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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1902/82

of 13 July 1982

opening, allocating and providing for the administration of a Community tariff quota for sherry falling with heading No ex 22.05 of the Common Customs Tariff and originating in Spain (1982/83)

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 sherry originating in Spain; whereas this undertaking, in conjunction with Council Regulating (EEC) No 3559/80 of 16 December 1980 establishing the arrangements applicable to trade between Greece and Spain [2], now relates to the opening each year of the following two tariff quotas:

— 108 120 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 of the Common Customs Tariff and originating in Spain, and

— 685 000 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 of the Common Customs Tariff and originating in Spain;

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 Commission Regulation (EEC) No 1120/75 [3];

Whereas Spain 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 [4], as last amended by Regulation (EEC) No 3577/81 [5], 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 quotas 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 for imports of the said products from Spain over a representative reference period and also to the economic outlook for the quota period concerned;

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

[1] OJ No L 182, 16. 8. 1970, p. 2.
[2] OJ No L 382, 31. 12. 1980, p. 71.
[3] OJ No L 111, 30. 4. 1975, p. 19.
[4] OJ No L 54, 5. 3. 1979, p. 1.
[5] OJ No L 359, 15. 12. 1981, p. 1.

Member States during the past three years represent the following percentages of the imports into the Community from Spain of the products concerned :

	1978	1979	1980
Sherry :			
— in containers holding two litres or less :			
Benelux	50·36	52·69	50·1
Denmnark	3·44	3·16	2·7
Germany	20·17	21·01	24·6
Greece	0·00	0·031	0·0
France	0·31	0·26	0·3
Ireland	0·94	1·30	0·9
Italy	0·54	0·81	0·9
United Kingdom	24·24	20·74	20·5
— in containers holding more than two litres :			
Benelux	21·54	24·63	29·9
Denmark	4·20	3·03	3·2
Germany	2·84	3·69	1·8
Greece	0·00	0·00	0·0
France	0·03	0·02	0·1
Ireland	0·54	0·04	0·1
Italy	0·00	0·00	0·0
United Kingdom	70·85	68·59	64·9

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	Sherry in containers holding :	
	two litres or less	more than two litres
Benelux	50·87	25·16
Denmark	3·08	3·44
Germany	21·94	3·23
Greece	0·02	0·02
France	0·29	0·02
Ireland	1·43	0·50
Italy	0·72	0·10
United Kingdom	21·65	67·53

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 shared 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 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 one of its initial shares must draw an additional share from the corresponding 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 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 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 is left over 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 the Community quotas 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 1982 to 30 June 1983, the Common Customs Tariff duties in respect of the sherries mentioned below originating in Spain shall be partially suspended at the levels and within the limits of the Community tariff quotas indicated for each of them :

CCT heading No	Description	Rate (ECU/hl)	Quota volume (hectolitres)
ex 22.05 C III a) 1	Sherry	6·5	108 120
ex 22.05 C IV a) 1	Sherry	7·0	
ex 22.05 C III b) 1	Sherry	6·6	685 000
ex 22.05 C IV b) 1	Sherry	7·2	

Within the limits of this tariff quota, Greece shall apply customs duties calculated in accordance with the provisions of the 1979 Act of Accession.

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. In order that the wines in question may benefit from these tariff quotas, Article 18 (3) and (4) of Regulation (EEC) No 337/79 must be observed.

4. The inclusion of sherry in these Community quotas 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 endorsed by the Spanish customs authorities.

Article 2

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

2. A first instalment of each quota shall be shared among the Member States; the respective shares, which subject to Article 5 shall be valid until 30 June 1983, shall be as follows:

(hectolitres)

Member States	Sherry falling within subheading:	
	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	49 680	155 980
Denmark	3 010	21 330
Germany	21 430	20 000
Greece	20	100
France	280	150
Ireland	1 400	3 100
Italy	700	640
United Kingdom	21 150	418 700
Total	97 670	620 000

3. Second instalment of each quota, namely 10 450 and 65 000 hectolitres respectively, shall constitute the corresponding reserve.

Article 3

1. If 90 % or more of one of a Member State's initial shares as specified in Article 2 (2), or of that same share reduced by the portion returned to the corresponding reserve if Article 5 has been applied, has been used up, that Member State shall without delay by notifying the Commission draw a second share equal to 10 % of its initial share, rounded up where necessary to the next unit, to the extent permitted by the amount of the reserve.

2. If, after one or other of its initial shares has been used up, 90 % or more of the second 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 third share equal to 5 % of its initial share, rounded up to the next unit.

3. If, after one or other 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 same conditions, draw a fourth share equal to the third.

The 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

Each of the additional shares drawn pursuant to Article 3 shall be valid until 30 June 1983.

Article 5

The Member States shall return to the reserve, not later than 1 April 1983, the unused portion of their initial shares which, on 15 March 1983, 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, not later than 1 April 1983, notify the Commission of the total quantites of the products in question imported up to 15 March 1983 inclusive and charged against the Community quota, and of any quantities 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 shall as soon as it has been notified, inform each State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 April 1983, of the amount in the reserve after quantities have been returned pursuant to Article 5.

The Commission shall ensure that the drawing which uses up one of the reserves 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 State 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 quota.

2. The Member States shall ensure that importers of the said products 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 free circulation.

Article 8

At the request of the Commission, Member States shall inform it of imports 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*. It shall apply from 1 July 1982.

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

Done at Brussels, 13 July 1982.

For the Council

The President

P. NIELSON