COUNCIL REGULATION (EEC) No 4230/88

of 19 December 1988

opening, allocating and providing for the administration of Community tariff quotas for wine of fresh grapes and liqueur wines originating in Cyprus (1989)

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 Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, as modified and supplemented by the Protocol laying down the conditions and procedures for the implementation of the second stage of the said Agreement and adapting certain provisions thereof (1), provides for the opening of Community tariff quotas for:

— 35 000 hectolitres of certain wines of fresh grapes, in containers holding 2 litres or less, falling within CN code 2204 21 25, ex 2204 21 29, ex 2204 21 35 or ex 2204 21 39;

— 26 000 hectolitres of certain wines of fresh grapes, in containers holding more than 2 litres, falling within CN code ex 2204 29 25, ex 2204 29 29, 2204 29 35 or ex 2204 29 39; and

— 150 000 hectolitres of certain liqueur wines falling within CN code ex 2204 21 35, ex 2204 21 39, ex 2204 29 35, ex 2204 29 39, ex 2204 21 49, ex 2204 29 49, ex 2204 21 59 or ex 2204 29 59, originating in Cyprus;

Whereas, pursuant to Articles 18 and 19 of the said Protocol, the quantities for all the above products except wine of fresh grapes in containers holding more than 2 litres are subject to an annual increase of 5 % from the entry into force of the Protocol; whereas the quotas in 1989 will accordingly be 38 500 hl, 26 000 hl, and 165 000 hl respectively; whereas, however, the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community (2) provides that from its entry into force Spain is to apply a duty reducing the gap between the rate of the basic duty and that of the preferential duty and that Portugal is to postpone application of the preferential arrangements for the products in question until the start of the second stage; whereas these Community tariff quotas should therefore be opened for 1989;

Whereas the wines in question are subject to the free-at-frontier reference price; whereas the said wines qualify for these tariff quotas only if Article 54 of Regulation (EEC) No 822/87(3), as last amended by Regulation (EEC) No 2964/88 (4), is adhered to;

Whereas liqueur wines, to qualify for the Community tariff quota, must be so designated in the VI 1 document or VI 2 extract provided for in Regulation (EEC) No 3590/85 (5),

Whereas Article 21 of the above-mentioned Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the Community and Cyprus lays down that for wine of fresh grapes in containers holding two litres or less falling within CN code 2204 21 25, ex 2204 21 29, 2204 21 35 or ex 2204 29 39, the fixed amount corresponding to the normal packaging costs referred to in Article 53 (1) of the said Regulation (EEC) No 822/87 is to be phased out within the limit of an annual volume of 35 000 hectolitres; whereas the said free-at-frontier price is thereby reduced by a corresponding amount; whereas it is therefore necessary to set up a double notification procedure for the administration of the said volume;

Whereas all Community importers should be ensured equal and continuous access to the said quotas and the duty rates laid down for the quotas should be applied consistently to all imports of the products in question into all Member States until the quotas are exhausted;

Whereas, for the period of application of this Regulation, it appears necessary to maintain an allocation between the Member States of the quotas concerned, since the administrations of the Member States are unable to provide by 1 January 1989, the administrative and technical conditions required for the Community management of quotas for these products originating in Cyprus; whereas it does, however, seem advisable to provide for a further increase in the Community reserve;

Whereas provision should be made for a mechanism to prevent, when the Community quota is not used up, goods from being imported into a Member State which has used up

(1) OJ No L 393, 31. 12. 1987, p. 2.
(2) OJ No L 393, 31. 12. 1987, p. 37.
(3) OJ No L 84, 27. 3. 1987, p. 1.
(4) OJ No L 269, 29. 9. 1988, p. 5.
(5) OJ No L 343, 20. 12. 1985, p. 20.

its share only after the full application of customs duties, or after having been diverted to another Member State whose share has not yet been used up; whereas, under the circumstances, if, during the quota period, the Community reserve were to be almost entirely used up, Member States should return to the said reserve all of the unused portion of their initial shares so as to avoid part of the Community tariff quota from remaining unused in one Member State, when it could be used in others;

Whereas, taking into account the traditional trends in trade, the allocation maintained between Member States must, so as to reflect as closely as possible the actual market trend of the products in question, be carried out *pro rata* the needs of the Member States, calculated, on the one hand, on the basis of the statistical data relating to imports of the said products from Cyprus over a representative reference period and, on the other hand, on the basis of the economic outlook for the quota periods considered;

Whereas during the last three years for which statistics are available sales of the said wines on the market of each Member State were as follows:

(hectolitres)

