

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 243 final

Brussels, 6th May 1982

PROPOSAL FOR A COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of a Community tariff quota for rum, arrack and tafia falling within subheading 22.09 C I of the Common Customs Tariff and originating in the ACP States (1982/1983)

(presented by the Commission to the Council)

COM(82) 243 final

MEMO FOR THE ATTENTION OF THE COUNCIL

The Commission notes that certain provisions adopted by the Council in the regulations opening Community tariff quotas for the importation of the products of subheading 22.09 C I of the CCT originating in the African, Caribbean and Pacific States are incompatible with the rules of the EEC Treaty.

It informs the Council of its firm intention to have recourse to the provisions of Article 169 of the Treaty should the Council again adopt such provisions.

The Commission is ready to seek appropriate solutions to prevent any disturbance of the market for the products in question.

EXPLANATORY MEMORANDUM

1. Protocol No 5 annexed to the Convention between the ACP States and the EEC (Lomé II) provides that the products falling within sub-heading No 22.09 C I of the CCT (rum, arrack, tafia), originating in the ACP States, shall be imported duty free into the Community. These preferential arrangements are restricted to a quantity which is to be fixed annually by the Community on the basis of the largest quantities imported annually from the ACP States during the last three years for which statistics are available, increased by certain annual growth rates.
2. The preferential system in question should therefore be put into force and a Community tariff quota should be opened for rum, arrack and tafia originating in the ACP States. Because there has already been taken a measure until 30 June 1982 this tariff quota should be opened for the period 1 July 1982 to 30 June 1983.
3. Community imports of the goods concerned during the last three years were as follow :

- in hectolitres of pure alcohol -

	<u>1979</u>	<u>1980</u>	<u>1981</u>
Benelux	4 897	15 860	5 656
Denmark	1 661	1 959	2 004
Germany	24 587	34 295	38 971
Greece	38	41	35
France	2 899	4 194	2 705
Ireland	2 337	2 124	2 619
Italy	474	413	328
United Kingdom	94 778	85 423	93 888
EC	<u>131 671</u>	<u>144 309</u>	<u>146 206</u>

The quota volume to be taken into account on this basis for the period 1 July 1982 to 30 June 1983 should be 193 178 hectolitres of pure alcohol.

4. The administration of this tariff measure in the form of a Community tariff quota has the aim of ensuring that :
 - imports of the products in question do not exceed the global volume fixed,
 - each Community importer has equal and continuous access to the said quota,
 - the preferential rate is applied without interruption to all imports in all the Member States, and
 - in particular, the preferential rate is applied uniformly and constantly throughout the Community.

The facility for drawing supplementary quota-shares from the Community reserve and the obligation to return unused quantities - two fundamental rules in the context of Community measures - are capable of being run in accordance with these principles.

5. For these reasons the provisions of the Regulation provide for the splitting up of the quota volume into two parts, the first of which will be allocated among the Member States as quota shares, with the second forming a reserve.

The calculation of these shares is based on the imports of the products in question from ACP States during the previous three years, 1979, 1980, 1981 and the economic outlook for the period in question, respecting, however, the growth rates mentioned under point 1.

6. The annexed table shows in detail the amounts actually charged, against the tariff quotas in question (periods 1978/79, 1979/80 1980/81 and 1981/82)
7. It is proposed that the draft for a Council Regulation described above should be approved (see annex).

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ACP - Rum - heading 22.09 C I

Amounts actually charged against the tariff quotas
opened for 1978/79, 1979/80, 1980/81 and 1981/82

Member State	1978/79			1979/80			1980/81			1981/82 (31.12.81)		
	Volume of the quota -hl-	Amount actual-ly charged -hl-	%	Volume of the quota -hl-	Amount actual-ly charged -hl-	%	Volume of the quota -hl-	Amount Actual-ly charged -hl-	%	Volume of the quota -hl-	Amount actual-ly charged -hl-	%
Benelux	6 000	5 816	97	6 912	5 731	83	7 631	7 631	100	15 262	3 500	23
Denmark	3 698	1 448	39	3 722	938	25	2 443	1 235	50	2 157	1 063	49
Germany	24 706	24 706	100	33 979	28 531	84	35 714	32 194	90	45 000	21 409	48
Greece	-	-	-	-	-	-	-	-	-	49	0	0
France	9 022	3 551	39	6 449	1 144	18	5 438	4 236	78	4 585	948	21
Ireland	1 000	492	49	2 704	1 154	43	3 209	2 008	63	2 678	1 176	44
Italie	424	424	100	426	351	82	535	429	80	522	147	28
United Kingd.	116 957	103 872	89	122 645	85 256	69	123 330	78 097	63	118 825	60 246	50
C. E.	161 807	140 309	87	176 837	123 105	70	178 300	125 830	71	189 078	88 489	47

PROPOSAL FOR A
COUNCIL REGULATION (EEC) No
of 1982

opening, allocating and providing for the administration of a Community tariff quota for rum, arrack and tafia falling within subheading 22.09 C I of the Common Customs Tariff and originating in the ACP States (1982/3)

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas Protocol 5 annexed to the second ACP-EEC Convention, signed at Lomé on 31 October 1979 (1), provides that products originating in the ACP States which fall within subheading 22.09 C I of the Common Customs Tariff shall, until the entry into force of a common organization of the market in spirits, be allowed into the Community free of customs duties under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States; whereas the Community shall fix each year the quantities which may be imported free of customs duties on the basis of the largest quantities imported annually from the ACP States into the Community in the past three years for which statistics are available, increased by an annual growth rate of 40 % on the market of the United Kingdom and 18 % on the other markets of the Community;

Whereas, having regard to the levels reached by imports of the products concerned into the Community and the Member States during the past three years for which statistics are available, the size of the tariff quota for the period 1 July 1982 to 30 June 1983 should be fixed at 193176 hectolitres of pure alcohol;

(1) OJ No 347, 22.12.1980, p. 141.

