

COUNCIL REGULATION (EEC) No 3025/76

of 13 December 1976

opening preferential tariffs for developing countries for raw or unmanufactured tobaccos falling within subheading 24.01 A ex II 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 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas in the Joint Declaration of Intent on the development of trade relations with Sri Lanka, India, Malaysia, Pakistan and Singapore ⁽²⁾, the Community declared its readiness to seek solutions to the problems which may arise in the field of trade for the countries referred to as well as for developing countries situated in the same geographical region;

Whereas, particularly for Indonesia, raw or unmanufactured tobaccos, other than Virginia type, falling within subheading 24.01 A ex II, represent an important export product; whereas the generalized preferences scheme may constitute a solution for problems arising in this connection; whereas these types of tobaccos should therefore be included in the generalized preferences scheme;

Whereas, within the context of UNCTAD, the European Economic Community offered to grant tariff preferences on certain processed agricultural products of Chapters 1 to 24 of the Common Customs Tariff which originate in developing countries; whereas the preferential treatment proposed in that offer consists, in respect of certain goods which are subject to the trade arrangements laid down in Regulation (EEC) No 1059/69, of a reduction in the fixed component of the charge

applicable to such goods by virtue of that Regulation, and, in respect of products which are subject to the single customs duty, of a reduction in such duty; whereas preferential imports of the products concerned could be effected without quantitative restrictions; whereas, it appears appropriate however, in view of the sensitiveness of the tobacco sector generally and of the need to safeguard the interests of the associated countries and of the ACP States in this field, to lay down for these raw or unmanufactured tobaccos special conditions consisting in a reduction of the customs duty applicable to these products within the limits of a Community tariff ceiling;

Whereas the offer made by the Community includes a clause stating that the Community drew up the offer on the assumption that all the main industrialized countries which are members of the OECD would participate in granting preferences and would make similar efforts in this direction; whereas, moreover, it is evident from the conclusions worked out in UNCTAD that this offer, while being of a temporary nature, does not constitute a binding commitment and, in particular, may be withdrawn wholly or in part at a later date; whereas this possibility may be adopted *inter alia* with a view to remedying any unfavourable situations which might arise in the ACP States following the implementation of the generalized preference scheme;

Whereas, moreover, the conference of Heads of State or of Government of the Member States and the States acceding to the European Communities held in Paris from 19 to 21 October 1972 invited the Community institutions and the Member States progressively to adopt an overall policy of development cooperation on a world-wide scale comprising in particular the improvement of generalized preferences with the aim of achieving a steady increase in imports of manufactures from the developing countries;

Whereas tariff preferences have been applied as from the second half of 1971; whereas, however, for certain types of tobacco the said system of tariff preferences has been made applicable from 1974; where-

⁽¹⁾ OJ No C 259, 4. 11. 1976, p. 27.

⁽²⁾ OJ No L 73, 27. 3. 1972, p. 195.

as it is appropriate to extend this system henceforth also for tobaccos falling within subheading 24.01 A ex II;

Whereas it is expedient, therefore, that the Community should open for 1977 for the said raw or unmanufactured tobaccos, other than Virginia type, originating in the countries and territories listed in the Annex, a Community ceiling of 2 500 metric tons, at a customs duty rate of 7% with a minimum charge of 33 units of account and a maximum charge of 45 units of account per 100 kilogrammes net weight;

Whereas, in accordance with Protocol 23 to the Act of Accession⁽¹⁾, the generalized tariff preference scheme became fully applicable in the new Member States on 1 January 1974;

Whereas, for the product concerned, this scheme would, however, involve the application in the new Member States in the first half of 1977 of customs duties higher than or very close to those which will be applied by the new Member States to non-member countries in general on the basis of the provisions of the abovementioned Act; whereas this situation would comply neither with the spirit nor with the very nature of the generalized preference scheme; whereas, in order to maintain an equivalent preferential margin for these products also, reduced customs duties should during the said period be applied to them, in accordance with detailed rules based on the principle of maintaining, in the new Member States, a preference proportional to that which exists between the duties of the Common Customs Tariff and the duties given in Article 1 of this Regulation; whereas, with a view to granting the beneficiary developing countries the best possible treatment, in accordance with the objectives of the preference scheme, the duties given in the abovementioned Article 1 should also be applied wherever the duties calculated according to the abovementioned detailed rules prove to be higher than them; whereas it is essential to reserve the benefit of this tariff suspension for products originating in the countries and territories under consideration, the concept of 'originating products' being determined in accordance with the procedure laid down in Article 14 of Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods⁽²⁾;

