COUNCIL REGULATION (EEC) No 1838/88

of 22 June 1988

opening, allocating and providing for the administration of a Community tariff quota for quality wines produced in the specified region of Malaga (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,

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 quality wines produced in the specified region of Malaga, falling within CN codes ex 2204 21 49 and ex 2204 21 59 coming from Spain, within the limits of a Community tariff quota of 15 000 hectolitres in containers holding two litres or less 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 which actually have been applied on 1 January 1986; whereas therefore, to establish the duties applicable on the import of these wines, a tariff quota should be opened for the period 1 July 1988 to 30 June 1989 of 15 000 hectolitres for the abovementioned Malaga wines at the 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, from Spain; whereas, consequently, the Community tariff quota is 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 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 actual 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 of each State's imports of the said products from Spain over a representative reference period and also to the economic outlook for the quota period in question;

Whereas available Community statistics give no information on the situation of Malaga wines on the market; 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 into Member States are broken down as shown in the following table:

(in hectolitres)

Member States	1984	1985	1986
Benelux	270	320	73
Denmark	—	—	8,2
Germany	470	360	334,1
Greece	—	—	—
France	140	210	356
Ireland	—	—	—
Italy	160	130	140
United Kingdom	310	70	1 300

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;

[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:

Benelux	14,25
Denmark	0,18
Germany	25,03
Greece	0,00
France	15,18
Ireland	0,00
Italy	9,24
United Kingdom	36,12

Whereas, in order to make 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 in respect of quality wines in the specified region of Malaga, shall, in the Community as constituted on 31 December 1985, be partially suspended at the levels shown below within the limits of a total Community tariff quota of 15 000 hectolitres:

Order No	CN code	Description	Rate (ECU/hl) period	
			1 July to 31 December 1988	1 January to 30 June 1989
09.0310	ex 2204 21 49 ex 2204 21 59	Wine from Malaga Wine from Malaga	6,4 7,1	5,1 5,7

Article 2

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

2. A first instalment, amounting to 10 050 hectolitres, shall be shared among the Member States; the respective shares, which subject to Article 5 shall be valid until 30 June 1989, shall be as follows:

(in hectolitres)

Benelux	1 430
Denmark	20
Germany	2 515
Greece	—
France	1 525
Ireland	—
Italy	930
United Kingdom	3 630

3. The second instalment of 4 950 hectolitres shall constitute the 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 a Member State's initial share 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, 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 its initial share has been used up, 90 % or more of the second share drawn by a Member State has been used, 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 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 same conditions, 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 reason for applying this paragraph.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 30 June 1989.

Article 5

The Member States shall return to the reserve, not later than 1 April 1989 the unused portion of their initial share 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.

The Member States shall, not later than 1 April 1989, notify the Commission of the total quantities of the said goods 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 the reserve 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 State shall ensure that importers of the said products 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 the imports of the goods in question entered with the customs authorities 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