Whereas it is in particular necessary to ensure for all Community importers equal and uninterrupted access to the abovementioned quota and uninterrupted application of the rates laid down for that quota to all imports of the products concerned into all Member States until the quota has been used up; whereas, having regard to the above principles, the Community nature of the quota can be respected by allocating the Community tariff quota among the Member States; whereas, in order to reflect as accurately as possible the actual trend of the market in the products in question, such allocation should be in proportion to the requirements of the Member States, calculated by reference to the statistics of each State's imports of the said products from the countries in question over a representative reference period and also to the economic outlook for the quota period in question;

Whereas, during the past three years for which statistics are available, the corresponding imports by each of the Member States represent the following percentages of the imports into the Community from the countries in question of the products concerned :

Member States	1979	1980	1981
Benelux	3.71	11.00	4.04
Denmark	1.26	1.35	1.23
Germany	18.67	23.77	24.00
Greece	0.03	0.03	0.03
France	2.20	2.90	1.93
Ireland	1.77	1.46	1.46
Italy	0.36	0.29	0.23
United Kingdom	72.00	59.20	67.08

Whereas, in view of these factors of market forecasts for the products in question and of the estimates submitted by certain Member States, initial quota shares may be fixed approximately at the following percentages :

Benelux	6.25
Denmark	1.33
Germany	23.18
Greece	0.03
France	2.32
Ireland	1.68
Italy	0.28
United Kingdom	64.93

Whereas, in order to take into account import trends for the products concerned in the various Member States, the quota volume should be divided into two instalments, the first being shared among the Member States and the second constituting a reserve to cover at a later date the requirements of Member States which have used up their initial quota shares; whereas, in order to give importers in each Member State a certain degree of security, the first instalment of the Community quota should, under the present circumstances, be fixed at 90 % of the quota volume;

Whereas the Member States' initial shares may be used up at different times; whereas, in order to take this fact into account and avoid any break in continuity, any Member State which has almost used up its initial share must draw an additional share from the reserve; whereas this must be done by each Member State as and when each of its additional shares is almost entirely used up, and repeated as many times as the reserve allows; whereas the initial and additional shares must be valid until the end of the quota period; whereas this method of administration requires close cooperation between the Member States and the Commission, and the Commission must be in a position to monitor the extent to which the quota volume has been used up and inform the Member States thereof;

Whereas if, at a given date in the quota period, a considerable quantity is left over in any Member State, it is essential that that Member 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 united within and jointly represented by the Benelux Economic Union, any operation relating to the administration of the quota 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 July 1982 to 30 June 1983, rum, arrack and tafia falling within subheading 22.09 C 1 of the Common Customs Tariff and originating in the ACP States, shall be imported duty free into the Community within the limits of a Community tariff quota of 19378 hectolitres of pure alcohol.

as indicated in Article 2

2. Within the limit of its share, the Hellenic Republic shall apply customs duties calculated in accordance with the relevant provisions of the 1979 Act of Accession and of Regulation (EEC) No 439/81 (1).

Article 2

1. The Community tariff quota referred to in Article 1 shall be divided into two instalments.
2. A first instalment, amounting to 174000 hectolitres shall be shared among the Member States; the respective shares, which subject to Article 5 shall be valid until 30 June 1983 shall be as follows:

-in hectolitres of pure alcohol-

— Benelux:	10 870
— Denmark:	2 320
— Germany:	40 330
— Greece:	50
— France:	4 030
— Ireland:	2 930
— Italy:	490
— United Kingdom:	112 980

3. The second instalment of / hectolitres shall constitute the reserve. 19 178

Article 3

1. If 90 % or more of a Member State's initial share as specified in Article 2 (2), 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 10 % of its initial share, rounded up where necessary to the next unit, to the extent permitted by the amount of the reserve.

(1) OJ No L 53, 27.2.1981, p. 19.

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 laid down in paragraph 1, draw a third share equal to 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 until the reserve is used up.

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

Article 4

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

Article 5

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

The Member States shall, not later than 1 April 1983, notify the Commission of the total quantities of the said goods imported up to 15 March 1983 inclusive and charged against the Community quota, and of any quantities of the 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 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 1983 of the amount in the reserve after quantities have been returned pursuant to Article 5.

The Commission 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 which makes the last drawing.

Article 7

1. The Member States shall take all measures necessary 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 accumulated shares of the Community quota.

2. The Member States shall ensure that importers of the said products 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 share shall be determined on the basis of the imports of the goods in question entered with the customs authorities for free circulation.

Article 8

1. Member States shall inform the Commission each month of imports actually charged against the tariff quota.

2. The Commission shall regularly inform the Member States of the extent to which the tariff quota has been used up.

3. Where necessary, consultations may be held at the request of a Member State or on the initiative of the Commission.

Article 9

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

Article 10

Council Regulation (EEC) No 1470/80 of 9 June 1980 on the safeguard measures provided for in the second ACP-EEC Convention ⁽¹⁾ shall apply in respect of the products covered by this Regulation.

Article 11

This Regulation shall enter into force on 1 July 1982.

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

Done at Brussels,1982.

For the Council

The President

⁽¹⁾ OJ No L 147, 12. 6. 1980, p. 4.

