

# COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(82) 683 final

Brussels, 26 October 1982

Draft of a

## COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of a  
Community tariff quota for sweet cherries, marinated in alcohol  
and intended for the manufacture of chocolate products, falling  
within subheading ex 20.06 B I e) 2 bb) of the Common Customs  
Tariff

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(submitted to the Council by the Commission)

COM(82) 683 final



## EXPLANATORY MEMORANDUM

1. Following a request by the German Federal Republic, the Commission has examined the question of opening, on an autonomous basis and for the period 1 July 1982 to 30 June 1983, a Community tariff quota for cherries of small diameter marinated in alcohol, intended for the manufacture of chocolates. This question has been raised in the Economic Questions Group, on several occasions.

During these discussions, it became apparent that :

- a) there exists a certain level of production of such cherries in the Community, the volume of which cannot currently be ascertained, however, on account of the seasonal nature of the harvest, the uncertainty of climatic conditions at the time the fruit is forming, and the special characteristics relating to cherries within the requirements laid down (small diameter, small stone, clear flesh, sweet, hard and not completely ripe) ;
- b) the contacts made between producers and consumers during the first months have covered only part of the user industries whose regular supplies still depend, to a significant degree, on importations from third countries, and in particular from Yugoslavia ;
- e) even though the cherries are intended for use in what are called "luxury" products the firm for whom the suspension of duties is requested, is established in a poor economy area, where there are major problems on the maintenance and creation of employment ;
- d) Community import requirements from third countries could reach 3,700 tonnes for the period covering 1 July 1982 to 30 June 1983, according to the estimates given by the Member States ;
- e) uncertainty concerning the possibility of supplies by Community producers and concerning the actual requirements of the user industries, together with the economic justifications put forward, led the Council in its regulation (EEC) n° 1644/82 of 21 June 1982 (1), to open a tariff quota limited to the period 1 July to 31 December 1982, with a reduced rate of duty (10 %) and for a modest quantity

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(1500 tonnes), capable of ensuring the parallel development of Community output and the supplying of user industries under favourable conditions.

2. The problem of opening such a quota for the first half of 1983 was examined during a meeting of the Economic Tariff Questions Group on 10 September 1982. The conclusion reached was that, taking into account the small amount of experience acquired since the opening of this quota on 1 July 1982, it was impossible to decipher the trend of developments or to provide more precise economic data. It was therefore agreed to renew the tariff measure for the first half of 1983 under the same conditions, and to re-examine the question in the spring with a view to a new tariff measure which would enter into force on 1 July 1983.

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COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of a Community tariff quota for sweet cherries, marinated in alcohol and intended for the manufacture of chocolate products, falling within subheading ex 20.06 B I e) 2 bb) of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Whereas the production of sweet cherries, marinated in alcohol and intended for the manufacture of chocolate products, is currently insufficient in the Community to meet the requirements of the user industries in the Community; whereas, consequently, Community supplies of products of this type depend to a considerable extent on imports from third countries; whereas it is in the Community's interest to partially suspend the Common Customs Tariff duty for the products in question, within a Community tariff quota of an appropriate volume; whereas in order not to bring into question the development prospects of this production in the Community while ensuring an adequate supply to satisfy user industries, it is advisable to limit the benefits of tariff quotas solely to products which meet certain criteria as to presentation and use, to open the quota for the period 1 January 30 June 1983 and to fix the volume of this quota at a level of 1 500 tonnes, corresponding to the needs for imports from third countries during that period, and to fix the quota duty at 10 %;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of duty for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas, in the light of these principles, arrangements for the utilization of the tariff quota based on an allocation among Member States would seem to be consistent with the Community nature of

the quota; whereas, to correspond as closely as possible to the actual trend in the market in the product in question, allocation of the quota should be in proportion to the requirements of the Member States as calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota period in question;

Whereas, however, since the quota is an autonomous Community tariff quota intended to cover import needs arising in the Community, the quota volume may, for experimental purposes, be allocated on the basis of the estimated temporary import needs from third countries of each of the Member States; whereas these arrangements for allocation will also ensure the uniform application of the Common Customs Tariff;

