COUNCIL REGULATION (EEC) No 3081/78

of 18 December 1978

opening, allocating and providing for the administration of Community tariff quotas for port wines, falling within heading No ex 22.05 of the Common Customs Tariff and originating in Portugal (1979/80)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas Article 4 of Protocol 8 to the Agreement between the European Economic Community and the Portuguese Republic (2), as amended by the Interim Agreement between the European Economic Community and the Portuguese Republic (3), provides that customs duties on imports into the Community of certain wines originating in Portugal shall be reduced:

— by 60% in the case of the duties applicable to port wines falling within subheadings ex 22.05 C III a) 1 and ex 22.05 C IV a) 1 of the Common Customs Tariff, up to a total annual tariff quota of 35 000 hectolitres, and

— by 50% in the case of the duties applicable to port wines falling within subheadings ex 22.05 C III b) 1 and ex 22.05 C IV b) 1 of the Common Customs Tariff up to a total annual tariff quota of 280 000 hectolitres;

Whereas, owing to certain characteristic features inherent in the production and marketing of the product in question, the expiry date for the validity of the tariff quotas should henceforward be fixed at 30 June; whereas the tariff quotas should therefore be opened for the period 1 January 1979 to 30 June 1980, and the volumes increased to 52 500 and 420 000 hectolitres respectively; whereas these wines remain subject to the provisions governing the common organization of the market in wine products, especially as regards observance of the reference price;

Whereas Council Regulation (EEC) No 2506/75 of 29 September 1975 laying down special rules for the importation of products in the wine-growing sector originating in certain third countries (4) introduced the idea of a free-at-frontier reference price, being the reference price less customs duties actually levied;

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 above principles, the Community nature of the quotas can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect as accurately as possible the actual trend of the market in the products concerned, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics of each State's imports of the said products from Portugal over a representative reference period and also to the economic outlook for the quota period in question;

Whereas available Community statistics give no information on the situation of port wines on the markets; whereas, however, Portuguese statistics for exports of these products to the Community during the past few years can be considered to reflect approximately the situation of Community imports; whereas on this basis the corresponding imports by each of the Member States during the past three years represent the following percentages of the imports into the Community from Portugal of the products concerned:

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(1) OJ No C 261, 6. 11. 1978, p. 46.
(2) OJ No L 301, 31. 12. 1972, p. 165.
(3) OJ No L 266, 29. 9. 1976, p. 2.
(4) OJ No L 256, 2. 10. 1975, p. 2.

	1975	1976	1977
Port wines:			
— in containers holding two litres or less:			
— Benelux	18·8	17·8	20·0
— Denmark	6·0	6·2	5·6
— Germany	15·3	11·0	9·2
— France	29·0	36·0	36·3
— Ireland	0·4	0·2	0·5
— Italy	16·1	18·3	16·6
— United Kingdom	14·4	10·5	11·8
— in containers holding more the two litres:			
— Benelux	13·4	15·7	17·1
— Denmark	5·5	7·0	5·2
— Germany	10·4	6·4	8·6
— France	39·4	46·5	47·0
— Ireland	1·2	0·6	0·1
— Italy	—	0·0	—
— United Kingdom	30·1	23·8	22·0

Whereas, in view of these factors and of the estimates submitted by certain Member States, initial quota shares may be fixed approximately at the following percentages:

Member States	Port wines in containers holding:	
	two litres or less	more than two litres
Benelux	16·6	14·6
Denmark	5·7	6·6
Germany	14·9	8·7
France	29·7	42·5
Ireland	0·8	0·2
Italy	18·6	0·1
United Kingdom	13·7	27·3

Whereas, in order to take into account import trends for the products concerned in the various Member States, each of the quota volumes should be divided into two instalments, the first being allocated among the Member States and the second constituting a reserve to cover at a later date the requirements of 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 quotas should, under the present circumstances, be fixed at 90% of each of the quota volumes;

Whereas the initial quota shares of the Member States 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 quota 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 quota 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 Commission must be in a position to monitor the extent to which the quota volumes have been used up and inform the Member States thereof:

Whereas if, at a given date in the quota period, a considerable quantity of an initial share remains unused in any Member State, it is essential that that Member States should return a significant proportion to the reserve to prevent a part of the Community 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 one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January 1979 to 30 June 1980, Community tariff quotas shall be opened for products originating in Portugal, within the limits set out below:

