COMMISSION REGULATION (EEC) No 3781/90

of 19 December 1990

laying down detailed rules for the application of Council Regulation (EEC) No 3576/90 as regards the temporary suspension of the regulatory amounts mechanism and of customs duties on wine products released for consumption in the territory of the former German Democratic Republic

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal,

Having regard to Council Regulation (EEC) No 3576/90 of 4 December 1990 on the temporary suspension of the mechanisms provided for in Articles 123, 152, 318 and 338 of the Act of Accession of Spain and Portugal and the customs duties for wine and fruit and vegetable products originating in Spain and Portugal and released for consumption in the territory of the former German Democratic Republic [1], and in particular Article 3 thereof,

Whereas Council Regulation (EEC) No 3576/90 lays down the conditions governing the eligibility of products for the temporary suspension of the regulatory amounts mechanism and of customs duties; whereas the detailed rules of application must be adopted for the wine products to which this suspension applies;

Whereas trade between Spain and Portugal and the German Democratic Republic during the reference period covering the years 1987, 1988 and 1989 permits the fixing of an average annual quantity eligible for the suspension only for wines from Spain;

Whereas, to be eligible for the suspension, the wine must be consumed as it is or processed in the territory of the former German Democratic Republic; whereas the term 'processing' should be defined on the basis of the definitions given in Commission Regulation (EEC) No 2202/89 of 20 July 1989 defining the terms 'coupage', 'the turning into wine', 'bottler' and 'bottling' [2];

Whereas an approved commercial document drawn up and validated by the competent Spanish body in accordance with Commission Regulation (EEC) No 986/89 of 10 April 1989 on the accompanying documents for carriage of wine products and the relevant records to be kept [3], as last amended by Regulation (EEC) No 2276/90 [4], should be specified as the accompanying document for the carriage of wine; whereas, to ensure that the wine is actually used in the territory of the former German Democratic Republic, the rules laid down in Commission Regulation (EEC) No 4142/87 of 9 December 1987 determining the conditions under which certain goods are eligible on import for a favourable tariff arrangement by reason of their end-use [5], as last amended by Regulation (EEC) No 3124/89 [6], should be applied;

Whereas it would appear fair to provide for reimbursement, on application, of amounts already collected on consignments of wine despatched before 1 January 1991 and after the unification of Germany, when the conditions governing eligibility are met;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

1. The average annual quantities referred to in the second subparagraph of Article 1 (1) of Regulation (EEC) No 3576/90 shall be fixed, for wine products, for a period from 1 January to 31 December of the same year, as shown in the Annex. When the period during which the suspension applies differs from the above, the quantities shall be fixed on a pro rata basis according to the actual length of this period.

2. The quantities referred to in paragraph 1 shall be allocated through a tendering system managed by the competent German authorities guaranteeing equal access to all interested economic operators.

3. For the purposes of Article 1 (2) of Regulation (EEC) No 3576/90 'processing' means:

— processing into wine through the total or partial alcoholic fermentation of grape musts, concentrated grape musts, partially fermented grape musts or new wine still in fermentation,

— processing into sparkling or semi-sparkling wine through the primary or secondary alcoholic fermentation, as the case may be, of grape musts, wines suitable for yielding table wine, table wines or quality wines psr.

[1] OJ No L 353, 17. 12. 1990, p. 21.
[2] OJ No L 209, 21. 7. 1989, p. 31.
[3] OJ No L 106, 18. 4. 1989, p. 1.
[4] OJ No L 267, 29. 9. 1990, p. 30.
[5] OJ No L 387, 31. 12. 1987, p. 81.
[6] OJ No L 301, 19. 10. 1989, p. 10.

Article 2

Except as otherwise provided in the special provisions laid down in Article 3, for the purposes of Article 2 of Regulation (EEC) No 3576/90 :

— carriage of the product in question must begin on Spanish territory and must be accompanied by an approved commercial document drawn up in accordance with Regulation (EEC) No 986/89. This document shall be validated by the stamp of the competent Spanish authorities and bear, in the box headed 'For official use only', the words 'This product is intended for release for consumption in the territory of the former German Democratic Republic'. These words shall be authenticated by the stamp and signature of the official of the same authority, together with the date,

— in support of the declaration regarding the release for consumption, a document shall be produced, issued by the competent German authorities, certifying that the products in question are eligible under Article 1 of Regulation (EEC) No 3576/90,

— to control the use of the products referred to in the second subparagraph of Article 2 of Regulation (EEC) No 3576/90, the competent German authorities shall ensure that the rules laid down in Regulation (EEC) No 4142/87 are applied.

Article 3

For products released for consumption in the territory of the former German Democratic Republic before 1 January 1991, the regulatory amounts and/or customs duties already collected shall be reimbursed to the extent of the quantities fixed pro rata in accordance with Article 1 (1) on receipt of a duty substantiated application from the party concerned.

For this purpose, the party concerned shall submit an application by 31 March 1991 at the latest to the competent German authority managing the tendering system referred to in Article 1 (2) along with one of the documents referred to in Article 1 of Regulation (EEC) No 986/89 which has accompanied the carriage of the product. This authority shall issue a licence certifying that the product in question is eligible under Article 1 of Regulation (EEC) No 3576/90. Where the total quantities for which reimbursement is requested exceed those fixed pursuant to Article 1 (2), the quantity of each application shall be reduced in proportion to the overrun.

Reimbursement shall be made before 31 July 1991.

Article 4

Germany shall notify the Commission, at the latest before the 20th of each month for the previous month, of the quantities of products benefiting from suspension broken down according to the type of suspension and product.

The Commission shall immediately inform the other Member States thereof.

Article 5

This Regulation shall enter into force on 1 January 1991.

It shall apply with effect from 3 October 1991.

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

Done at Brussels, 19 December 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

CN-code	Description	Average annual quantities (hl)	
		Spain	Portugal
	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter :	0	0
2009 60	– Grape juice (including grape must)		
	Wine of fresh grapes, including fortified wines ; grape must other than that of code 2009 :		
2204 30	– Other grape must		
	Wine of fresh grapes, including fortified wines ; grape must other than that of code 2009 :	226 000	0
2204 10	– Sparkling wine		
	– Other wine ; grape must with fermentation prevented or arrested by the addition of alcohol :		
2204 21	– – In containers holding 2 litres or less		
2204 29	– – Other		