

COUNCIL REGULATION (EEC) No 3012/77

of 20 December 1977

on the 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, originating in Spain

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⁽¹⁾ on 29 June 1970, the Community undertook to grant preferential tariff arrangements for imports into the Community of certain wines originating in Spain, 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, 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, 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 therefore the aforementioned annual quotas should be increased to 108 000 hectolitres and 685 000 hectolitres respectively; whereas the application to sherry, from 1 March 1978, of the provisions governing the common organization of the market in wine, and in particular those concerning the observance of the free-at-frontier

reference price, entails the division of the quota period into two parts, one covering the first two months of the year, the other covering the period from 1 March to 31 December 1978; whereas, as a first step, tariff quotas of 18 000 and 114 170 hectolitres respectively should thus be opened for the aforementioned wines for the period 1 January to 28 February 1978;

Whereas these wines remain subject to the provisions governing the common organization of the market in wine; whereas inclusion in the Community tariff quota should be subject to production of movement certificate A.E. 1 and a certificate of designation or origin as provided for in Regulation (EEC) No 1120/75⁽²⁾;

Whereas it is in particular necessary to ensure to 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 principles mentioned above, the Community nature of the quotas can be respected by allocating the Community tariff quotas 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 to both the statistics of each State's imports of the said products from Spain over a representative period and the economic outlook for the quota period concerned;

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 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 Spain of the products concerned:

⁽¹⁾ Opinion delivered on 16 December 1977 (not yet published in the Official Journal).

⁽²⁾ OJ No L 182, 16. 8. 1970, p. 2.

⁽³⁾ OJ No L 111, 30. 4. 1975, p. 19.

| | 1974 | 1975 | 1976 |
|--|------|------|------|
| Sherry : | | | |
| — in containers holding two litres or less : | | | |
| Benelux | 45.5 | 49.5 | 62.5 |
| Denmark | 3.7 | 5.2 | 5.7 |
| Germany | 12.1 | 12.0 | 13.4 |
| France | 0.4 | 0.3 | 0.3 |
| Ireland | 2.8 | 1.3 | 1.0 |
| Italy | 4.9 | 1.4 | 1.2 |
| United Kingdom | 30.6 | 30.3 | 15.8 |
| — in containers holding more than two litres : | | | |
| Benelux | 25.7 | 39.9 | 35.3 |
| Denmark | 3.2 | 2.9 | 5.1 |
| Germany | 2.4 | 2.9 | 3.4 |
| France | 0.1 | 0.1 | 0.1 |
| Ireland | 1.0 | 0.7 | 0.9 |
| Italy | 0.0 | 0.0 | 0.0 |
| United Kingdom | 67.6 | 53.5 | 55.2 |

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 | 53.61 | 33.46 |
| Denmark | 5.05 | 3.83 |
| Germany | 13.20 | 2.99 |
| France | 0.31 | 0.03 |
| Ireland | 2.06 | 0.78 |
| Italy | 2.11 | 0.01 |
| United Kingdom | 23.66 | 58.90 |

Whereas, in order to take into account import trends for the products concerned in the different Member States, each of the quota amounts should be divided into two tranches, the first tranche 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 quotas should be determined at a level which, under present circumstances, may be about 90 % of each of the quota amounts ;

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, it is important that any Member State having used up almost the whole of one of its initial quota shares should draw an additional quota share from the corresponding reserve ; whereas this must be done by each Member State as and 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 amounts are used and inform Member States thereof ;

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 any measure concerning 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 until 28 February 1978, the Common Customs Tariff duties in respect of the sherries mentioned below originating in Spain shall be partially suspended at the levels or within the limits of the Community tariff quotas indicated for each of them :

| CCT heading No | Description | Rate (in u.a./hl) | Quota volume (in hl) |
|---------------------|-------------|----------------------|-------------------------|
| ex 22.05 C III a) 1 | sherry | 5.4 | } 18 000 |
| ex 22.05 C IV a) 1 | sherry | 5.8 | |
| ex 22.05 C III b) 1 | sherry | 5.5 | } 114 170 |
| ex 22.05 C IV b) 1 | sherry | 6.0 | |

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. The inclusion of sherry in the Community tariff 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 and endorsed by the Spanish customs authorities.

Article 2

1. The quotas laid down in Article 1 shall be divided into two tranches.

2. A first tranche of each quota shall be allocated among the Member States; the respective shares which shall be valid until 28 February 1978, shall be as follows:

| 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 | 8 690 | 34 370 |
| Denmark | 820 | 3 930 |
| Germany | 2 140 | 3 070 |
| France | 50 | 30 |
| Ireland | 330 | 800 |
| Italy | 340 | 10 |
| United Kingdom | 3 830 | 60 490 |
| Total | 16 200 | 102 700 |

3. The second tranche of each quota, that is 1 800 and 11 470 hectolitres respectively, shall constitute the corresponding reserve.

Article 3

1. If 90 % or more of one of the initial shares of a Member State, as laid down in Article 2 (2), has been exhausted, that Member State shall proceed without delay, by notifying the Commission, to draw a second share equal to 10 % 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 one or other of its initial shares have been exhausted, 90 % or more of the second share drawn by a Member State has been used, that Member State shall proceed in the manner specified in para-

graph 1 to draw a third share equal to 5 % of its initial share, rounded up to the next unit where appropriate.

3. If, after one or other of its second shares have been exhausted, 90 % or more of the third share drawn by a Member State has been used, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State 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

Each of the additional shares drawn pursuant to Article 3 shall be valid until 28 February 1978.

Article 5

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 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 6

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 Member States have used up their shares shall be determined on the basis of the imports of the products in question entered for home use.

Article 7

On receipt of a request from the Commission, Member States shall inform it of imports actually charged against their shares.

Article 8

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

Article 9

This Regulation shall enter into force on 1 January 1978.

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

Done at Brussels, 20 December 1977.

For the Council

The President

H. SIMONET
