COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.11.2001
COM(2001) 670 final

2001/0269 (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 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, the Republic of Mauritius, the Republic of Surinam, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of 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 39 together with Article 26 of Council Regulation (EC) No 1260/2001 provide for agreements with the ACP States referred to in Protocol No 3 on ACP sugar of Annex V to the ACP-EG Partnership Agreement 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 39.

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 Community market on a regular basis. As a result, the Commission has, in conformity with the negotiating directives adopted by the Council on 23 July 2001 concluded negotiations with the ACP States referred to and India. These negotiations have resulted in a tariff quota with varying quantities for the ACP countries and 10 000 tonnes for India to which a minimum purchase price applies. The reduced duty is set at zero in view of the fact that other concessions are going to reduce the quantities supplied until now by the ACP countries and that the net earnings per tonne based on the guaranteed price, are supposed to remain stable during the five year period of the current sugar market organisation.

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 Annexes 1 and 2.

4. Financial impact

   The financial consequences are set out in the financial statement.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of Article 300(2), thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Negotiations with the ACP States referred to in Protocol 3 on ACP sugar of Annex V to the ACP-EC Partnership Agreement and India[1] 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.

(2) Article 26(1) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector[2], provides that tariff quotas resulting from agreements concluded in the framework of the Uruguay Round of multinational trade negotiations shall be opened and administered in accordance with detailed rules adopted under the procedure laid in Article 42 of the Regulation.

(3) Article 39(3) of Regulation (EC) No 1260/2001 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 35 of that Regulation and other States with whom agreements have been concluded. These negotiations have resulted in a tariff quota with varying quantities for the ACP countries and 10 000 tonnes for India to which a minimum purchase price applies. The reduced duty is set at zero in view of the fact that other concessions are going to reduce the quantities supplied until now by the ACP countries and that the net earnings per tonne based on the guaranteed price, are supposed to remain stable during the five year period of the current sugar market organisation.

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[1] OJ L 195, 1.8.2000, p. 46.
[2] OJ L 178, 30.6.2001, p. 1.

(4) 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 the Republic of India, on the other hand, and by the Community.

(5) It is appropriate to open such a tariff quota for raw cane sugar to be refined for maintaining the current access for ACP referred to in Protocol 3 of Annex V to the ACP-CE Partnership Agreement and the Republic of India.

(6) It is appropriate to approve the Agreements in the form of an 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 refined.

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreements in the form of an Exchange of letters between the European Community and, on the one hand, Barbados, Belize, the Republic of 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, the Republic of Mauritius, the Republic of Surinam, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of 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 texts of Agreements are attached to this Decision.

*Article 2*

The President of the Council is hereby authorised 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 Community.*

Done at Brussels,

*For the Council*
*The President*

## ANNEX 1

**Agreement**

**in the form of an Exchange of Letters between the European Community and Barbados, Belize, the Republic of Congo, Fiji, the Co-operative Republic of Côte d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Suriname, Saint Kitts and Nevis, 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 on the supply of raw cane sugar to be refined**

A. Letter No 1

Brussels, ……….

Sir,

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

"1. For the period 1 July 2001 to 30 June 2006:

- the European Community undertakes to open annually a special tariff quota for the import of raw cane sugar for refining which originates 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 organisation of the markets of the sugar sector.

2. The European Commission and the ACP States shall establish the co-operation 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 provision of Council Regulation (EC) No 1260/2001, and in particular Article 39 thereof, concerning the system of preferential imports.

- the quantities which will be offered within the framework of other agreements or other unilateral concessions 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 eight months broken down between the tariff quotas opened within the framework of other agreements or other unilateral concessions and this special ACP 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 made for the further instalment to be covered by imports under the special ACP quota.

5. The special reduced rate of duty shall be fixed for the 2001/02 – 2005/06 marketing years at EUR 0/100 kg raw sugar of standard quality.

   The 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 38 of Regulation (EC) No 1260/2001 mentioned under paragraph 3.

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

7. Before 1 January 2006, the two parties to this agreement shall open discussion 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 abovementioned ACP States and the Community.

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

*On behalf of the Council*
*of the European Union*

B. Letter No 2

Sir,

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

"……………………………………………………………………………………………………
………………………………………………………………………………………………….."

