COUNCIL REGULATION (EEC) No 924/78

of 2 May 1978

on the opening, allocation and administration of a Community tariff quota for sherry, falling within heading No ex 22.05 of the Common Customs Tariff and originating in Spain

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, on the signing of the Agreement between the European Economic Community and Spain [1] on 29 June 1970, the Community undertook to grant preferential tariff arrangements for imports into the Community of certain wines originating in Spain, in particular sherry; whereas, in order to satisfy this undertaking, the Community has opened each year two tariff quotas, namely:

— 40 000 hectolitres at a duty rate of 40 % of the Common Customs Tariff duties, for sherry in containers holding two litres or less, falling within subheadings ex 22.05 C III a) 1 and ex 22.05 C IV a) 1 and originating in Spain,

— 210 000 hectolitres at a duty rate of 50 % of the Common Customs Tariff duties, for sherry in containers holding more than two litres, falling within subheadings ex 22.05 C III b) 1 and ex 22.05 C IV b) 1 and originating in Spain;

Whereas these preferential tariff arrangements were laid down only for imports of these products into the Member States of the Community as originally constituted; whereas, under the Act of Accession, importation of these products into the three new Member States are subject to Common Customs Tariff duties with effect from 1 July 1977; whereas the import arrangements for these products should be uniform throughout the Community; whereas, therefore, the aforementioned annual quotas should be increased to 108 000 and 685 000 hectolitres respectively; whereas by reason of special circumstances the Community has already opened Community tariff quotas by Regulations (EEC) No 3012/77 [2] and (EEC) No 532/78 [3] for the total volumes of 36 000 and 228 340 hectolitres respectively for the period 1 January to 30 April 1978;

Whereas tariff quotas should thus be opened for the said wines of 72 000 and 456 660 hectolitres respectively for the period 1 May to 31 December 1978;

Whereas, for particular reasons inherent in the method of production and distribution of the product concerned, the import of these wines into the Community is for the greater part carried out in the last months of each year; whereas as a consequence the volume of the quotas opened for the period 1 January to 30 April 1978 have not been able to be used up completely; whereas, by way of exception, it is necessary to provide for the residual amounts left over from this period to be taken into consideration so that they can be used during the period of validity of this Regulation;

Whereas these wines remain subject to the provisions governing the common organization of the market in wine; whereas inclusion in the Community tariff quota should be subject to production of movement certificate A.E.1 and a certificate of designation of origin as provided for in Regulation (EEC) No 1120/75 [4];

Whereas sherries which enter the geographic territory of the Community from 1 May 1978 must respect the reference prices applicable to them and also the provisions of 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 [5] which 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 to 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 most accurately the actual development of the market in the products concerned, such allocation should be in proportion to the needs of the Member States, assessed by reference to both the statistics of each State's imports of the said products from Spain over a representative period and the economic outlook for the quota period concerned;

---

(1) OJ No L 182, 16. 8. 1970, p. 2.
(2) OJ No L 355, 31. 12. 1977, p. 27.
(3) OJ No L 74, 16. 3. 1978, p. 1.
(4) OJ No L 111, 30. 4. 1975, p. 19.
(5) OJ No L 256, 2. 10. 1975, p. 2.

Whereas available Community statistics give no information on the situation of sherry on the markets; whereas, however, Spanish 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 Spain of the products concerned:

	1974	1975	1976
Sherry:			
— in containers holding two litres or less:			
Benelux	45·5	49·5	62·5
Denmark	3·7	5·2	5·7
Germany	12·1	12·0	13·4
France	0·4	0·3	0·3
Ireland	2·8	1·3	1·0
Italy	4·9	1·4	1·2
United Kingdom	30·6	30·3	15·8
— in containers holding more than two litres:			
Benelux	25·7	39·9	35·3
Denmark	3·2	2·9	5·1
Germany	2·4	2·9	3·4
France	0·1	0·1	0·1
Ireland	1·0	0·7	0·9
Italy	0·0	0·0	0·0
United Kingdom	67·6	53·5	55·2

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:

	Sherry in containers holding:	
	two litres or less	more than two litres
Benelux	53·61	33·46
Denmark	5·05	3·83
Germany	13·20	2·99
France	0·31	0·03
Ireland	2·06	0·78
Italy	2·11	0·01
United Kingdom	23·66	58·90

Whereas, in order to take into account import trends for the products concerned in the different Member States, each of the quota amounts should be divided into two instalments, the first instalment being allocated among the Member States and the second forming a reserve intended ultimately to cover the requirements of the Member States which have used up their initial quota shares; whereas, in order to ensure a certain degree of security to importers in each Member State, the first instalment of the Community quotas should be determined at a level which, under present circumstances, may be about 90 % of each of the quota amounts;

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, it is important that any Member State having used up almost the whole of one of 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 quota shares is almost entirely used up and repeated as many times as the reserve allows; whereas the initial and additional quota shares must be available for use until the end of the quota period; whereas this method of administration calls for close cooperation between Member States and the Commission, which must, in particular, be able to observe the extent to which the quota amounts are used and inform Member States thereof;