Whereas, to take account of possible import trends for the product concerned, the quota volume should be divided into two tranches, the first being allocated between certain Member States and the second held as a reserve to meet subsequent requirements of Member States which have used up their initial shares; whereas, to give importers of the Member States some degree of certainty, the first tranche of the tariff quota should be fixed at a relatively high level, which in this case could be 1 446 tonnes;

Whereas the initial shares of the Member States may be used up at different rates; whereas, to avoid disruption of supplies on this account, any Member State which has almost entirely used up its initial share should draw an additional share from the reserve; whereas, each time its additional share is almost entirely used up, a Member State should draw a further share, and so on as many times as the reserve allows;

whereas the initial and additional shares should be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, which latter must be in a position to keep account of the extent to which the quota has been used up and to inform the Member States accordingly;

Whereas, if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused, it is essential that that Member State should return a significant proportion to the reserve, in order to prevent a part of the Community quota remaining unused in one Member State while 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 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* June 1983

1. From 1 January to 30 June 1983 the Common Customs Tariff duty on sweet cherries, marinated in alcohol, of a diameter not exceeding 18.9 mm, stoned, intended for the manufacture of chocolate products<sup>(1)</sup>, falling within subheading ex 20.06 B I e) 2 bb), shall be suspended at a level of 10 % within the framework of a Community tariff quota of 1 500 tonnes.

2. Within the limits of the tariff quota, Greece shall apply customs duties calculated in accordance with the relevant provisions in the 1979 Act of Accession.

*Article 2*

1. A first tranche of 1 446 tonnes of this Community tariff quota shall be allocated among certain Member States; the shares which, subject to Article 5, shall be valid until 30 June 1983, shall be as follows:

	(tonnes)
Benelux	5
Denmark	5
Germany	1 155
Greece	90
France	1
Ireland	5
Italy	180
United Kingdom	5

2. The second tranche of 54 tonnes shall constitute the reserve.

<sup>(1)</sup> Checks on their prescribed end-use shall be carried out pursuant to the relevant Community provisions.

*Article 3*

1. If a Member State has used 90 % or more of its initial share as fixed in Article 2 (1), or of that share minus any portion returned to the reserve pursuant to Article 5, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 10 % of its initial share rounded up as necessary to the next whole number.

2. If a Member State, after exhausting its initial share, has used 90 % or more of the second share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a third share equal to 5 % of its initial share rounded up as necessary to the next whole number.

3. If a Member State, after exhausting its second share, has used 90 % or more of the third share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a fourth share equal to the third.

This process shall apply until the reserve is used up.

4. By way of derogation from paragraphs 1 to 3, a Member State may draw shares lower than those specified in those paragraphs if there are grounds for believing that those specified may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

*Article 4*

Additional shares drawn pursuant to Article 3 shall be valid until 30 June 1983.

*Article 5*

Member States shall, not later than 15 May 1983, return to the reserve the unused portion of their initial share which, on 1 May 1983, is in excess of 20 % of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 15 May 1983, notify the Commission of the total quantities of the products in question imported up to 1 May 1983 and charged against the Community quota and of any portion of their 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 the notifications reach it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 20 May 1983, inform the Member States of the amounts still in the reserve following any return of shares pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve does not exceed the balance available, and to this end shall notify the amount of that balance to the Member State making the last drawing.

*Article 7*

1. Member States shall take all appropriate measures 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 aggregate shares of the Community tariff quota.

2. Member States shall take all appropriate measures to ensure that the products listed in paragraph 1 of Article 1 benefiting from the tariff quota in question are put to the prescribed end-use.

3. Member States shall ensure that importers of the product in question have free access to the shares allotted to them.

4. Member States shall charge imports of the product in question against their shares as the product is entered with the customs authorities for free circulation.

5. The extent to which Member States have used up their shares shall be determined on the basis of imports charged against them under the conditions set out in paragraph 4.

*Article 8*

At the Commission's request, the Member States shall inform it of imports actually charged against their shares.

*Article 9*

Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

*Article 10*

This Regulation shall enter into force on 1 January 1983.

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

Done at

*For the Council*  
*The President*

