REGULATION (EEC) No 3611/73 OF THE COUNCIL

of 27 December 1973

opening, allocating and providing for the administration of a Community tariff quota for Madeira wines falling within subheading No ex 22.05 of the Common Customs Tariff, originating in Portugal

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;

Whereas Article 4 of Protocol No 8 to the Agreement [1] between the European Economic Community and the Portuguese Republic provides that customs duties on imports into the Community of Madeira wines originating in Portugal, falling within subheading Nos ex 22.05 C III a) 1, ex 22.05 C III a) 2 aa), ex 22.05 C IV a) 1 and ex 22.05 C IV a) 2 aa) of the Common Customs Tariff are to be reduced by 30 % up to a total annual tariff quota of 15 000 hl; whereas this reduction applies, in the case of the Community as originally constituted, to the Common Customs Tariff duties and, in the case of the new Member States, to such duties as these States apply at any given moment to imports from third countries; whereas these wines will remain subject to the provisions governing the common organization of the market in wine;

Whereas it is in particular necessary to ensure to 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 principles mentioned above, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect most accurately the actual development of the market in the products concerned, such allocation should be in proportion to the needs of the Member States, assessed by reference both to the statistics of each State's imports from Portugal over a representative period and to the economic outlook for the quota period concerned;

Whereas available Community statistics give no information on the situation of Madeira wines on the markets; whereas, however, Portuguese statistics for exports of these products to the Community during the last few years 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 last three years represent the following percentages of the imports into the Community from Portugal of the products concerned:

	1970	1971	1972
Germany	21·4	22·3	23·5
Benelux	12·6	14·6	11·9
France	40·2	38·6	40·9
Italy	1·2	0·9	0·7
Denmark	15·9	13·8	13·6
Ireland	—	0·1	—
United Kingdom	8·7	9·7	9·4

Whereas, in view of these data and the estimates submitted by certain Member States, initial quota shares may be fixed approximately at the following percentages:

Germany	22
Benelux	13
France	40
Italy	1
Denmark	14
Ireland	1
United Kingdom	9

(1) OJ No L 301, 31. 12. 1972, p. 165.

Whereas, in order to take into account import trends for the products concerned in the different Member States, the quota amount should be divided into two instalments, the first instalment being allocated among the Member States and the second forming a reserve intended ultimately to cover the requirements of the Member States which have used up their initial quota shares; whereas, in order to ensure a certain degree of security to importers in each Member State, the first instalment of the Community quota should be determined at a level which, under present circumstances, may be 90 % of the quota amount;

Whereas the initial quota shares of the Member States 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 having used up almost the whole of its initial quota share should draw an additional quota share from the reserve; whereas this must be done by each Member State when each of its additional quota shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial and additional quota shares must be available for use until the end of the quota period; whereas this method of administration calls for close cooperation between Member States and the Commission, which must, in particular, be able to observe the extent to which the quota amount is used and inform Member States thereof;

Whereas if, at a specified date in the quota period, a considerable balance of the initial share remains in one or other Member State it is essential that that Member State pays a large amount of it back into the reserve, in order to avoid a part of the Community quota 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 in and represented by the Benelux Economic Union, all transactions concerning the administration of shares granted to the abovementioned Economic Union may be carried out by any of its members,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period from 1 January 1974 to 31 December 1974, a Community tariff quota of 15 000 hl shall be opened within the European Economic Community, for Madeira originating in Portugal, falling within subheading Nos ex 22.05 C III a) 1, ex 22.05 C III a) 2 aa), ex 22.05 C IV a) 1 and ex 22.05 C IV a) 2 aa) of the Common Customs Tariff.

2. The Common Customs Tariff duties applicable to wines imported within this tariff quota shall be suspended at the rates listed below:

CCT heading No	Rate of duty
ex 22.05 C III a) 1	9·4 u.a./hl
ex 22.05 C III a) 2 aa)	7·7 u.a./hl
ex 22.05 C IV a) 1	10·1 u.a./hl
ex 22.05 C IV a) 2 aa)	8·4 u.a./hl

3. Within the limits of these tariff quotas, the new Member States apply the duties calculated in accordance with the relevant provisions set out in Protocol No 8 annexed to the Agreement and in the Act of Accession.

4. This tariff quota shall be allocated and administered as provided hereunder.

Article 2

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

2. A first instalment, amounting to 13 500 hectolitres of this quota, shall be shared among the Member States; the shares which, subject to Article 5 shall be valid until 31 December 1974, shall consist of the following amounts:

(in hectolitres)

Germany	2 970
Benelux	1 760
France	5 400
Italy	130
Denmark	1 890
Ireland	130
United Kingdom	1 220

3. The second instalment of the quota, amounting to 1 500 hectolitres, shall constitute the reserve.

Article 3

1. If 90 % or more of the initial share of a Member State, as laid down in Article 2 (2), or 90 % or more of that share less the amount returned into the reserve, where the provisions of Article 5 have

been applied, has been exhausted, that Member State shall proceed without delay, by notifying the Commission, to draw a second share equal to 15 % of its initial share, rounded up to the next unit where appropriate, to the extent that the amount in the reserve allows.

2. If, after its initial share has been exhausted, 90 % of the second share drawn by a Member State has been used, that Member State shall proceed, in the manner specified in paragraph 1, to draw a third share equal to 7·5 % of its initial share rounded up to the next unit where appropriate, to the extent that the amount in the reserve allows.

3. If, after its second share has been exhausted, 90 % or more of the third share drawn by a Member State has been used, that Member State shall proceed, in the manner specified in paragraph 1, to draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. Notwithstanding paragraphs 1, 2 and 3, the Member States may proceed to draw shares smaller than those fixed in those paragraphs, if there is reason to believe that those shares might not be used up. They shall inform the Commission of the reasons which led them to apply this paragraph.

Article 4

The additional shares drawn pursuant to Article 3 shall be valid until 31 December 1974.

Article 5

If, by 15 September 1974 a Member State has not used up its initial share, it shall, not later than 10 October 1974 return the unused portion of this share in excess of 20 % of the initial amount. It may return a larger quantity if there are reasons to consider that such quantity might not be used.

The Member States shall, not later than 10 October 1974 notify the Commission of the total imports of the products concerned effected up to 15 September 1974 inclusive and charged against the Community quota and, where appropriate, the proportion of their initial share that is being returned to the reserve.

Article 6

The Commission shall keep account of the shares opened by Member States in accordance with Articles 2 and 3 and shall inform each of them of the extent to which the reserve has been used as soon as it receives the notifications.

The Commission shall, not later than 15 October 1974, notify Member States of the amount in the reserve after the return of shares pursuant to Article 5.

The Commission shall ensure that any drawing which uses up the reserve is limited to the balance available and, for this purpose, shall specify the amount thereof to the Member State which makes the final drawing.

Article 7

1. The Member States shall take all appropriate measures to ensure that, when additional shares are drawn pursuant to Article 3, it is possible for charges to be made, without interruption, against their accumulated shares of the Community tariff quota.

2. The Member States shall ensure that importers of the said goods 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 originating in Portugal as and when the goods are entered for home use.

Article 8

Member States shall inform the Commission at regular intervals of imports of the products concerned actually charged against their shares.

Article 9

The Member States and the Commission shall cooperate closely in order to ensure that the provisions of this Regulation are observed.

Article 10

This Regulation shall enter into force on 1 January 1974.

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

Done at Brussels, 27 December 1973.

For the Council

The President

Ove GULDBERG