

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 794 final

Brussels, 14 December 1981

Proposal for a
COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration
of a Community tariff quota for prepared or preserved
sardines falling within subheading 16.04 D of the
Common Customs Tariff and originating in Tunisia (1982)

(submitted to the Council by the Commission)

COM(81) 794 final

EXPLANATORY MEMORANDUM

1. The 1978 Agreement between the Community and Tunisia provide that prepared and preserved sardines originating in this country may be admitted duty free into the Community on condition that certain minimum prices are respected. The periods and the technical rules for application of this system must be fixed by an exchange of letters between the contracting parties. Since this exchange of letters has never taken place the arrangements provided for in the Agreement have not been implemented and those arising from the previous Association Agreement between the EEC and Tunisia were maintained in force until 31 December 1977.

The former arrangements in question provided for a tariff treatment which varied from one Member State to another. They cannot be extended since they are incompatible with the principles of the customs union and the rules of the Common commercial policy.

2. From 1 January 1978 therefore the Community replaced these arrangements by a Community tariff quota system which takes the interests involved into account pending the conclusion of the exchange of letters which will enable the provisions of the 1978 Agreement relating to prepared and preserved sardines to come into force.
3. Pending the imminent entry into force of the exchange of letters in question for which negotiations are in progress, the Commission is proposing that the Council should extend the tariff quota system and should therefore approve the attached proposal for Regulation on the opening, allocating and administering of a duty free Community quota tariff of 33 tonnes in respect of prepared and preserved sardines falling within subheading 16.04 D of the Common Customs Tariff originating in Tunisia.

This tariff quota shall apply from the day of entry into force of the regulation until 30 April 1982.

This is the subject of the annexed proposals.

4. The proposal for regulation opening this quota provide - as is customary - for the division of the quota volume into two instalments, the first being allocated among the Member States as quota shares, the second being held as a reserve.

The allocation of the volume of the first instalment of the quota should be based on the rules generally applied. These involve calculating each Member State's total imports of the last three years as a proportion of total Community imports during the same period and applying, for each Member State the percentage thus obtained to the volume of the first instalment.

IMPORTATION OF PREPARED AND CONSERVED SARDINES
ORIGINATING IN TUNESIA

- in tonnes -

MEMBER STATE	(in tonnes)		
	1978	1979	1980
BX	-	-	-
DK	-	-	-
D	-	-	-
GR	-	-	-
F	-	50	3
IRL	-	-	-
IT	-	-	-
UK	-	-	-
CE	-	50	3

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opening, allocating and providing for the administration of a Community tariff quota for prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Tunisia (1982)

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 proposal from the Commission,

Whereas the Cooperation Agreement between the Community and Tunisia provides that prepared and preserved sardines, falling within subheading 16.04 D of the Common Customs Tariff and originating in Tunisia, may be imported into the Community free of duties; whereas the detailed arrangements must be fixed by an exchange of letters between the Community and Tunisia; whereas, since this exchange of letters has not yet taken place, it is advisable to renew until 30 April 1982 the Community arrangements which were applied in 1981; whereas it is advisable to open

a Community tariff quota, for the importation into the Community of the products in question, of 33 tonnes free of duty; whereas this tariff quota is to apply from $\sqrt{\quad}$ until the conclusion of the exchange of letters provided for in Article 18 of the Cooperation Agreement between the Community and Tunisia, until such time as Community arrangements for imports of the products in question are applied or until 30 April 1982, whichever shall be the earliest;

the date of entry into force of
this Regulation

Whereas, since a Protocol as provided for in Article 118 of the 1979 Act of Accession does not exist, the Community must adopt the measures referred to in Article 119 of that Act; whereas the tariff measure concerned will, therefore, apply to the Community of Nine;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the above-mentioned 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, having regard to the above principles, the Community nature of the quota can be respected by allocating the Community tariff quota 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, on the one hand, by reference to the statistics for imports from Tunisia over a representative reference period

(1) OJ N° L 264 of 27.9.1978, p. 5.

and, on the other hand, by reference to the economic outlook for the quota period in question ;

Whereas, during the last three years for which statistics are available, the corresponding imports into each of the Member States represent the following percentages of imports into the Community from Tunisia of the products concerned :

Member States	1978	1979	1980
Benelux	—	—	—
Denmark	—	—	—
Germany	—	—	—
France	—	100 (=50t)	100 (= 3 t)
Ireland	—	—	—
Italy	—	—	—
United Kingdom	—	—	—

Whereas these data cannot be considered as representative and cannot serve as a basis for allocation of the quota among the Member States ; whereas it is difficult to forecast the Member States' imports for 1981 because of the absence of any pattern in previous years ; whereas, in order that the quota may be allocated fairly, the initial quota shares may be fixed approximately at the following percentages :

Benelux	12
Denmark	4
Germany	20
France	36
Ireland	4
Italy	4
United Kingdom	20

Whereas, in order to take into account import trends for the products concerned in the various Member States, each of the quota amounts should be divided into two instalments, the first being shared among the Member States and the second constituting a reserve to cover at a later date the requirements of the Member States which have used up their initial quota

shares; whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quota might, under the circumstances, be fixed at 75% of the quota volume;

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 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 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 volume has been used up and to inform the Member States thereof;

Whereas if, at a given date in the quota period, a substantial quantity of an initial share remains unused in any Member State, it is essential that that Member State should return a significant proportion to the 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,

HAS ADOPTED THIS REGULATION:

Article 1

From the date of entry into force of this Regulation until the conclusion or the exchange of letters referred to in Article 18 of the Cooperation Agreement between the Community and Tunisia, until such time as Community import arrangements are applied or until 30 April 1982, whichever shall be the earliest, a duty-free Community tariff quota of 33 tonnes shall be opened, for imports into the Community of Nine, of prepared or preserved sardines falling within subheading 16.04 D of the Common Customs Tariff and originating in Tunisia.

Article 2

1. The tariff quota referred to in Article 1 shall be divided into two instalments.

2. A first instalment, amounting to 25 tonnes of the Community tariff quota referred to in Article 1, shall be allocated among the Member States; the shares, which subject to Article 5 shall be valid until the end of the period specified in Article 1, shall be as follows:

	(tonnes)
Benelux	3
Denmark	1
Germany	5
France	9
Ireland	1
Italy	1
United Kingdom	5

3. The second instalment of 8 tonnes shall constitute the reserve.

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 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 15% 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, to the extent permitted by the amount of the reserve, that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share equal to 7.5% 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 the end of the period specified in Article 1.

Article 5

The Member States shall return to the reserve, not later than 1 April 1982 such unused portion of their initial share as, on 15 March 1982, 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 April 1982, of the total quantities of the products in question imported up to 15 March 1982 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 Member State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 April 1982, of the amount in the 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, 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 established in their territory have free access to the shares allocated to them.

3. The extent to which a Member State has used up its shares shall be determined on the basis of the imports of the products in question originating in Tunisia and entered with customs authorities for free circulation.

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

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

Done at Brussels,

For the Council
The President