Whereas if at a specified date in the quota period a considerable balance remains in one or other Member State it is essential that that Member State pays a large amount of it back into the reserve in order to avoid a part of the Community quota 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 in and 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 May until 31 December 1978, the Common Customs Tariff duties in respect of the sherries mentioned below originating in Spain shall be suspended at the levels or within the limits of the Community tariff quotas indicated for each of them:

CCT heading No	Description	Rate (in u.a./hl)	Quota volume (in hl)
ex 22.05 C III a) 1	Sherry	5·4	72 000
ex 22.05 C IV a) 1	Sherry	5·8	
ex 22.05 C III b) 1	Sherry	5·5	456 660
ex 22.05 C IV b) 1	Sherry	6·0	

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 Spain shall be applicable.

3. The inclusion of sherry in the Community tariff quotas referred to in paragraph 1 shall be conditional upon production of a movement certificate A.E.1 and a certificate of designation of origin as provided for in Regulation (EEC) No 1120/75 and endorsed by the Spanish customs authorities.

Sherry entering the geographic territory of the Community from 1 May 1978 must in addition, in order to benefit from these tariff quotas, observe the reference prices applicable to them and also prices not less than the free-at-frontier reference prices referred to in Regulation (EEC) No 2506/75 and subsequent texts which are applicable to them.

Article 2

1. The quotas laid down in Article 1 shall be divided into two instalments.

2. A first instalment of each quota shall be allocated among the Member States; the respective shares, which shall be valid until 31 December 1978, shall be as follows:

	Sherry 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	34 740	137 520
Denmark	3 270	15 740
Germany	8 560	12 290
France	200	120
Ireland	1 330	3 210
Italy	1 370	40
United Kingdom	15 330	242 080
Total	64 800	411 000

3. The shares fixed in paragraph 2 shall be increased by any part of the shares allocated by Regulations (EEC) No 3012/77 and (EEC) No 532/78 remaining on 30 April 1978.

Member States shall notify the Commission not later than 15 May 1978 of any part of the shares allocated to them under the abovementioned Regulations remaining on 30 April 1978.

4. The second instalment of each quota, that is 7 200 and 45 660 hectolitres respectively, shall form the corresponding reserve. Any part of the reserves set up by Article 2 of Regulations (EEC) No 3012/77 and (EEC) No 532/78 remaining on 30 April 1978 shall be added thereto, irrespective of Article 5.

Article 3

1. If 90 % or more of one of the initial shares of a Member State, as laid down in Article 2 (2), has been exhausted, that Member State shall proceed without delay, by notifying the Commission, to draw a second share equal to 10 % of its initial share, rounded up to the next unit where appropriate, to the extent that the amount in the reserve allows.

2. If, after one or other of its initial shares have been exhausted, 90 % or more of the second share drawn by a Member State has been used, that Member State shall proceed in the manner specified in paragraph 1 to draw a third share equal to 5 % of its initial share, rounded up to the next unit where appropriate.

3. If, after one or other of its second shares have been exhausted, 90 % or more of the third share drawn by a Member State has been used, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State may proceed to draw shares smaller than those fixed in those paragraphs if there is reason to believe that those shares might not be used up. They shall inform the Commission of the reasons which led them to apply this paragraph.

Article 4

Each of the additional shares drawn pursuant to Article 3 shall be valid until 31 December 1978.

Article 5

The Member States shall return to the reserve, not later than 15 November 1978, the unused portion of their initial share which, on 1 November 1978, is in excess of 20 % of their initial amount. They may return a larger portion if there are reasons for believing that such portion may not be used in full.

The Member States shall, not later than 15 November 1978, notify the Commission of the total imports of the products concerned effected up to 1 November 1978 inclusive, and charged against the Community quota and, where appropriate, the proportion of its initial share that is being returned to the reserve.

Article 6

The Commission shall keep account of the shares opened by Member States in accordance with Articles 2 and 3 and shall inform each of them of the extent to which the reserve has been used as soon as it receives the notifications.

The Commission shall, not later than 20 November 1978, inform the Member States of the amount in the reserve after the return of shares pursuant to Article 5.

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

Article 7

1. The Member States shall take all appropriate measures to ensure that, when additional shares are drawn pursuant to Article 3, it is possible for charges to be made without interruption against their accumulated shares of the Community tariff quotas.

2. The Member States shall ensure that importers of the said goods established in their territory have free access to the shares allocated to them.

3. The extent to which Member States have used up their shares shall be determined on the basis of the imports of the products in question entered for home use.

Article 8

On receipt of a request from the Commission, Member States shall inform it of imports actually charged against their shares.

Article 9

The Member States and the Commission shall co-operate closely in order to ensure that this Regulation is observed.

Article 10

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 May 1978.

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

Done at Brussels, 2 May 1978.

For the Council

The President

K. B. ANDERSEN