I have the honour to confirm the agreement to 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*

# ANNEX 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

A. Letter No 1

## INDIA SPECIAL PREFERENTIAL SUGAR

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

"1. For the period 1 July 2001 to 30 June 2006

– 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,

– in the event of an import needs being established, India undertakes to supply 10 000 tonnes (white sugar equivalent) under this 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 organisation of the markets in the sugar sector. Nothing in this indent should prevent the community offering to India the possibility 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 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 1260/2001, and in particular Article 39 thereof, concerning the system of preferential import.

– the quantities which will be offered within the framework of other agreements or other unilateral concessions and which will actually be imported.

4. The special reduced rate of duty shall be fixed for the 2001/02 – 2005/06 marketing years at EUR 0 per 100 kg raw sugar of standard quality.

The 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 38 of Regulation (EC) No 1260/2001 mentioned under paragraph 3.

5. Before 1 January 2006, 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.

*On behalf of the Council*
*of the European Union*

B. 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 Government of the Republic of India referred to in this letter with the foregoing.

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

*For the Government of*
*the Republic of India*

# FINANCIAL STATEMENT

| | | |
|---|---|---|
| 1. | BUDGET HEADING:<br>Chapter 1 0 – Agricultural duties | APPROPRIATIONS:<br>EUR 1 180 million |

2. TITLE:
Council Decision on the conclusion of Agreements in the form of an exchange of letters between the European Community and, on the one hand, Barbados, Belize, the Republic of 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, the Republic of Mauritius, the Republic of Surinam, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of 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.

3. LEGAL BASIS: Article 133 of the Treaty

4. AIMS:
To establish tariff concessions for special preferential sugar originating in the ACP countries and India

| 5. FINANCIAL IMPLICATIONS | PERIOD OF 12 MONTHS (EUR million) | CURRENT FINANCIAL YEAR 2001 (EUR million) | FOLLOWING FINANCIAL YEAR 2002 (EUR million) |
|---|---|---|---|
| 5.0 EXPENDITURE<br>- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTION)<br>- NATIONAL ADMINISTRATION<br>- OTHER | 84.03 | 14.01 | 84.17 |
| 5.1 REVENUE<br>- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)<br>- NATIONAL | - 11.9 | - 1.98 | - 11.2 |

| | 2003 | 2004 | 2005 | 2006 |
|---|---|---|---|---|
| 5.0.1 ESTIMATED EXPENDITURE | 78.53 | 72.03 | 64.57 | 27.99 |
| 5.1.1 ESTIMATED REVENUE | - 10.5 | - 9.6 | - 8.6 | - 3.7 |

5.2 METHOD OF CALCULATION:

**1) Loss of own resources**

In 2001
202 000 tonnes x EUR 58.8/t = EUR 11 877 600/year
EUR 11 877 600 x 2/12 months = EUR 1 979 600.

In 2002 et seq.:
Where quantities are concerned account must be taken of the annual increase granted to EBA sugar (15%/year) which will be deducted from the quantities imported under the special preferential ACP/India sugar scheme (Regulation (EC) No 416/2001 of 28.2.2001).

2002: 202 000 t – 11 176 t = 190 872 x EUR 58.8/t = EUR 11 223 288
2003: 190 872 t – 12 804 t = 178 068 x EUR 58.8/t = EUR 10 470 389
2004: 178 068 t – 14 725 t = 163 343 x EUR 58.8/t = EUR 9 604 568
2005: 163 343 t – 16 933 t = 146 410 x EUR 58.8/t = EUR 8 608 849
2006: 146 410 t – 19 473 t = 126 937 x EUR 58.8/t = EUR 7 463 896 x 6/12 months = EUR 3 731 948.

**2) Expenditure**

Refund expenditure should not change because the overall quantity to be exported remains unchanged. There is therefore no additional expenditure and, for 2002, this is included in the LA to the 2002 PDB. Estimated expenditure is calculated on the basis of a refund rate of EUR 416/t applicable in 2001 and EUR 441/t in 2002 and following years (estimates).

| | | |
|---|---|---|
| 6.0 | CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS 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 NECESSARY? | ~~YES~~ / NO |
| 6.3 | WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY? | ~~YES~~ / NO |

OBSERVATIONS: