COUNCIL REGULATION (EEC) No 1837/88

of 22 June 1988

opening, allocating and providing for the administration of Community tariff quotas for quality wines produced in the specified region of Jerez (1988/89)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 30 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 from Spain within the limits of Community tariff quotas of 358 120 hectolitres in containers holding two litres or less and of 435 000 hectolitres in containers holding more than two litres shall be progressively abolished; whereas these duties are reduced to 62,5 % of the basic duties on 1 January 1988 and to 50 % of the basic duties on 1 January 1989; whereas, by way of derogation from Article 30 of the Act of Accession, Council Regulation (EEC) No 443/86 of 24 February 1986 concerning the basic duties to be adopted in the Community of Ten for the purpose of calculating the successive reductions provided for in the Act of Accession of Spain and Portugal [1], provides that the basic duties are those actually applied on 1 January 1986; whereas, therefore, to establish the duties applicable on the import of these wines, Community tariff quotas should be opened for the period 1 July 1988 to 30 June 1989 for:

— 358 120 hectolitres for quality wines produced in the specified region of Jerez falling within CN codes ex 2204 21 41 and ex 2204 21 51, and

— 435 000 hectolitres for quality wines produced in the specified region of Jerez falling within CN codes ex 2204 29 41 and ex 2204 29 51

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, coming from 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 of sherry into Member States are broken down as shown in the following table:

(hectolitres)

	1984	1985	1986
Sherry:			
— in containers holding two litres or less:			
Benelux	235 876	242 779	205 524
Denmark	11 238	10 173	11 487
Germany	158 976	158 458	204 835
Greece	119	84	114
France	1 778	1 389	1 227
Ireland	7 123	6 600	4 327
Italy	1 509	1 963	1 279
United Kingdom	159 685	173 668	145 384
— in containers holding more than two litres:			
Benelux	195 461	204 470	154 428
Denmark	11 115	12 143	10 316
Germany	10 154	10 122	10 005
Greece	9	—	—
France	119	67	30
Ireland	3 102	4 334	3 220
Italy	—	—	—
United Kingdom	245 850	264 340	247 052

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

Whereas in the last three years the products in question were imported regularly only by certain Member States and not at all or only occasionally by the other Member States; whereas, under these circumstances, in the first phase, initial shares should be allocated to the genuine importing Member States and the other Member States should be guaranteed access to the benefit of the tariff quotas when imports actually take place in those Member States; whereas these allocation arrangements will equally ensure the uniform application of the combined nomenclature duties;

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	39,19	39,99
Denmark	1,89	2,42
Germany	29,92	2,18
Greece	0,02	0,00
France	0,25	0,02
Ireland	1,03	0,77
Italy	0,27	0,00
United Kingdom	27,43	54,62

Whereas, in order to take into account import trends for the products concerned in the various Member States, each quota volume should be divided into two parts, the first being allocated among certain Member States and the second constituting a reserve to cover the subsequent requirements of those Member States which have used up their initial share and also any additional requirements which might arise in other Member States; whereas, in order to give importers in each Member State a certain degree of security, the first part of the Community quotas should, under the circumstances, be fixed at 67 % respectively of each 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 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

From 1 July 1988 to 30 June 1989 the customs duties applicable on the following quality wines produced in the specified region of Jerez 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:

Order No	CN codes	Description	Rate (ECU/hl)		Quota volume (hectolitres)
			from 1 July to 31 December 1988	from 1 January to 30 June 1989	
09.0306	ex 22.04 21 41	Sherry	4,0	3,2	358 120
	ex 22.04 21 51		4,3	3,5	
09.0308	ex 22.04 29 41	Sherry	4,1	3,3	435 000
	ex 22.04 29 51		4,5	3,6	

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 certain Member States; the respective shares, which, subject to Article 5, shall be valid until 30 June 1989, shall be as follows:

(hectolitres)

Member States	Sherry falling within CN codes	
	ex 2204 21 41 ex 2204 21 51	ex 2204 29 41 ex 2204 29 51
Benelux	94 030	116 550
Denmark	4 535	7 055
Germany	71 790	6 355
Greece	50	—
France	600	60
Ireland	2 470	2 240
Italy	650	—
United Kingdom	65 815	159 190
Total	239 940	291 450

3. The second instalment of each quota, namely 118 180 and 143 550 hectolitres respectively, shall constitute the corresponding reserve.

4. If an importer notifies the imminent import of the product in question into the other Member States and applies to take advantage of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements to the extent that the available balance of the reserve so permits.

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 1989.

Article 5

Member States shall return to the reserve, not later than 1 April 1989 the unused portion of their initial shares which, on 15 March 1989 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 1989, notify the Commission of the total quantities of the products in question imported up to 15 March 1989 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 Member State of the extent to which the reserve has been used up.

It shall inform the Member States, not later than 5 April 1989 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. 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. 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

This Regulation shall enter into force on 1 July 1988.

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

Done at Luxembourg, 22 June 1988.

For the Council

The President

M. BANGEMANN