COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.07.1995
COM(95) 307final

95/0172 (ACC)

Proposal for a

COUNCIL DECISION

On the conclusion of the Agreements in the form of an exchange of letters between the European Community and, on the one hand, Barbados, Belize, the Republic of the Congo, Fiji, the Cooperative Republic of Guyana, the Republic of the Ivory Coast, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, Mauritius, the Republic of Surinam, St. Christopher and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia the Republic of Zimbabwe, and on the other hand, the Republic of India on the supply of raw cane sugar to be refined.

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Article 37 together with Article 16 of Council Regulation No 1785/81, as last amended by Council Regulation (EEC) No 1101/95, provide for agreements with the ACP States referred to in Protocol No 8 annexed to the fourth ACP-EEC Convention and India and other States on the opening of a tariff quota at a reduced rate of duty for raw cane sugar to be refined.

   By this agreement it is aimed at ensuring adequate supplies to the Community refineries in conformity with the presumed maximum needs fixed by the said Article 37.

2. In conducting the negotiations on access to this tariff quota, it was considered appropriate to try to reach an agreement first with the ACP countries and India which have supplied the EC market on a regular basis. As a result, the Commission has, in conformity with the Negotiating Directives adopted by the Council on 10 May 1995, concluded negotiations with the ACP States referred to and India.

3. It is agreed by the negotiating parties to approve the results of the negotiations in the form of an exchange of letters.

   The Commission therefore proposes that the Council adopt the proposal for a decision on the conclusion of the agreements in the form of an exchange of letters as set out in Annex 1 and 2.

4. However, negotiations on other agreements shall be conducted with other exporting countries to the EC for access to the tariff quota.

5. At the end of these negotiations, the preference, if any, granted to the ACP countries compared with the other exporting countries will have to be notified to the WTO, in conformity with the provisions of the waiver granted for the Lomé IV Convention.

6. Financial impact

   The financial consequences are set out in Annex 3.

[redacted]

PROPOSAL FOR A

COUNCIL DECISION

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(presented by the Commission)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 and Article 228 paragraph 2 thereof,

Having regard to the proposal from the Commission,

Whereas negotiations with the ACP States Party to Protocol n° 8 on ACP sugar annexed to the fourth Lomé Convention and India have taken place in order to define the conditions under which imports of raw cane sugar from those countries under the additional quota will take place;

[redacted]

Whereas Article 16 of Council Regulation (EEC) No1785/81 as last amended by Council Regulation (EEC) No 1101/95 provides that tariff quotas resulting from agreements concluded in the framework of the Uruguay Round of multinational trade negotiation shall be opened and administered in accordance with detailed rules adopted under the procedure laid down in Article 41;

Whereas Article 37(3) states that a shortfall to fill the maximum needs of the Community refineries shall be covered by importing special preferential sugar at a special rate of duty under agreements with States referred to in Article 33 and other States;

Whereas the said negotiations have resulted in agreements which are subject to confirmation by the Governments of the ACP States concerned, on the one hand, and India, on the other hand, and by the Community;

Whereas it is appropriate to open such a tariff quota for raw cane sugar to be refined for maintaining the current access for ACP States parties to Protocol N° 8 to the Fourth Lomé Convention, India and other third countries.

Whereas it is appropriate to approve the Agreements in the form of exchange of letters between the European Community and, on the one hand, the States referred to in the Protocol and, on the other hand, the Republic of India on the supply of raw cane sugar to be refined;

[redacted]

HAS DECIDED AS FOLLOWS:

Article 1

The Agreements in the form of exchange of letters between the European Community and, on the one hand, Barbados, Belize, the Republic of the Congo, Fiji, the Cooperative Republic of Guyana, the Republic of the Ivory Coast, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, Mauritius, the Republic of Surinam, St. Christopher and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia, the Republic of Zimbabwe and, on the other hand, the Republic of India on the supply of raw cane sugar to be refined are hereby approved on behalf of the Community.

The text of the Agreements is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreements referred to in Article 1 in order to bind the Community.

Article 3

This Decision will be published in the Official Journal of the European Communities.

Done at Brussels

For the Council

[redacted]

A N N E X 1

AGREEMENT

IN THE FORM OF EXCHANGE OF LETTERS BETWEEN THE EUROPEAN COMMUNITY AND, BARBADOS, BELIZE, THE REPUBLIC OF THE CONGO, FIJI, THE COOPERATIVE REPUBLIC OF GUYANA, THE REPUBLIC OF THE IVORY COAST, JAMAICA, THE REPUBLIC OF KENYA, THE REPUBLIC OF MADAGASCAR, THE REPUBLIC OF MALAWI, MAURITIUS, THE REPUBLIC OF SURINAM, ST. CHRISTOPHER AND NEVIS, THE KINGDOM OF SWAZILAND, THE UNITED REPUBLIC OF TANZANIA, TRINIDAD AND TOBAGO, THE REPUBLIC OF UGANDA, THE REPUBLIC OF ZAMBIA AND THE REPUBLIC OF ZIMBABWE ON THE SUPPLY OF RAW SUGAR TO BE REFINED.