Whereas the charging of imports against a ceiling must be carried out as and when the tobaccos

concerned are presented for customs clearance under cover of declarations that they are intended for home use and are accompanied by a certificate of origin; whereas this method of administration must make provision for the re-introduction of customs duties as soon as the ceiling is reached at Community level;

Whereas such method of administration calls for very close and particularly rapid cooperation between Member States and the Commission, which must, in particular, be able to observe the extent to which charges are made against the ceiling and inform Member States thereof; whereas such cooperation should be particularly close in view of the need for the Commission to be able to take appropriate measures to re-introduce customs duties either generally or individually, when the ceiling is reached;

Whereas measures should be provided for which will enable any serious disruption in any sector of the economic activity of the Community to be avoided; whereas to this end, the Commission should be empowered to re-introduce partially or wholly the levying of customs duties in order that such disruption may be avoided,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1977, the duties under the Common Customs Tariff relating to raw or unmanufactured tobacco, other than Virginia type, falling within subheading 24.01 A ex II shall be suspended at 7 % within a minimum charge of 33 units of account per 100 kilogrammes net weight and a maximum charge of 45 units of account per 100 kilogrammes net weight.

On importation into Denmark, Ireland and the United Kingdom, there shall be applied to the products mentioned above the customs duties determined by multiplying, by a coefficient equal to the margin of preferences existing between the duty given in the first subparagraph and the Common Customs Tariff duties applicable, the duties obtained by reducing by 80% the difference between the lowest duty applied on 1 January 1972 to the developing countries set out in the Annex and the Common Customs Tariff.

However, the duties given in the first subparagraph shall be applied from 1 January to 30 June 1977, where the duties resulting from the abovementioned

⁽¹⁾ OJ No L 73, 27. 3. 1972, p. 14.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 1.

calculation are higher than them. From 1 July 1977 the duties given in the first subparagraph shall be applied.

2. This tariff suspension shall apply solely to products originating in the countries and territories listed in the Annex. However, those imports which enjoy exemption from customs duties under other preferential tariff arrangements granted by the Community may not be charged against the ceiling referred to in paragraph 3.

For the purposes of the application of this Regulation the concept of 'originating products' shall be determined in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 802/68.

3. Subject to Articles 2 and 4 this suspension shall be granted for the tobaccos in question up to a Community ceiling of 2 500 metric tons.

Article 2

As soon as the ceiling calculated in accordance with the provisions of Article 1 (3), which is laid down for Community imports of products originating in all of the countries and territories referred to in Article 1 (2), is reached at Community level, the levying of customs duties on imports of the tobaccos from all the countries and territories concerned may at any time be re-introduced until the end of the period referred to in Article 1 (1).

Article 3

1. Imports of the products in question shall be charged against the Community ceiling as and when the tobaccos in question are entered for home use, and provided that they are accompanied by a certificate of origin pursuant to the rules laid down in Article 1 (2).

2. Goods may be charged against the ceiling only if the certificate of origin referred to in paragraph 1 is submitted before the date on which the levying of duties is re-introduced.

3. The extent to which the ceiling has been used up shall be determined at Community level on the basis of the imports charged in accordance with paragraphs 1 and 2.

Article 4

1. The Commission, in close cooperation with the Member States, shall take all necessary measures to ensure that the above provisions are applied.

2. The Commission shall issue a Regulation to re-introduce the levying of customs duties in respect of all the countries and territories referred to in Article 1 (2) in accordance with Article 2.

Article 5

Member States shall inform the Commission periodically of imports of the products in question charged against the Community ceiling laid down in Article 1 (3). This information shall show both the value, expressed in units of account, and the quantities expressed in metric tons.

Article 6

When products benefiting from the treatment provided for in Article 1 are imported into the Community at such prices that Community producers of products similar to or in direct competition with them suffer or are likely to suffer from serious disadvantage, the levying of customs duties may be re-introduced in whole or in part on the products in question in respect of the countries or territories which are the cause of the disadvantage. Such measures may also be taken in the case of actual or potential serious disadvantage in a single region of the Community.

Article 7

1. The Commission may decide, by means of a Regulation, to re-introduce the levying of customs duties for a specified period, in order to ensure that Article 6 is applied.

2. In the event of such action being requested by a Member State, the Commission shall decide within a period of not more than 10 working days after the request has been received and shall inform the Member States of this decision.

3. Any Member State may refer to the Council the measure taken by the Commission, within a period of not more than 10 working days after it has been informed thereof. The fact that the matter is referred to the Council shall not cause the measure to be suspended. The Council shall meet immediately. It may, by acting on a qualified majority, amend or rescind the measure in question.

