

COMMISSION OF THE EUROPEAN COMMUNITIES

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PROPOSAL FOR A REGULATION (EEC) OF THE COUNCIL

opening, allocating and providing for the administration
of a Community tariff quota for products falling within
sub-heading 22.09 C I of the Common Customs Tariff originating
in the overseas countries and territories associated
to the European Economic Community

(Submitted by the Commission to the Council.)

EXPLANATORY NOTE

I.

The Community by virtue of Council Regulation (EEC) No 1598/75 of 24 June 1975, is anticipating certain provisions of the ACP-EEC Convention of Lomé on trade, and by Regulation (EEC) No 1600/75 on import procedure for goods falling within sub-heading 22.09 C I of the C.C.T. (rum, arrack and tafia).

The Council laid down, under Regulation (EEC) No 1957/75 of 30 July 1975, the interim procedure for trade between the overseas countries and territories (hereafter called OCT) associated with the European Economic Community and article 8 thereof laid down special rules for the aforementioned products and in respect of which a status quo procedure was adopted by Regulation (EEC) No 1958/75 of 30 July 1975. In this context the Council has declared the adoption of this regulation at the latest by 30 November 1975 so taking account of the various interests including Community preference and normal guaranties for Community procedures invoked by members of the Council. In addition the Commission was required to collect economic and trade statistics for trade in the products in question between countries of the OCT and the EEC.

II.

Analysis of such economic and statistical data may be briefly summarised as follows :

Rum is produced by three out of the associated countries and territories (the production of arrack and tafia is negligible). This production is the most important source of currency receipts.

A. Producing countries

- Aruba (production since 1974)
- St Martin (production since 1968)
- Surinam (production not important).

The first two countries belong to the Dutch West Indies whereas Surinam is to accede to the Lomé Convention.

Distilleries at Aruba and St Martin have no cane sugar plantations : they use molasses imported from Venezuela, Cuba, Porto Rico and other countries dependent on irregular harvests.

B. Production

Capacity production of the Aruba and St Martin distilleries is estimated at 104,000 hectolitres of pure alcohol (hereafter referred to as hl "pure alcohol") at the maximum (23,700 and 80,000 respectively). Actual production is not known.

C. Exportations

Exportations to the Community are, in particular, to Holland and West Germany. Only the distillery figures are available (hl "alcohol pure") :

	<u>Aruba</u>	<u>St Martin</u>	
1973	-	20,800	= 20,800
1974	5,135	30,400	= 35,535
1975	19,750	48,000 (estimated)	= 57,750

D. Importations into Member States of the EEC

Rum, originating in the OCT, is imported only into Holland and the Federal Republic. Scrutiny of national and Community statistics has demonstrated that the particulars therein would not be a satisfactory basis accurately to show importations in hl of pure alcohol coming from the OCT (e.g. secrecy of statistics = FDR, in tons or value, omission of alcoholic degree). Such statistics are frequently different from the statistics of exporting producer countries.

E. Having regard to this situation Member States at the request of the Community analysed in greater detail their importations of the products in question during recent years. The figures resulting from this enquiry are as follows :

	1st.1/2year		2nd 1/2year		1st.1/2year		2nd 1/2year	
	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	1975+)	<u>1976+)</u>	<u>1976+)</u>	
Benelux	0	5,848	1,565	1,500	3,500	4,900	2,100	
Denmark	464	117	152	12	125	25	125	
FDR	30,246	56,876	23,102	26,550	45,000	35,000	45,000	
France	-	-	-	-	-	-	-	
Ireland	4	6	13	-	7	7	7	
Italy	-	-	6	5				
TOTAL	30,714	62,847	24,838	28,067	48,632	39,932	47,232	
				=76,699		=87,164		

+) = estimated

- F. The Commission considers that the foregoing statistics could be the basis for determining the quantities of rum, arrack and tafia which could be imported into the Community without payment of customs duties.

III.