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Letter No 1

"The representatives of the ACP States and the European Community have agreed as follows:

1. For the period 1 July 1995 to 30 June 2001

   - The European Community undertakes to open annually a special tariff quota for the import of raw cane sugar for refining which originate in the ACP States, on the basis of the needs determined by the Commission in accordance with paragraph 3,

   - The ACP States undertake to supply the said quantities under the conditions fixed by this agreement and by the measures taken by the Commission for the application of this agreement within the framework of the management of the common organization of the markets in the sugar sector.

[redacted]

2. The European Commission and the ACP States shall establish the cooperation procedures necessary to enable the two parties to this agreement to meet the commitments entered into.

3. The import needs of raw sugar for refining under this agreement shall be established by marketing year on the basis of a Community forward estimate taking account of:

   - the provisions of Council Regulation (EC) No 1101/95, amending Regulation (EEC) No 1785/81, concerning the system of preferential imports, and in particular Article 37 thereof,

   - the quantities which will be offered within the framework of other agreements with other third countries and which will actually be imported.

4. The Commission shall establish a first estimate of the total needs for imports of raw sugar for refining at the latest on 30 May preceding the marketing year concerned.
   The Commission shall fix at the same time the quantities to cover, as a first instalment, the import needs of the Community's refineries for the longest practical period and at least 8 months, broken down between the tariff quotas opened within the framework of other agreements with other third countries and the ACP special quota.

   The ACP States shall notify their final export potential to the Commission at the latest on 1 February, before a second regular fixing shall be make for the further instalment to be covered by imports under the special ACP quota.

[redacted]

5. The special reduced rate of duty shall be fixed for the 1995/96 - 2000/2001 marketing years at 6,9 Ecu per 100 kgs raw sugar of the standard quality.

The importers and refiners which want to participate in this special reduced duty system must pay a minimum purchase price which is equal to the guaranteed price for raw sugar reduced by the adjustment aid fixed for the marketing year concerned in accordance with the provisions of Article 36 of Regulation (EEC) No 1785/81 mentioned under 3.

It is agreed that if the adjustment aid is increased or reduced by comparison with its existing level of 1.20 Ecu per 100 kgs raw sugar a converse adjustment will be made in the reduced levy, so that the change in the adjustment aid does not affect the net receipts of the ACP suppliers.

It is further agreed that the level of the reduced levy will be reconsidered if

a. the level of the guaranteed price established in accordance with the provision of Protocol No 8 annexed to the 4th Lomé convention is reduced by comparison with the price applicable in the 1994/95 delivery period or

b. the level of the world market price increases to the point where the objective of providing an incentive to supply the Community would be put at risk.

[redacted]

6. The ACP States shall undertake collectively to implement between themselves procedures for the allocation of the quantities under this special ACP quota in order to ensure the appropriate supplying of the refineries.

7. Before 1 January 2001, the two parties to this agreement shall open discussions on its possible continuation."

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the Governments of the above mentioned ACP States and the Community.

Please accept, sir, the assurance of my highest consideration.

For the Council of the European Union

[redacted]

Letter No 2

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows:

"..
...."

I have the honour to confirm the agreement of the Governments of the ACP States referred to in this letter with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

For the Governments

[redacted]

A N N E X 2

AGREEMENT

in the form of an exchange of letters between the European Community and the Republic of India on the supply of raw sugar to be refined

Letter N° 1

INDIA SPECIAL PREFERENTIAL SUGAR

"The representatives of India and the European Community have agreed as follows :

1. For the period 1 July 1995 to 30 June 2001

   - The European Community undertakes to open annually a special tariff quota for the import of raw cane sugar for refining which originate in India, on the basis of the needs determined by the Commission in accordance with paragraph 3,

[redacted]

- In the event of an import need being established, India undertakes to supply 10,000 tonnes (WSE) under this special tariff quota and under the conditions fixed by this agreement and by the measures taken by the Commission for the application of this agreement within the framework of the management of the common organization of the markets in the sugar sector. Nothing in this indent should prevent the Community offering to India the possiblility to supply more than 10,000 tonnes in the event of a shortfall in the total supplies obtained under other agreements.

2. The European Commission and India shall establish the cooperation procedures necessary to enable the two parties to this agreement to meet the comitments entered into.

3. The import needs of raw sugar for refining under this agreement shall be established by marketing year on the basis of a Community forward estimate taking account of :

   - the provisions of Council Regulation (EC) N° 1101/95, amending Regulation (EEC) N° 1785/81, concerning the system of preferential imports, and in particular Article 37 thereof,
   - the quantities which will be offered within the framework of other agreements with other third countries and which will actually be imported.

4. The special reduced rate of duty shall be fixed for the 1995/96 - 2000/2001 marketing years at 6,9 Ecu per 100 kgs raw sugar of the standard quality.

