the limits of this tariff quota, the Common Customs Tariff duty shall be totally suspended.

Within these limits, Greece shall apply duties calculated in accordance with the relevant provisions laid down in the 1979 Act of Accession.

Article 2

1. A first instalment of 5 920 tonnes of this Community tariff quota shall be allocated among the Member States. Member States' shares, which, subject to Article 5, shall be valid from 1 July 1981 to 30 June 1982, shall consist of the following amounts :

	(tonnes)
Benelux	2 708
Denmark	881
Germany	2 015
Greece	3
France	57
Ireland	3
Italy	4
United Kingdom	249

2. The second instalment of 1 480 tonnes shall constitute the reserve.

Article 3

1. If 90 % or more of a Member State's initial share as fixed in Article 2 (1), or of that share minus any portion returned to the reserve where Article 5 has been applied, has been used up, that Member State shall forthwith, by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 15 % of its initial share, rounded up as necessary to the next whole number.

2. If, after its initial share has been exhausted, 90 % or more of the second share drawn by a Member State has been used up, that Member State shall forthwith, by notifying the Commission, draw a third share equal to 7.5 % of its initial share, rounded up as necessary to the next whole number, to the extent that the reserve so permits.

3. If, after its second share has been exhausted, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in the manner provided in paragraph 2, draw a fourth share equal to the third.

This procedure shall apply until the reserve is used up.

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

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 30 June 1982.

Article 5

Member States shall return to the reserve, not later than 1 May 1982, the unused portions of their initial shares which, on 15 April 1982 are in excess of 20 % of the initial amounts. They may return a greater portion if there are grounds for believing that such portion may not be used in full.

Member States shall notify the Commission, not later than 1 May 1982, of the total quantities of the products in question imported, up to and including 15 April 1982 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, as soon as it has been notified, shall inform each State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 May 1982 of the amount still in reserve after amounts have been returned thereto 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. 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 aggregate shares of the Community quota.

2. Member States shall ensure that importers of the products in question established in their territory 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 State has used up its share shall be determined on the basis of the imports charged against that share in accordance with paragraph 3.

Article 8

At the Commission's request, Member States shall inform it of the 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 July 1981.

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

Done at

For the Council

The President