Member States	Wine of fresh grapes						Liqueur wines		
	In containers holding 2 litres or less			In containers holding more than 2 litres					
	1985	1986	1987	1985	1986	1987	1985	1986	1987
Benelux	80,95	266,71	77,54	—	—	—	101,85	14,40	—
Denmark	235,46	526,37	504,96	—	—	—	15,35	28,35	1,80
Germany	260,00	367,00	420,00	178	5 755	8 477	692,00	464,00	383,00
Greece	—	10,00	2,00	—	—	—	—	—	—
Spain	—	—	—	—	—	—	—	—	—
France	—	—	—	—	—	—	—	—	—
Ireland	204,00	116,00	22,00	—	—	—	7,00	21,64	—
Italy	—	—	—	—	—	—	—	—	—
Portugal	—	—	—	—	—	—	—	—	—
United Kingdom	4 880,00	3 950,28	4 384,75	21 529	17 776	12 466	27 571,00	38 368,82	59 633,31

Whereas during 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 in these circumstances initial shares should in the first instance be allocated only to the genuine importing Member States, while the others should be guaranteed access to quotas when they actually import the goods; whereas these allocation arrangements will ensure the uniform application of the Common Customs Tariff;

Whereas to allow for the trend of imports of the products in question in the various Member States the quotas should be divided into two parts, the first being allocated among certain Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial shares and any requirements which might arise in the other Member States; whereas, to afford importers in each Member State some degree of certainty, an appropriate level for the first part of the Community quotas would, in the present circumstances, be 54 % of the quotas for wine of fresh grapes in containers holding two litres or less and liqueur wines and 30 % of the quota for other wine of fresh grapes;

Whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must be able to keep account of quota utilization rates and inform the Member States accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1989 the customs duties applicable to imports into the Community excluding Portugal of the following products originating in Cyprus shall be suspended at the levels indicated below and within the limits of Community tariff quotas as shown below:

Order No	CN code	Description	Quota volume (hl)	Rate of duty
(1)	(2)	(3)	(4)	(5)
		Wine of fresh grapes, including fortified wines; grape must other than that of heading No 2009:		
		– Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:		
		– – In containers holding 2 litres or less:		
		– – – Other:		
		– – – – Of an actual alcoholic strength by volume not exceeding 13 % vol:		
		– – – – – Other:		
09.1415	2204 21 25	– – – – – – White (1)	38 500	2,9 ECU/hl
	ex 2204 21 29	– – – – – – Other wine (1)		
		– – – – Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol:		
		– – – – – Other:		
	ex 2204 21 35	– – – – – – White:		3,4 ECU/hl
		– Other than liqueur wines of an actual alcoholic strength by volume of 15 % vol (1)		
	ex 2204 21 39	– – – – – – Other:		
		– Other than liqueur wines of an actual alcoholic strength by volume of 15 % vol (1)		
		– – Other:		
		– – – Other:		
		– – – – Of an actual alcoholic strength by volume not exceeding 13 % vol:		
		– – – – – Other:		
09.1423	2204 29 25	– – – – – – White	26 000	8,9 ECU/hl
	ex 2204 29 29	– – – – – – Other wine		
		– – – – Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol:		
		– – – – – Other:		
	2204 29 35	– – – – – – White		10,9 ECU/hl
	ex 2204 29 39	– – – – – – Other wine		
		– Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:		
		– – In containers holding 2 litres or less:		
		– – – Other:		
		– – – – Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol:		
		– – – – – Other:		
09.1417	ex 2204 21 35	– – – – – – White:	165 000	4,1 ECU/hl
		– Liqueur wines of an actual alcoholic strength by volume of 15 % vol		
	ex 2204 21 39	– – – – – – Other:		
		– Liqueur wines of an actual alcoholic strength by volume of 15 % vol		
		– – – – Of an actual alcoholic strength by volume exceeding 15 % vol but not exceeding 18 % vol:		5,0 ECU/hl
	ex 2204 21 49	– – – – – Other:		
		– Liqueur wines		
		– – – – Of an actual alcoholic strength by volume exceeding 18 % vol but not exceeding 22 % vol:		5,6 ECU/hl
	ex 2204 21 59	– – – – – Other:		
		– Liqueur wines		

(1)	(2)	(3)	(4)	(5)
09.1417 *(cont'd)*		– – Other:		
		– – – Other:		
		– – – – Of an actual alcoholic strength by volume exceeding 13 % vol but not exceeding 15 % vol:		
		– – – – – Other:		
	ex 2204 29 35	– – – – – – White:		
		– Liqueur wines of an actual alcoholic strength by volume of 15 %		3,1 ECU/hl
	ex 2204 29 39	– – – – – – Other:		
		– Liqueur wines of an actual alcoholic strength by volume of 15 %	165 000 *(cont'd)*	
		– – – – Of an actual alcoholic strength by volume exceeding 15 % vol but not exceeding 18 % vol:		
	ex 2204 29 49	– – – – – Other:		4,1 ECU/hl
		– Liqueur wines		
		– – – – Of an actual alcoholic strength by volume exceeding 18 % vol but not exceeding 22 % vol:		
	ex 2204 29 59	– – – – – Other:		5,6 ECU/hl
		– Liqueur wines		

(1) The reference price for products falling within these CN codes is increased by a fixed amount corresponding to the normal packaging costs, which is being phased out at the rate laid down in Article 21 of the Protocol laying down the conditions and procedures for the implementation of the second stage of the Agreement establishing an Association between the Community and Cyprus, for an annual volume of 35 000 hectolitres.

