

COUNCIL REGULATION (EEC) No 3080/78

of 18 December 1978

opening, allocating and providing for the administration of a Community tariff quota for sherry, falling within heading No ex 22.05 of the Common Customs Tariff and originating in Spain (1979/80)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas, on the signing of the Agreement between the European Economic Community and Spain ⁽²⁾ on 29 June 1970, the Community undertook to grant preferential tariff arrangements for imports into the Community of certain wines originating in Spain, and in particular sherry; whereas, in order to satisfy this undertaking, the Community has opened each year two tariff quotas, namely:

- 40 000 hectolitres at a duty rate of 40 % of the Common Customs Tariff duties, for sherry in containers holding two litres or less, falling within subheadings ex 22.05 C III a) 1 and ex 22.05 C IV a) 1 and originating in Spain, and
- 210 000 hectolitres at a duty rate of 50 % of the Common Customs Tariff duties, for sherry in containers holding more than two litres, falling within subheadings ex 22.05 C III b) 1 and ex 22.05 C IV b) 1 and originating in Spain;

Whereas these preferential tariff arrangements were laid down only for imports of these products into the Member States of the Community as originally constituted; whereas, under the Act of Accession, importation of these products into the three new Member States are subject to Common Customs Tariff duties with effect from 1 July 1977; whereas the import arrangements for these products should be uniform throughout the Community;

Whereas, owing to certain characteristic features inherent in the production and marketing of the product in question, the expiry date for the validity of the tariff quota should henceforward be fixed at 30 June; whereas the tariff quotas should therefore be opened for

the period 1 January 1979 to 30 June 1980, and the volumes increased to 162 000 and 1 027 000 hectolitres respectively;

Whereas these wines remain subject to the provisions governing the common organization of the wine market; whereas from 1 May 1978 sherry entering the geographical territory of the Community is subject to the system of reference prices applicable to such wines;

Whereas Council Regulation (EEC) No 2506/75 of 29 September 1975 laying down special rules for the importation of products in the wine-growing sector originating in certain third countries ⁽³⁾ introduced the idea of a free-at-frontier reference price, being the reference price less customs duties actually levied;

Whereas inclusion in the Community tariff quota should be subject to production of movement certificate A.E.1 and a certificate of designation of origin as provided for in Regulation (EEC) No 1120/75 ⁽⁴⁾;

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 products 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 products concerned, 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 sherry on the markets; whereas, however, Spanish statistics for exports of these products to the Community during the past few years

⁽¹⁾ OJ No C 261, 6. 11. 1978, p. 45.

⁽²⁾ OJ No L 182, 16. 8. 1970, p. 2.

⁽³⁾ OJ No L 256, 2. 10. 1975, p. 2.

⁽⁴⁾ OJ No L 111, 30. 4. 1975, p. 19.

can be considered to reflect approximately the situation of Community imports; whereas on this basis the corresponding imports by each of the Member States during the past three years represent the following percentages of the imports into the Community from Spain of the products concerned:

	1975	1976	1977
Sherry:			
— in containers holding two litres or less:			
— Benelux	49.5	62.5	52.5
— Denmark	5.2	5.7	2.8
— Germany	12.0	13.4	18.5
— France	0.3	0.3	0.2
— Ireland	1.3	1.0	1.0
— Italy	1.4	1.2	0.9
— United Kingdom	30.3	15.8	24.1
— in containers holding more than two litres:			
— Benelux	39.9	35.3	20.5
— Denmark	2.9	5.1	3.7
— Germany	2.9	3.4	3.8
— France	0.1	0.1	0.1
— Ireland	0.7	0.9	0.5
— Italy	0.0	0.0	0.0
— United Kingdom	53.5	55.2	71.4

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 containers holding:	
	two litres or less	more than two litres
Benelux	53.6	33.5
Denmark	5.1	3.8
Germany	13.2	3.0
France	0.3	0.1
Ireland	2.1	0.8
Italy	2.1	0.1
United Kingdom	23.6	58.7

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 allocated 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 90 % of each of the quota volumes;

