COUNCIL REGULATION (EEC) No 1863/87

of 25 June 1987

opening, allocating and providing for the administration of Community tariff quotas for sherry falling within subheading ex 22.05 C of the Common Customs Tariff and originating in Spain (1987 to 1988)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 30, 33, second subparagraph, and 75 thereof,

Having regard to the proposal from the Commission,

Whereas, pursuant to Articles 30 and 75 of the Act of Accession, the duties applicable on the import into the Community as constituted on 31 December 1985 of sherry falling within subheading ex 22.05 C of the Common Customs Tariff and originating in Spain, within the limits of Community tariff quotas of 108 120 hectolitres in containers holding two litres or less and of 685 000 hectolitres in containers holding more than two litres, shall be progressively abolished; whereas these duties are reduced to 75 % of the basic duties on 1 January 1987 and to 62,5 % of the basic duties on 1 January 1988; whereas, by way of derogation from Article 30 of the Act of Accession, Council Regulation (EEC) No 443/86 [1] provides that the basic duties are those which were actually applied on 1 January 1986; whereas, in compliance with the second subparagraph of Article 33, a partial suspension of the duties applicable to sherry in containers holding two litres or less within the limits of a supplementary quantity of 250 000 hectolitres is indicated; whereas, to maintain the global level of these two quotas, the volume envisaged for sherry in containers holding more than two litres must be reduced by the same quantity; whereas, therefore, to establish the duties applicable on the import of these wines, Community tariff quotas should be opened for the period 1 July 1987 to 30 June 1988 for:

— 358 120 hectolitres for sherry, originating in Spain, falling within subheadings ex 22.05 C III a) 1 and ex 22.05 C IV a) 1 of the Common Customs Tariff and

— 435 000 hectolitres for sherry, originating in Spain, falling within subheadings ex 22.05 C III b) 1 and ex 22.05 C IV b) 1 of the Common Customs Tariff

at duties as shown in the list in Article 1;

Whereas Council Regulation (EEC) No 3792/85 of 20 December 1985 laying down the arrangements applying to trade in agricultural products between Spain and Portugal [2] provides for particular rules for the import into Portugal of the products in question, originating in Spain; whereas, consequently, the Community tariff quotas are applicable only in the Community as constituted on 31 December 1985;

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 product 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 product 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 product from Spain over a representative reference period and also to the economic outlook for the quota period concerned;

Whereas, during the last three years for which statistics are available, the corresponding imports into each of the Member States represent the following percentages of the imports into the Community from Spain of the product concerned:

	1984	1985	1986
Sherry:			
— in containers holding two litres or less:			
Benelux	40,93	40,80	35,79
Denmark	1,95	1,71	2,00
Germany	27,58	26,63	35,67
Greece	0,02	0,01	0,03
France	0,31	0,23	0,22
Ireland	1,24	1,11	0,75
Italy	0,26	0,33	0,22
United Kingdom	27,71	29,18	25,32
— in containers holding more than two litres:			
Benelux	41,96	41,27	36,33
Denmark	2,39	2,45	2,43
Germany	2,18	2,05	2,35
Greece	—	—	—
France	0,03	0,01	0,01
Ireland	0,66	0,87	0,76
Italy	—	—	—
United Kingdom	52,78	53,35	58,12

[1] OJ No L 50, 28. 2. 1986, p. 9.
[2] OJ No L 367, 31. 12. 1985, p. 7.

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 container holding	
	two litres or less	more than two litres
Benelux	39,21	39,85
Denmark	1,89	2,42
Germany	30,30	1,92
Greece	0,01	0,01
France	0,16	0,02
Ireland	1,03	0,76
Italy	0,27	0,01
United Kingdom	27,13	55,01

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 about 90 % and 95 % 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 it is possible that, during the period of applicability of the said quota, the nomenclature used by the Common Customs Tariff will be replaced by the combined nomenclature based on the International Convention on the Harmonized Commodity Description and Coding System; whereas this Regulation must take account of that possibility by using the codes of the combined nomenclature within which the said products fall;

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

From 1 July 1987 to 30 June 1988 the Common Customs Tariff duties in respect of the sherries mentioned below and originating in Spain shall, in the Community as constituted on 31 December 1985, be partially suspended at the levels and within the limits of the Community tariff quotas indicated for each of them (1):

Order No	CCT heading No	Combined nomenclature code	Description	Rate (ECU/hl)		Quota volume (hectolitres)
				from 1 July to 31 December 1987	form 1 January to 30 June 1988	
09.0306	ex 22.05 C III a) 1	ex 2204.21-41	Sherry	4,8	4,0	358 120
	ex 22.05 C IV a) 1	ex 2204.21-51	Sherry	5,2	4,3	
09.0308	ex 22.05 C III b) 1	ex 2204.29-41	Sherry	4,9	4,1	435 000
	ex 22.05 C IV b) 1	ex 2204.29-51	Sherry	5,4	4,5	

(1) The numbers appearing in the column 'Combined nomenclature code' will replace those appearing in the column 'CCT heading No' as from the date of entry into force of the International Convention on the Harmonized Commodity Description and Coding System.

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 1988, 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	126 240	147 340
Denmark	6 090	8 950
Germany	97 560	7 100
Greece	10	40
France	710	70
Ireland	3 320	2 810
Italy	870	40
United Kingdom	87 340	203 400
Total	321 940	369 750

3. The second instalment of each quota, namely 36 180 and 65 250 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 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 1988.

Article 5

Member States shall return to the reserve, not later than 1 April 1988 the unused portion of their initial shares which, on 15 March 1988 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.

Member States shall, not later than 1 April 1988, notify the Commission of the total quantities of the products in question imported up to 15 March 1988 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 1988 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 2 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 product 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 product 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

The Council will adopt, in good time, the adjustments to the International Convention on the Harmonized Commodity Description and Coding system, which are necessary both for the coding and for the description of goods.

Article 11

This Regulation shall enter into force on 1 July 1987.

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

Done at Luxembourg, 25 June 1987.

For the Council

The President

H. DE CROO