Within the limits of these tariff quotas, the Kingdom of Spain shall apply duties calculated in accordance with the relevant provisions of the Protocol to the Association Agreement between the European Economic Community and the Republic of Cyprus consequent on the accession of the Kingdom of Spain and the Portuguese Republic to the Community.

2. The wine in question shall be subject to the free-at-frontier reference price. It shall qualify for the tariff quotas only if Article 54 of Regulation (EEC) No 822/87 is adhered to.

3. Liqueur wines shall qualify for the tariff quota only if they are designated as liqueur wines in the VI 1 document or VI 2 extract provided for by Regulation (EEC) No 3590/85.

Article 2

1. The tariff quotas referred to in Article 1 shall be divided into two parts.

3. The first part of each tariff quota, amounting to 20 790 hectolitres, 7 800 hectolitres and 89 100 hectolitres respectively, shall be allocated among certain Member States. The following quota shares shall be valid until 31 December 1989:

Member State	CN codes 2204 21 25, ex 2204 21 29, ex 2204 21 35, ex 2204 21 39	CN codes 2204 29 25, ex 2204 29 29, 2204 29 35, ex 2204 29 39	CN codes ex 2204 21, ex 2204 29
	Wine of fresh grapes in containers holding 2 litres or less	Wine of fresh grapes in containers holding 2 litres or less	Liqueur wines
Benelux	543	—	90
Denmark	1 617	—	46
Germany	1 335	1 703	1 078
Greece	17	—	—
Ireland	432	—	—
United Kingdom	16 846	6 097	87 886

3. The second part of each quota, amounting to:

— 17 710 hectolitres of wine of fresh grapes in containers holding 2 litres or less falling within CN code 2204 21 25, ex 2204 21 29, ex 2204 21 35 or ex 2204 21 39;

— 18 200 hectolitres of wine of fresh grapes in containers holding more than 2 litres falling within CN code 2204 29 25, ex 2204 29 29, 2204 29 35 or ex 2204 29 39; and

— 75 900 hectolitres of liqueur wines falling within CN code ex 2204 21 or ex 2204 29,

respectively shall constitute the corresponding Community reserve.

4. If an importer indicates that be is about to import any of the products in question into a Member State which does not participate in the initial allocation or which has exhausted its initial quota and applies to use the corresponding 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 quota so permits.

5. Without prejudice to Article 3, the drawings made pursuant to paragraph 4 shall be valid until the end of the quota period.

Article 3

1. Once at least 80 % of the reserve of one of the tariff quotas, as defined in Article 2 (3), has been used up, the Commission shall inform the Member States thereof.

2. It shall also notify Member States in this case of the date from which drawings on the Community reserve must be made according to the following provisions:

If an importer presents in a Member State a declaration of entry into free circulation including a request for preferential benefit for a product covered by this Regulation, and if this declaration is accepted by the customs authorities, the Member State concerned shall draw, from the Community reserve, by means of notification to the Commission, a quantity corresponding to these needs.

The requests for drawing, with the indication of the date of acceptance of the said declaration, must be communicated to the Commission without delay.

The drawings are granted by the Commission on the basis of the date of acceptance of the declaration of entry into free circulation by the customs authorities of the Member State concerned, to the extent that the available balance so permits.

If a Member State does not use the quantities drawn, it shall return them as soon as possible to the reserve.

If the quantities requested are greater than the available balance of the reserve, allocation shall be made on a *pro rata* basis with respect to the requests. Member States shall be informed by the Commission in accordance with the same procedures.

3. Within a time limit fixed by the Commission as from the date referred to in the first subparagraph of paragraph 2, Member States shall be required to return to the reserve all the quantities which have not been used on that date, within the meaning of Article 5 (3) and (4).

Article 4

The Commission shall keep an account of the shares drawn 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 reserves have been used up.

It shall inform the Member States, of the amounts still in reserve after amounts have been returned thereto pursuant to Article 3.

It shall ensure that the drawing which uses up a reserve does not exceed the balance available and to this end shall notify the amount of that balance to the Member State making the last drawing.

Article 5

1. The Member States shall take all measures necessary to ensure that drawings of shares pursuant to Article 2 (4) and Article 3 are carried out in such a way that imports may be charged without interruption against their accumulated shares in the Community tariff quotas.

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

3. The Member States shall charge imports of the products against their shares as and when they are entered with the customs authorities for free circulation.

4. The extent to which a Member State has used up its share shall be determined on the basis of imports charged in accordance with paragraph 3.

Article 6

At the request of the Commission, Member States shall inform it of imports of the products concerned actually charged against their shares.

Article 7

The Member States and the Commission shall cooperate closely in order to ensure that this Regulation is complied with.

Article 8

This Regulation shall enter into force on 1 January 1989.

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

Done at Brussels, 19 December 1988.

For the Council

The President

Th. PANGALOS