

COUNCIL REGULATION (EEC) No 3024/76

of 13 December 1976

opening, allocating and providing for the administration of a Community tariff quota for raw or unmanufactured Virginia type tobaccos originating in developing countries

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 with the countries referred to;

Whereas, on the one hand, for several Asian countries of the Commonwealth and particularly India, the types of unmanufactured tobaccos concerned are an important export product and the flow of trade in such products is likely to be changed as a result of the enlargement of the Community and, on the other hand, these countries are among the worst hit by the present economic crisis; whereas the system of generalized tariff preferences may constitute a solution to the problems of this nature; whereas these types of tobaccos should 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 raw or unmanufactured Virginia type tobacco special conditions consisting in a reduction of the customs duty applicable to these products within the limits of a Community tariff quota;

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 the flue-cured Virginia type tobacco, the said system of tariff preferences has been made applicable from 1974 and it is appropriate to apply this system henceforth for all Virginia type tobaccos;

⁽¹⁾ OJ No C 259, 4. 11. 1976, p. 27.

⁽²⁾ OJ No L 73, 27. 3. 1972, p. 195.

Whereas it is expedient, therefore, that the Community should open for 1977 for these raw or unmanufactured tobaccos, originating in the countries and territories listed in the Annex, a Community tariff quota limited to 60 000 metric tons, at a customs duty rate of 7% with a minimum charge of 15 units of account per 100 kilogrammes net weight for Virginia type tobaccos falling within subheading 24.01 ex B and with a maximum charge of 45 units of account per 100 kilogrammes net weight for the Virginia type tobaccos falling within subheadings 24.01 A ex I and 24.01 A ex II;

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 tobaccos concerned, this scheme would, however, involve the application in the new Member States in 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 above-mentioned 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 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 above-mentioned Article 1 should also be applied wherever the duties calculated according to the above-mentioned detailed rules prove to be higher than them;

Whereas the benefit of this tariff quota should be reserved 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 it is necessary to ensure equal and continuous access for all Community importers to the above-mentioned quota and the uninterrupted application of the rate laid down for this quota to all imports of the products concerned into all Member

States until this quota is used up; whereas, having regard to the principles set out above, the Community nature of the quota can be respected by allocating the Community tariff quota among Member States; whereas, moreover, to this end and in the context of the utilization system, the actual charges against the quota may relate only to products which have been entered for home use and which are accompanied by a certificate of origin;

Whereas, on the basis of the available statistical data which cover only a relatively brief period and whereas they should be weighted on the basis of the estimates which may be made in respect of the quota year, the shares in the quota amount may be set out as follows:

Germany	10 525 metric tons
Benelux	5 700 metric tons
France	1 000 metric tons
Italy	4 000 metric tons
Denmark	1 900 metric tons
Ireland	1 975 metric tons
United Kingdom	34 900 metric tons

Whereas, without affecting the Community nature of the tariff quota under consideration, it appears possible to provide temporarily for a utilization scheme based on a single allocation among the Member States; whereas, moreover, the allocation set out by this Regulation in no way prejudices the possibility of adopting the general method of allocation of Community tariff quotas comprising the setting up of a reserve share; whereas at this transitional stage it appears feasible that such allocation could be made according to the amounts set out above;

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;

Whereas the shares of the Member States in the Community tariff quota, in view of its duration and its amount, do not appear in this instance to compromise the equal access for Community importers to Community tariff quotas; whereas for this same reason it would appear expedient to allow each Member State to choose the system for administering its share;

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, all transactions concerning the administration of shares allocated to that economic union may be carried out by any one of its members,

⁽¹⁾ OJ No L 73, 27. 3. 1972, p. 178.

⁽²⁾ OJ No L 148, 28. 6. 1968, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1977, a Community tariff quota of 60 000 metric tons shall be opened in the Community for the imports of raw or unmanufactured Virginia type tobaccos falling within subheadings 24.01 A ex I, 24.01 A ex II and 24.01 ex B of the Common Customs Tariff. Within this tariff quota the customs duty shall be suspended at 7% with a minimum charge of 15 units of account per 100 kilogrammes net weight for Virginia type tobaccos falling within subheading 24.01 ex B and a maximum charge of 45 units of account per 100 kilogrammes net weight for Virginia type tobaccos falling within subheadings 24.01 A ex I and 24.01 A ex II.

On importation into Denmark, Ireland and the United Kingdom, there shall be applied 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 calculation are higher than them. From 1 July 1977 the duties given in the first subparagraph shall be applied.

2. This tariff quota 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 this tariff quota.

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.

Entry to this tariff quota shall be subject to the production of a certificate of authenticity appearing in the certificate of origin and made out in accordance with the procedure referred to in the second subparagraph.

Article 2

The Community tariff quota mentioned in Article 1 shall be allocated in shares which, for each Member State, shall be of the amount indicated below:

Germany	10 525 metric tons
Benelux	5 700 metric tons
France	1 000 metric tons
Italy	4 000 metric tons
Denmark	1 900 metric tons
Ireland	1 975 metric tons
United Kingdom	34 900 metric tons

Article 3

1. The Member States shall ensure free access to the share which has been allocated to them for importers of the products concerned who are established on their territory.

2. The extent to which the shares of Member States have been used up shall be determined on the basis of imports of the said goods which have been entered for home use, and which are accompanied by a certificate of origin in accordance with the rules referred to in Article 1 (2).

3. Goods may qualify for a tariff quota only if the certificate of origin referred to in paragraph 2 is submitted before the date on which the levying of duties is re-introduced.

Article 4

Member States shall inform the Commission at monthly intervals of imports of the said goods charged against their shares. This information shall show both the value expressed in units of account and the quantity expressed in metric tons.

Article 5

Should imports of the products benefiting under the arrangements provided for in Article 1 be imported into the Community at prices such as to put or be likely to put Community producers of similar or directly competitive products at a serious disadvantage the customs duties applied within the Community may be re-introduced in part or in full for imports of the products in question from the country or countries or territory or territories which are the cause of such disadvantage. Such measures may also be taken in the event of a serious disadvantage, either actual or foreseeable, which is confined to a single region of the Community.

Article 6

1. In order to ensure that Article 5 is applied, the Commission may, by way of a Regulation, re-introduce normal duties for a fixed period.
2. If the Commission has acted at the request of a Member State, the former shall give its decision within a maximum period of 10 working days from the date of receipt of the request and shall inform the Member State of the action it has taken.
3. Each Member State may refer the measure taken by the Commission to the Council within a period of 10 working days following the date it was notified. The fact that the matter has been referred to the Council shall not constitute the suspension of the measure. The Council shall meet without delay. Acting on a qualified majority, it may amend or repeal the measure in question.

Article 7

Articles 5 and 6 shall not prejudice the application of the protective clauses drawn up in connection with the common agricultural policy pursuant to Article 43 of the Treaty nor those drawn up in connection with the common commercial policy pursuant to Article 113 of the Treaty.

Article 8

Member States and the Commission shall cooperate closely to ensure that the above Articles are observed.

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.