COUNCIL REGULATION (EEC) No 3389/85

of 18 November 1985

opening, allocating and providing for the administration of a Community tariff quota for wines of fresh grapes falling within subheading ex 22.05 C of the Common Customs Tariff and originating in Cyprus (1986)

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 the Supplementary Protocol to the Agreement establishing an Association between the European Economic Community and Cyprus (1) came to an end on 31 December 1980, whereas to avoid interruption of its trade relations with that country, the Community has made applicable for 1984 the provisions of the abovementioned Protocol in Council Regulation (EEC) No 3700/83 of 22 December 1983 laying down the arrangements applicable to trade with Cyprus (2);

Whereas, pending the definition of arrangements applicable beyond 31 December 1984, it is necessary to extend provisionally for 1986 the arrangements which the Community applies currently to trade with Cyprus on the basis of the abovementioned Supplementary Protocol;

Whereas the abovementioned Supplementary Protocol provides for the opening of an annual Community tariff quota of 10 000 hectolitres of certain wines of fresh grapes, in containers holding two litres or less, falling within subheading ex 22.05 C of the Common Customs Tariff and originating in Cyprus, at rates of customs duty equal to 25 % of the customs duty in the Common Customs Tariff, whereas the Community tariff quota should be opened for the period 1 January to 31 December 1986;

Whereas the wines in question are subject to compliance with the free-at-frontier reference price; whereas, in order that such wines may benefit from this tariff quota, Article 18 of Regulation (EEC) No 337/79 (3) as last amended by Regulation (EEC) No 2342/84 (4), must be complied with;

Whereas, in the absence of a protocol such as that provided for in Articles 179 and 366 of the Act of Accession of Spain and Portugal, the Community must take the measures referred to in Articles 180 and 367 of the said Act; whereas the tariff measure in question therefore applies to the Community of Ten;

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quota and uninterrupted application of the rates laid down for that quota to all imports of the products concerned into all Member States until the quota has been used up; whereas, having regard to the above principles, the Community nature of the quota 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 in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics for imports of the products in question from Cyprus over a representative reference period and also to the economic outlook for the quota period concerned;

Whereas, however, neither Community nor national statistics showing the breakdown for each of the types of wine in question are available and no reliable estimates of future imports can be made; whereas, in these circumstances, the quota should be allocated in initial shares on the basis of the likely demand for these wines on the markets of the various Member States;

Whereas, in order to take into account import trends for the products concerned in the various Member States, the quota volume 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 quota should under the present circumstances be fixed at 80 % of the quota volume;

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 quota share should draw an additional share from the reserve; whereas this must be done by each Member State as and when each

(1) OJ No L 172, 28. 6. 1978, p. 2.
(2) OJ No L 369, 30. 12. 1983, p. 1.
(3) OJ No L 54, 5. 3. 1979, p. 1.
(4) OJ No L 217, 14. 8. 1984, p. 6.

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 position to monitor the extent to which the quota volume has been used up and to inform the Member States;

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 the quota shares allocated to that economic union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1986, Common Customs Tariff duties, on import into the Community of Ten, in respect of the following products originating in Cyprus shall be suspended at the levels shown below within the limits of a Community tariff quota of 10 000 hectolitres:

CCT heading No	Description	Rate of duty
22.05	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol:	
	C. Other:	
	I. Of an actual alcoholic strength by volume not exceeding 13 % vol, in containers, holding:	
	ex a) Two litres or less:	
	— Wine of fresh grapes	3,6 ECU per hl
	II. Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol in containers holding:	
	ex a) Two litres or less:	
	— Wine of fresh grapes other than liqueur wines of an actual alcoholic strength by volume of 15 % vol	4,2 ECU per hl

2. The wines in question shall be subject to compliance with the free-at-frontier reference price. In order that such wines may benefit from this tariff quota Article 18 of Regulation (EEC) No 337/79 must be complied with.

Article 2

1. The Communitiy tariff quota referred to in Article 1 shall be divided into two instalments.

2. A first instalment, amounting to 8 000 hectolitres, shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid until 31 December 1986 shall be as follows:

	(hectolitres)
Benelux	10
Denmark	380
Germany	540
Greece	10
France	10
Ireland	340
Italy	10
United Kingdom	6 700

3. The second instalment, amounting to 2 000 hectolitres, shall constitute the reserve.

Article 3

1. If 90 % or more of a Member State's initial share as specified in Article 2 (2), or 90 % of that share minus the portion returned to the reserve where Article 5 has been 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 its initial share has been used up, 90 % or more of the second share drawn by a Member State has been used up, then 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 its second share 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 are grounds for believing that they might not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

The additional shares drawn pursuant to Article 3 shall be valid until 31 December 1986.

Article 5

Member States shall return to the reserve, not later than 1 October 1986, such unused portion of their initial share as, on 15 September 1986 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 notify the Commission, not later than 1 October 1986, of the total quantitites of the products in question imported up to 15 September 1986 and charged against the tariff quota and of any quantity of the initial shares returned to the reserve.

Article 6

The Commission shall keep an account of the shares opened by Member States in accordance with Articles 2 and 3 and, as soon as it is notified, shall inform each Member State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 October 1986 of the amount in the reserve after quantities have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve does not exceed the balance available and, to this end, notify the amount of the balance to the Member State making 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 quota.

2. The Member States shall ensure that importers of the products in question have free access to the shares allocated to them.

3. The extent to which a Member State has used up its share shall be determined on the basis of imports of the products in question entered with the customs authorities for free circulation.

Article 8

At the Commission's request, the 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 1986.

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

Done at Brussels, 18 November 1985.

For the Council

The President

M. FISCHBACH