COUNCIL REGULATION (EEC) No 1526/85

of 23 May 1985

opening, allocating and providing for the administration of Community tariff quotas for Madeira wines falling within heading No ex 22.05 of the Common Customs Tariff and originating in Portugal (1985/86)

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), completed by Council Regulation (EEC) No 2370/81 of 27 July 1981 laying down the arrangements applicable to trade between Greece and Portugal (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 Madeira 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 4 050 hectolitres,

— by 50 % in the case of the duties applicable to Madeira 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 14 500 hectolitres;

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 (4), as last amended by Regulation (EEC) No 775/85 (5), are respected; whereas those provisions apply to imports under these 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, calculated by reference to the statistics of each State's imports from Portugal 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 Madeira 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:

	1981	1982	1983
Madeira wines:			
— in containers holding two litres or less:			
Benelux	42,5	39,2	27,5
Denmark	6,0	6,0	7,0
Germany	7,2	2,7	8,2
Greece	2,2	—	—
France	2,2	1,5	0,3
Ireland	—	1,3	—
Italy	32,3	11,4	9,1
United Kingdom	7,6	37,9	47,9
— in containers holding more than two litres:			
Benelux	13,6	13,9	10,3
Denmark	6,7	6,0	5,9
Germany	13,3	14,9	15,5
Greece	—	—	—
France	55,6	52,7	56,3
Ireland	—	—	—
Italy	—	—	—
United Kingdom	10,8	12,5	12,0

(1) OJ No L 348, 31. 12. 1979, p. 44.
(2) OJ No L 301, 31. 12. 1972, p. 165.
(3) OJ No L 236, 21. 8. 1981, p. 1.
(4) OJ No L 54, 5. 3. 1979, p. 1.
(5) OJ No L 88, 28. 3. 1985, p. 1.

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

Member States	Madeira wines in containers holding:	
	two litres or less	more than two litres
Benelux	36,6	12,5
Denmark	6,3	6,2
Germany	6,0	14,4
Greece	0,8	0,1
France	1,4	54,9
Ireland	0,4	0,1
Italy	17,9	0,1
United Kingdom	30,6	11,7

Whereas, in order to take into account import trends for the products concerned in the various Member States, 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 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 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 its initial share should 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 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 Member States and the Commission, and the latter must be in a position to monitor the extent to which the quota volumes have been used up and to inform 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 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 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 1985 to 30 June 1986, Community tariff quotas shall be opened in the Community 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	Madeira wines	4 050
ex 22.05 C III b) 1 ex 22.05 C IV b) 1	Madeira wines	14 500

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

Within these tariff quotas, Greece shall apply customs duties calculated in accordance with the relevant provisions of the 1979 Act of Accession and of Regulation (EEC) No 2370/81.

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

Article 2

1. 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 1986 shall be as follows:

(hectolitres)

Member States	Madeira 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	1 335	1 635
Denmark	230	810
Germany	220	1 880
Greece	30	15
France	50	7 180
Ireland	15	15
Italy	655	15
United Kingdom	1 115	1 530
Total	3 650	13 080

3. The second instalment of each quota, 400 and 1 420 hectolitres respectively, shall constitute, the 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 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 10 % 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 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

Each of the additional shares drawn pursuant to Article 3 shall be valid until 30 June 1986.

Article 5

The Member States shall return to the reserve, not later than 1 April 1986, such unused portion of their initial share as, on 15 March 1986, 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 1986, notify the Commission of the total quantities of the products concerned imported up to 15 March 1986 and charged against the Community quotas and of any quantities 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 is notified, inform each State of the extent to which the reserves have been used up.

It shall, not later than 5 April 1986, inform the Member States of the amount in each reserve after the return of quantities 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 final 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 tariff quotas.

2. The Member States shall ensure that importers of the products concerned 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 and 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 1 July 1985.

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

Done at Brussels, 23 May 1985.

For the Council

The President

C. SIGNORILE