Whereas the Member State's 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 quota shares must be valid until the end of the quota period; whereas this method of administration requires close cooperation between 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

1. From 1 January 1979 to 30 June 1980, the Common Customs Tariff duties in respect of the sheries mentioned below originating in Spain shall be partially suspended at the levels and within the limits of the Community tariff quotas indicated for each of them:

CCT heading No	Description	Rate (u.a./hl)	Quota volume (hl)
ex 22.05 C III a) 1	Sherry	5.4	} 162 000
ex 22.05 C IV a) 1	Sherry	5.8	
ex 22.05 C III b) 1	Sherry	5.5	
ex 22.05 C IV b) 1	Sherry	6.0	} 1 027 000

2. The Protocol on the definition of the concept of 'originating products' and on methods of administrative cooperation, annexed to the Agreement between the European Economic Community and Spain, shall be applicable.

3. Sherry entering the geographical territory of the Community on or after 1 May 1978 must, in order to benefit from these tariff quotas, respect the reference prices applicable to them.

4. The wines in question shall benefit from these tariff quotas on condition that the prices on import into the Community are not at any time less than the free-at-frontier reference prices referred to in Regulation (EEC) No 2506/75 and subsequent texts which apply to such prices.

5. The inclusion of sherry in the Community quotas referred to in paragraph 1 shall be conditional upon production of a movement certificate A.E.1 and a certificate of designation of origin as provided for in Regulation (EEC) No 1120/75 endorsed by the Spanish customs authorities.

Article 2

1. Each of the tariff quotas referred to in Article 1 shall be divided into two parts.

(a) The first part of each quota, namely 54 000 and 343 000 hectolitres respectively, shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid until 31 December 1979, shall be as follows:

(hl)

Member States	Sherry falling within subheadings:	
	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	28 930	114 770
Denmark	2 760	13 140
Germany	7 130	10 250
France	160	100
Ireland	1 140	2 700
Italy	1 140	40
United Kingdom	12 740	202 000
Total	54 000	343 000

(b) Any quantity remaining on 31 December 1979 of the share of a Member State shall be added on 1 January 1980 to the share allocated to it under paragraph 2 (a) below.

Member States shall notify the Commission by 15 January 1980 at the latest of any quantities remaining on 31 December 1979 of the shares allocated to them under paragraph 1 (a) above.

2. The second part of each quota, namely 108 000 and 684 000 hectolitres respectively, shall be divided into two instalments.

(a) The first instalment of the second part of each quota shall be allocated among the Member States; the respective shares, which subject to Article 5 shall be valid from 1 July 1979 to 30 June 1980, shall be as indicated below; however, Member States may not use these shares until they have used up the shares allocated to them under paragraph 1.

(hl)

Member States	Sherry falling within subheadings:	
	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	52 100	206 280
Denmark	4 920	23 610
Germany	12 830	18 440
France	300	190
Ireland	2 000	4 810
Italy	2 050	60
United Kingdom	23 000	363 110
Total	97 200	616 500

(b) The second instalment of the second part of each quota, namely 10 800 and 67 500 hectolitres respectively, shall constitute the corresponding reserve.

Article 3

1. If 90% or more of one or other of a Member State's initial shares as specified in Article 2 (2) 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 1980.

Article 5

Member States shall return to the reserve, not later than 1 April 1980, the unused portion of their initial shares which, on 15 March 1980, 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.

Each Member State shall, not later than 1 April 1980, notify the Commission of the total quantities of the products in question imported up to 15 March 1980 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 reserves have been used up.

It shall, not later than 5 April 1980, inform the Member States of the amount in each reserve after quantities have been returned thereto pursuant to Article 5.

The Commission shall ensure that any drawing which uses up any 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. The 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 quotas.

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

3. The extent to which a Member State has used up its shares shall be determined on the basis of the imports of the products in question entered for home use.

Article 8

At the request of the Commission, Member States shall inform it of imports of the products 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

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels, 18 December 1978.

For the Council
The President
H. D. GENSCHER