Thus, it is proposed that Community tariff quotas exempting from customs duties in respect of the products in question originating in the OCT should be opened, based on the Council declaration referred to under I above.

The quota laid down is based on the following principles :

- A. In the absence of any regular development of Community importations it seems appropriate as a basis to take the average of the last three years for which statistics are available - the annual volume of 39,466 hl pure alcohol.
- B. Application of the clause prorata temporis shows this volume to be 23,021 hl pure alcohol pending Council regulation to cover the period 1 December 1975 to 30 June 1976.
- C. In order to maintain a certain parallelism with the common procedure applicable to the importation of such products originating in the ACP States this amount could be annually increased by 13%.
- D. However certain Member States have forecast, that for the period in question, importations could exceed the volume laid down : taking account of these forecasts but also having regard to Community preferences it seems appropriate, exceptionally, to increase the volume by about 8,000 hl pure alcohol, to give a total of 34,000 hl.

- E. The proposed regulation on the opening of the Community tariff quota lays down the division of the volume into two tranches, the first being redivided between Member States and the second being the reserve. It seems that there could be a free choice as to how the quota should be administered.

IV.

The proposed Regulation (EEC) of the Council on the opening of the Community tariff quota, as set out below, is submitted for approval.

ANNEX : A proposal for a (EEC) Regulation of the Council.



Proposal for a
REGULATION (EEC) OF THE COUNCIL

opening, allocating and providing for the administration
of a Community tariff quota for products falling within
sub-heading 22.09 C I of the Common Customs Tariff originating
in the overseas countries and territories associated
to the European Economic Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,
in particular Article 113;

Having regard to the proposal from the Commission;

Whereas the Council has put into force autonomously Article 2(1) and Protocol No 7 of the ACP-EEC Convention of Lomé; whereas Regulation (EEC) No 1600/75 (1) the Council opened a tariff quota exempting from customs duties goods falling within sub-heading 22.09 C I of the Common Customs Tariff (rum, arrack and tafia) originating in ACP States; whereas Regulation (EEC) No 1957/75 (2) the Council laid down the interim trade arrangements with the "Overseas countries and territories" associated with the European Economic Community; whereas that regulation provides for the adoption of special rules for the above-mentioned goods originating in these countries and territories; whereas the Council has agreed, by virtue of Regulation (EEC) No 1958/75 (3) to adopt, before 30 November 1975 provisions relating to the importations procedure; whereas it has been agreed that a Community tariff quota should be opened exempting from customs duties the goods in question originating in these countries and territories; whereas because of the marketing problems for such goods the first quota period should be for the period 1 December 1975 to 30 June 1976;

(1) OJ No L 166, 28.6.1975, p. 81

(2) OJ No L 201, 31.7.1975, p.5

(3) OJ No L 201, 31.7.1975, p. 73

Whereas the Council, taking account of the varying interests so far invoked by Council Members, including Community preferences and normal guarantees for Community procedures, has agreed to the adoption of this system; whereas the quota for the period in question has to be laid down on the basis of average importations during the last three years increased by a growth rate of 13% and governed, additionally, by an exceptional increase to take account of importation forecasts by certain Member States and having regard to Community preferences;

Whereas the quota shall be fixed at 34,000 hectolitres of pure alcohol;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of levy for the tariff quota should be applied consistently to all imports of the product in question until the quota is used up; whereas a Community tariff arrangement based on an allocation between the Member States would seem to preserve the Community nature of the quota; whereas, to represent as closely as possible the actual development of the market in the product in question, the allocation should follow proportionately the requirements of the Member States calculated from both statistics of imports from the countries and territories during a representative reference period and the economic outlook for the tariff period in question;

Whereas, taking account of developing importations in Member States the initial percentage shares in the quota volume shall be as follows :

Benelux	9.35
Denmark	0.39
Germany	90.14
France	0.03
Ireland	0.03
Italy	0.03
United Kingdom	0.03;