(hl)

CCT heading No	Description	Quota amount
ex 22.05 C III a) 1 ex 22.05 C IV a) 1	Port wines	52 500
ex 22.05 C III b) 1 ex 22.05 C IV b) 1	Port wines	420 000

2. The Common Customs Tariff duties on wines imported within these tariff quotas shall be suspended at the rates set out below:

(u.a./hl)

CCT heading No	Rate of duty
ex 22.05 C III a) 1	5·4
ex 22.05 C IV a) 1	5·8
ex 22.05 C III b) 1	5·5
ex 22.05 C IV b) 1	6·0

3. The admission of these wines under the Community tariff quotas referred to in paragraph 1 shall be conditional upon observance of the reference price applicable to them.

4. The wines in question shall benefit from these tariff quotas on condition that the prices on import into the Community are not at any time less than the free-at-frontier reference prices applicable thereto, as specified in Regulation (EEC) No 2506/75, and in subsequent instruments.

Article 2

1. Each of the tariff quotas referred to in Article 1 shall be divided into two parts.

(a) The first part of each quota, namely 17 500 and 140 000 hectolitres respectively, shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid until 31 December 1979, shall be as follows:

(hl)

Member States	Port wines falling within subheadings:	
	ex 22.05 C III a) 1 and ex 22.05 C IV a) 1	ex 22.05 C III b) 1 and ex 22.05 C IV b) 1
Benelux	2 905	20 440
Denmark	998	9 240
Germany	2 607	12 180
France	5 197	59 500
Ireland	140	280
Italy	3 255	140
United Kingdom	2 398	38 220
Total	17 500	140 000

(b) Any quantity remaining on 31 December 1979 of the share of a Member State shall be added on 1 January 1980 to the share allocated to it under paragraph 2 (a) below.

Member States shall notify the Commission by 15 January 1980 at the latest of any quantities remaining on 31 December 1979 of the shares allocated to them under paragraph 1 (a) above.

2. The second part of each quota, namely 35 000 and 280 000 hectolitres respectively, shall be divided into two instalments.

(a) A first instalment of the second part of each quota shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid from 1 July 1979 to 30 June 1980, shall be as indicated below; however, Member States may not use these shares until they have used up the shares allocated to them under paragraph 1 above.

(hl)

Member States	Port wines falling within subheadings:	
	ex 22.05 C III a) 1 and ex 22.05 C IV a) 1	ex 22.05 C III b) 1 and ex 22.05 C IV b) 1
Benelux	5 250	36 790
Denmark	1 800	16 630
Germany	4 690	22 000
France	9 350	107 100
Ireland	250	500
Italy	5 870	100
United Kingdom	4 290	68 880
Total	31 500	252 000

(b) The second instalment of the second part of each quota, namely 3 500 and 28 000 hectolitres respectively, shall constitute the corresponding reserve.

Article 3

1. If 90% or more of one of the Member State's initial shares as specified in Article 2 (2), or of that share minus the portion returned to the reserve where Article 5 is 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 these might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Each of the additional shares drawn pursuant to Article 3 shall be valid until 30 June 1980.

Article 5

Member States shall return to the reserve, not later than 1 April 1980, the unused portion of their initial share which, on 15 March 1980, is in excess of 20% of the initial volume. They may return a larger quantity if there are grounds for believing that it might not be used.

Each Member State shall, not later than 1 April 1980, notify the Commission of the total quantities of the products concerned imported up to 15 March 1980 inclusive and charged against the Community quotas and of any quantities of the initial shares returned to each 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 it is notified, inform each State of the extent to which the reserves have been used up.

It shall, not later than 5 April 1980, inform the Member States of the amount in each reserve after quantities have been returned thereto pursuant to Article 5.

The Commission shall ensure that any drawing which uses up any reserve is limited to the balance available and, to this end, shall specify the amount thereof to the Member State which makes 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 Community quotas.

2. The Member States shall ensure that importers of the products concerned 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 concerned originating in Portugal as and when the goods are entered with customs authorities for home use.

Article 8

At the request of the Commission, 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 in order to ensure that this Regulation is complied with.

Article 10

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels, 18 December 1978.

For the Council

The President

H.-D. GENSCHER