COUNCIL REGULATION (EEC) No 2057/81

of 13 July 1981

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 (1981/82)

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 Article 9 of the Supplementary Protocol (1) to the Agreement between the European Economic Community and the Portuguese Republic (2) 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 100 000 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 260 000 hectolitres;

Whereas the Community adopted, in accordance with Article 119 of the 1979 Act of Accession, Council Regulation (EEC) No 3555/80 of 16 December 1980 determining the arrangements to be applied with regard to imports into Greece, originating in Algeria, Israel, Malta, Morocco, Portugal, Syria, Tunisia or Turkey (3); whereas therefore this Regulation applies to the Community of Nine;

Whereas the Declaration by the European Economic Community on Article 9 of the Supplementary Protocol (4) reserves the right to the Community to increase, as from 1 July 1981, the volume of the tariff quota referred to under (a) in so far as the tariff quota referred to under (b) has not been exhausted completely during the preceding period, the total volume remaining at 360 000 hectolitres; whereas during recent years an average quantity of 20 000 hectolitres of port wines referred to under (b) has not been exhausted; whereas, on the basis of the development of the importations of the wines in question during the two last quota periods, it is necessary to fix the tariff quotas for these wines at respectively 120 000 hectolitres and 240 000 hectolitres for the period 1 July 1981 to 30 June 1982;

Whereas Portugal has given an assurance that the price for wines originating in its territory will not be lower than the reference price less the customs duties actually charged; whereas, as a result thereof, the wines covered by those tariff quotas should be treated in the same manner as wines granted preferential tariff concessions, provided the free-at-frontier reference price is observed; whereas such wines benefit from the tariff concessions only if the provisions of Article 18 of Council Regulation (EEC) No 337/79 (5), as last amended by Regulation (EEC) No 3456/80 (6), are respected; whereas those provisions apply to imports under those quotas;

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 true trend of the market in the products concerned, such allocation should be in proportion to the requirements of the Member States, assessed by reference to the statistics of each State's imports from Portugal over a representative reference

(1) OJ No L 348, 31. 12. 1979, p. 44.
(2) OJ No L 301, 31. 12. 1972, p. 165.
(3) OJ No L 382, 31. 12. 1980, p. 1.
(4) OJ No L 348, 31. 12. 1979, p. 61.
(5) OJ No L 54, 5. 3. 1979, p. 1.
(6) OJ No L 360, 22. 12. 1980, p. 18.

period and also to the economic outlook for the quota period concerned;

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 three 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 for the past three years represent the following percentages of the imports into the Community from Portugal of the products concerned:

	1978	1979	1980
Port wines:			
— in containers holding two litres or less:			
Benelux	17·0	15·4	18·7
Denmark	4·8	3·5	3·7
Germany	9·5	8·6	6·1
France	42·3	49·7	51·8
Ireland	0·4	0·2	0·3
Italy	14·1	12·5	10·6
United Kingdom	11·9	10·1	8·7
— in containers holding more than two litres:			
Benelux	18·9	21·3	25·5
Denmark	5·3	6·2	6·3
Germany	6·7	6·9	6·2
France	44·6	38·7	38·0
Ireland	0·1	—	—
Italy	—	—	—
United Kingdom	24·4	26·7	24·0

Whereas, in view of these data and 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	17·21	21·64
Denmark	4·11	5·89
Germany	7·93	6·59
France	48·64	40·20
Ireland	0·48	0·08
Italy	12·24	0·11
United Kingdom	9·39	25·49

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 instalment being allocated among the Member States and the second forming 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 quotas should, under the present circumstances, be fixed at around 80 % 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, any Member State which has almost used up its initial quota share 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 Member States and the Commission and the latter must, in particular, be in a position to monitor the extent to which the quota volumes have been used up and to inform the Member States thereof;

Whereas if, at a given date in the quota period, a substantial quantity of one of the initial shares remains unused in one or other Member State it is essential that that Member State should return a significant proportion to the reserve, to prevent a part of any 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 July 1981 to 30 June 1982, Community tariff quotas shall be opened, in the Community of Nine for products originating in Portugal within the limits set out below:

(hectolitres)

CCT heading No	Description	Quota amount
ex 22.05 C III a) 1 ex 22.05 C IV a) 1	Port wines	120 000
ex 22.05 C III b) 1 ex 22.05 C IV b) 1	Port wines	240 000

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

(ECU/hl)

CCT heading No	Rate of duty
ex 22.05 C III a) 1	6·5
ex 22.05 C IV a) 1	7·0
ex 22.05 C III b) 1	6·6
ex 22.05 C IV b) 1	7·2

3. The wines shall benefit from these tariff quotas only if Article 18 (3) and (4) of Regulation (EEC) No 337/79 are respected.

Article 2

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

2. (a) The first instalment of each quota shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid until 30 June 1982, shall be as follows:

(hectolitres)

Member States	Port wines under 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	16 500	41 600
Denmark	3 940	11 330
Germany	7 600	12 670
France	46 640	77 270
Ireland	460	150
Italy	11 740	200
United Kingdom	9 000	49 000
Total	95 880	192 220

(b) The second instalment of each quota, namely 24 120 and 47 780 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 1982.

Article 5

The Member States shall return to the reserve, not later than 1 April 1982, the unused portion of their initial share which, 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 it might not be used.

The Member States shall, not later than 1 April 1982, notify the Commission of the total quantities of the products concerned imported up to 15 March 1982 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.

The Commission shall, not later than 5 April 1982 notify 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 free circulation.

Article 8

At the Commission's request 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 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, 13 July 1981.

For the Council

The President

Lord CARRINGTON