Article 8

Articles 6 and 7 shall not prejudice the implementation of the safeguard clauses adopted in pursuance of the common agricultural policy under Article 43 of the Treaty and of those adopted in pursuance of

the common commercial policy under Article 113 of the Treaty.

Article 9

This Regulation shall enter into force on 1 January 1977.

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

Done at Brussels, 13 December 1976.

For the Council

The President

M. van der STOEL

ANNEX

List of developing countries and territories enjoying generalized tariff preferences

I. INDEPENDENT COUNTRIES

Afghanistan	Guyana	Philippines
Algeria	Haiti	Qatar
Angola	Honduras	Romania
Argentina	India	Rwanda
Bahamas	Indonesia	Sao Tome and Principe
Bahrain	Iran	Saudi Arabia
Bangladesh	Iraq	Senegal
Barbados	Ivory Coast	Seychelles
Bénin	Jamaica	Sierra Leone
Bhutan	Jordan	Singapore
Bolivia	Kenya	Somalia
Botswana	Khmer Republic	Sri Lanka
Brazil	Korea (South)	Sudan
Burma	Kuwait	Surinam
Burundi	Laos	Swaziland
Cameroon	Lebanon	Syria
Cape Verde Islands	Lesotho	Tanzania
Central African Republic	Liberia	Thailand
Chad	Libya	Togo
Chile	Malagasy Republic	Tonga
Colombia	Malawi	Trinidad and Tobago
Comoros	Malaysia	Tunisia
Congo, People's Republic of	Maldive Islands	Uganda
Costa Rica	Mali	United Arab Emirates:
Cuba	Mauritania	Abu Dhabi
Cyprus	Mauritius	Dubai
Dominican Republic	Mexico	Ras al Khaimah
Ecuador	Morocco	Fujairah
Egypt, Arab Republic of	Mozambique	Ajman
El Salvador	Nauru	Sharjah
Equatorial Guinea	Nepal	Ummal Qaiwain
Ethiopia	Nicaragua	Upper Volta
Fiji	Niger	Uruguay
Gabon	Nigeria	Venezuela
Gambia	Oman	Vietnam
Ghana	Pakistan	Western Samoa
Grenada	Panama	Yemen, People's Democratic Republic of
Guatemala	Papua New Guinea	Yemen Arab Republic
Guinea	Paraguay	Yugoslavia
Guinea Bissau	Peru	Zaire
		Zambia

II. COUNTRIES AND TERRITORIES

dependent or administered, or for whose external relations Member States of the Community or third countries are wholly or partly responsible

Afars and Issas (Territory of the)
Australian Antarctic Territory
Belize
Bermuda
British Antarctic Territory
British Indian Ocean Territory (Aldabra, Farquhar, Chagos Archipelago, Desroches)
British Pacific Ocean ⁽¹⁾
Brunei
Cayman Islands and Dependencies
Christmas Island
Cocos (Keeling) Islands
Corn Islands and Swan Islands
Falkland Islands and Dependencies
French Polynesia
French Southern and Antarctic Territories
Gibraltar
Heard Island and McDonald Islands
Hong Kong
Leeward Islands ⁽²⁾
Macao
Mayotte
Netherlands Antilles
New Caledonia and Dependencies
Norfolk Island
Pacific Islands administered by the United States of America or under United States trusteeship ⁽³⁾
Portuguese Timor
St Helena (including Ascension, Gough Island, and Tristan da Cunha)
Spanish territories in Africa
Territories for which New Zealand is responsible (Cook Islands, Niue Island, Tokelau Islands and Ross Dependency)
Turks and Caicos Islands
Virgin Islands of the United States (St Croix, St Thomas, St John, etc.)
Wallis and Futuna Islands
Windward Islands ⁽⁴⁾

Note: The above lists may be amended subsequently to take account of changes in the international status of countries or territories.

⁽¹⁾ Gilbert Islands, Tuvalu, British Solomon Islands, New Hebrides Condominium, and Pitcairn Islands.

⁽²⁾ Antigua, Montserrat, St Kitts-Nevis-Anguilla, British Virgin Islands.

⁽³⁾ The Pacific Islands administered by the United States of America include: Guam, American Samoa (including Swain's Island), Midway Islands, Johnston and Sand Islands, Wake Island and the Trust Territory of the Pacific Islands (the Caroline, Marianas and Marshall Islands).

⁽⁴⁾ Dominica, St Lucia, St Vincent.