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The importers and refiners which want to participate in this special reduced duty system must pay a minimum purchase price which is equal to the guaranteed price for raw sugar reduced by the adjustment aid fixed for the marketing year concerned in accordance with the provisions of Article 36 of Regulation (EEC) N° 1785/81 mentioned under 3.

It is agreed that if the adjustment aid is increased or reduced by comparison with its existing level of 1.20 Ecu per 100 kgs raw sugar a converse adjustment will be made in the reduced levy, so that the change in the adjustment aid does not affect the net receipts of the India suppliers.

It is further agreed that the level of the reduced levy will be reconsidered if

(a) the level of the guaranteed price established in accordance with the agreement between the Community and India on raw sugar is reduced by comparison with the price applicable in the 1994/95 delivery period or

(b) the level of the world market price increases to the point where the objective of providing an incentive to supply the Community would be put at risk.

5. Before 1 January 2001, the two parties to this agreement shall open discussions on its possible continuation."

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the Government of India and the Community.

Please accept, Sir, the assurance of my highest consideration.

For the Council of the
European Union

[redacted]

<u>Letter N° 2</u>

Sir,

I have the honour to acknowledge receipt of your letter of today which reads as follows :

".."

I have the honour to confirm the agreement of my Government with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

For the Government of
the Republic of India.

[redacted]

FINANCIAL STATEMENT Date : [redacted]

1. BUDGET HEADING :	Receipts : 1000	APPROBIATIONS : Ecu 946,5 Million
	Expenditure : B1-110(PDB 95)	Ecu 1 235,0 Million

2. TITLE Council Decision on the conclusion of an Agreement in the form of an exchange of letters between the European Economic Community and, on the one hand, Barbados, Belize, the People's Republic of the Congo, Fiji, the Cooperative Republic of Guyana, the Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Democratic Republic of Madagascar, the Republic of Malawi, Mauritius, Saint Christopher and Nevis, the Republic of Suriname, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe and, on the other hand, India on the supply of raw cane sugar for refining.

3. LEGAL BASIS : Article 113 of Treaty.

4. AIMS OF PROJECT : Granting of a reduced rate of customs duty to the ACP States and India for an import quota opened for the period 1.7.1995 to 30.6.2001.

5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (1995)	FOLLOWING FINANCIAL YEAR (1995)
5.0 EXPENDITURE - Charged to the EC budget (Refund)		-	148,8
5.1 RECEIPTS - Onw resources or the EC (levies/customs duties)		-	21,1

	1997	1998	1999	2000
5.0.1 ESTIMATED EXPENDITURE	152,0	152,0	152,0	152,0
5.1.1 ESTIMATED RECEIPTS	21,6	21,6	21,6	21,6

5.2. METHOD OF CALCULATION

See attached Annex

6.0 CAN THE PROJECT BE FINANCED FROM APPROBIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET ?

YES/~~NO~~

6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET ?

YES/~~NO~~

6.2. IS A SUPPLEMENTARY BUDGET BE NECESSARY ?

~~YES~~/NO

6.3. WILL FUTURE BUDGET APPROBAIATIONS BE NECESSARY ?

YES/~~NO~~

OBSERVATIONS :

[redacted] [redacted]

ANNEX TO THE FINANCIAL STATEMENT

RECEIPTS

The quantities concerned by the agreement are : 320.000 tonnes of white sugar, equal to 348.000 tonnes of raw sugar (coefficient 0,92).

The normal rates of customs duties are those foreseen in the URUGUAY ROUND agreement. The reduced duty rate is 69 Ecu/t. Own resources of the Community correspond to 90 % of the reduced receipts.

BUDGETARY YEAR	1996	1997	1998	1999	2000	2001
Quantity (1000 t)	348,0	348,0	348,0	348,0	348,0	348,0
Full rate (ECU/t)	409,8	395,7	381,5	367,3	353,2	339,0
Reduced rate (ECU/t)	69,0	69,0	69,0	69,0	69,0	69,0
Normal receipts(ECU million)	142,6	137,7	132,8	127,8	122,9	118,0
Reduced receipts "	24,0	24,0	24,0	24,0	24,0	24,0
Reduced own resources "	21,6	21,6	21,6	21,6	21,6	21,6
Receipts forgone "	106,7	102,3	97,9	93,4	89,0	84,6

The assumption has been made that the receipts will occur after a delay of 6 months from the date of the agreement.

EXPENDITURE

The imports lead to the re-exportation of an equivalent quantity of sugar (from 1996/97 the refund rate apparing in the financial appreciation of the sugar market reform has been used).

BUDGETARY YEAR	1996	1997	1998	1999	2000	2001
Quantity (1000 t)	320,0	320,0	320,0	320,0	320,0	320,0
Refund (ECU/t)	465,0	475,0	475,0	475,0	475,0	475,0
Cost (ECU million)	148,8	152,0	152,0	152,0	152,0	152,0

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