Whereas, to take account of future import trends in the various Member States for the products concerned, each quota volume should be divided into two tranches, the first being allocated amongst the Member States and the second

held as a reserve to cover at a later date the requirements of Member States which have used up their initial share; whereas, to give importers some certainty, the first tranche of each Community tariff quota could be fixed at about 90% of the quota volumes;

Whereas the initial shares may be used up more or less quickly; whereas, therefore, to avoid disruption of supplies, any Member State which has almost used up its initial share must draw a supplementary share from the reserve; whereas this must be done by each Member State as each one of its supplementary shares is almost used up, and as many times as the reserve allows; whereas each initial and supplementary share must be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must be in a position to follow the extent to which the tariff quotas have been used up and inform the Member States thereof;

Whereas if, at a given date in the quota period, a considerable quantity of the initial share is left over in a Member State, it is essential that each State should return a significant proportion to the reserve to prevent a part of the Community quota 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 jointly represented by the Benelux Economic Union, any measure concerning the administration of the 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 December 1975 until 30 June 1976 rum, arrack and tafie falling within sub-heading 22.09 C I of the Common Customs Tariff, originating in the overseas countries and territories associated to the European Economic Community, shall be imported duty free into the Community within the limits of a Community tariff quota of 34,000 hectolitres of pure alcohol.

2. However, exemption from customs duties in the new Member States is without prejudice to the application of provisions of Article 38 of the Act of Accession.
3. Goods which fulfil the conditions laid down in Regulation (EEC) No 1957/75 of the Council of 30 July 1975 are regarded as originating in and territories.

After coming into force of the Regulation (EEC) relative to the association of the overseas countries and territories to the European Economic Community the rules of origin laid down in that regulation are to be applied.

Article 2

1. A first tranche of 30,680 hectolitres of pure alcohol of the Community tariff quota referred to in Article 1 shall be allocated among the Member States; the shares which, subject to Article 5, shall be valid until the end of the period stipulated in Article 1 shall be as follows :

Benelux	2,860 hl of pure alcohol
Denmark	120 hl of pure alcohol
Germany	27,580 hl of pure alcohol
France	10 hl of pure alcohol
Ireland	10 hl of pure alcohol
Italy	10 hl of pure alcohol
United Kingdom	10 hl of pure alcohol.

2. A second tranche of 3,400 hectolitres of pure alcohol shall constitute a reserve.

Article 3

1. If 90% or more of a Member State's initial share as specified in Article 2(1), or of that share minus the portion returned to the reserve where Article 5 is applied, has been used up, that Member State shall without delay, by notifying the Commission, draw a second share equal to 15% of its initial share, rounded up where necessary to the next unit, provided the reserve is adequate.
2. If, after its initial share 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 of paragraph 1, draw a third share, equal to 7.5% of its initial share, rounded up where necessary to the next unit.
3. If, after its second share 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.

This process shall continue to apply until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, a Member State may draw shares lower than those fixed in those paragraphs if there are grounds for believing that they may not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Supplementary shares drawn pursuant to Article 3 shall be valid until 30 June 1976.

Article 5

The Member States shall return to the reserve, not later than 1 April 1976, the unused portion of their initial share which, on 15 March 1976, is in excess of 20% of the initial amount. They shall return a greater portion if there are grounds for believing that it may not be used up.

Member States shall, not later than 1 April 1976 notify the Commission of the total quantities of the said goods imported up to and including 15 March 1976 and charged against the Community tariff quota and any quantities of the initial share 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 reserve has been used up.

It shall inform the Member States, not later than 5 April 1976, of the amount still in reserve after amounts have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which uses up the reserve is limited to the balance available and to this end shall specify the amount thereof to the Member State making the last drawing.

Article 7

1. Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their accumulated shares in the Community quota.
2. Member States shall ensure that importers of the goods in question 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 these countries and territories as and when the goods are entered for home use.

Article 8

Member States shall inform the Commission at monthly of imports actually charged against their shares.

Article 9

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

Article 10

This Regulation shall enter into force on 1 December 1975.

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

Done at Brussels, 4 November 1975

For the Council

The President

