

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 341 final.

Brussels, 20 July 1978

Proposal for a

COUNCIL REGULATION (EEC)

opening, allocating and providing for the administration of a
Community tariff quota for fresh or chilled tomatoes falling
within subheading ex 07.01 M of the Common Customs Tariff,
originating in the African, Caribbean and Pacific-States and
in the overseas countries and territories (1978/79)

(submitted to the Council by the Commission)

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EXPLANATORY MEMORANDUM

1. On 28 February 1978, the Council defined in Regulation (EEC) N° 430/78 (OJ N° L 59 of 1.3.1978, p. 48) the tariff treatment applicable to fresh or chilled tomatoes falling within subheading ex 07.01 M of the CCT, originating in the ACP States *and* the OCT.

Article 1 of that Regulation provides for the opening of a Community tariff quota of 1.000 tonnes of the product in question at duties equal to 40% of the CCT duties, with a minimum charge of 2 u.a./100 kg, for the period from 15 November 1978 to 15 April 1979.

It is therefore necessary to open the tariff quota in question, by means of the proposal in annex.

2. The Regulation provides for the quota volume to be divided into two instalments, the first being allocated among the Member States and the second held as a Community reserve.

In the absence of Community statistics covering a sufficiently representative period, the initial shares have been fixed on the basis of each Member State's capacity to absorb the product in question, and the forecasts supplied by a number of them.

3. The Commission proposes the "grey hound system" as form of administration.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and
in particular Articles 43 and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Article 1 of Council Regulation (EEC) N° 430/78 ⁽¹⁾ provides for the
opening by the Community of a Community tariff quota of 1.000 tonnes of fresh
or chilled tomatoes falling within subheading ex 07.01 M I of the Common Customs
Tariff, originating in the African, Caribbean and Pacific States or in the overseas
countries and territories ; whereas the quota period runs from 15 November 1978 to
15 April 1979 ; whereas the customs duty applicable to the quota is set at 4,4%,
with a minimum charge of two units of account per 100 kilograms net weight ;
whereas it is therefore necessary to open the Community tariff quota in question ;

Whereas it is in particular necessary to ensure to all importers of the Member
States equal and uninterrupted access to the quota and uninterrupted application
of the rate laid down for that quota to all imports of the product in question
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 tariff quota among the Member States ; whereas, to reflect most
accurately the actual development of the market in the products in question,
such allocation should be in proportion to the requirements of the Member States,

(1) OJ N° L 59 of 1.3.1978, p. 48.

assessed by reference both to the statistics relating to imports from the countries in question over a representative reference period and to the economic outlook for the quota period concerned ;

Whereas in this case, however, neither Community nor national statistics for the goods in question are available and no reliable estimates of future imports can be made ; whereas, in these circumstances, the quota volume should be allocated in initial shares, taking into account demand for these goods on the markets of the various Member States ;

Whereas, to take into account import trends for the products concerned in the various Member States, each of the quota amounts should be divided into two instalments, the first being allocated among the Member States and the second held as a reserve intended to cover at a later date the requirements of Member States who have used up their initial share; whereas, in order to guarantee some degree of security to importers in each Member State, the first instalment of the Community quotas should be fixed at a level which could, in the present circumstances, be 60% of the quota volume;

Whereas the initial shares of the Member States may not be used up at the same rate; whereas, in order to take this into account and to avoid disruption, any Member State which has used up almost the whole of its initial share should draw a supplementary share from the relevant reserve; whereas this should be done by each Member State each time one of its supplementary shares is almost used up, and so on as many times as the reserve allows; whereas the initial and supplementary 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, and the Commission must be in a position to follow 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 Member State has a considerable quantity of its initial share left over, it is essential that it should return a significant proportion thereof to the relevant reserve, to prevent a part of the Community quota 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 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 15 November 1978 to 15 April 1979, a Community tariff quota of 1.000 tonnes shall be opened in the Community for fresh or chilled tomatoes falling within subheading ex 07.01 M I of the Common Customs Tariff, originating in the African, Caribbean and Pacific States or in the overseas countries and territories.
2. Within this tariff quota the Common Customs Tariff duty applicable to the products shall be suspended at 4,4% with a minimum charge of two units of account per 100 kilograms net weight.

Article 2

1. A first instalment of 600 tonnes of the Community tariff quota referred to in Article 1 shall be allocated among the Member States; the shares which, subject to Article 5 shall be valid until 15 April 1979, shall be as follows:

Benelux	50 tonnes,
Denmark	30 tonnes,
Germany	50 tonnes,
France	380 tonnes,
Ireland	30 tonnes,
Italy	30 tonnes,
United Kingdom	30 tonnes.

2. A second instalment of 400 tonnes shall constitute the reserve.

Article 3

1. If 90 % or more of any Member State's initial share as laid down in Article 2 (1), or 90 % of that share less the amount returned into the reserve, where Article 5 has been applied, has been exhausted, that Member State shall, without delay, by notifying the Commission, draw a second share in the quota equal to 15 % of its initial share, rounded up to the next unit, where appropriate, to the extent that the amount in the reserve allows.
2. If, after its initial share has been exhausted, 90 % or more of the second share drawn by a Member State has been used, that Member State shall, in accordance with the conditions laid down in paragraph 1, draw a third share, equal to 7.5 % of its initial share.

3. If after its second share has been exhausted, 90 % or more of the third share drawn by a Member State has been used, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This process shall be applied until the reserve is exhausted.

4. Notwithstanding the provisions of paragraphs 1 to 3, Member States may draw smaller shares than those fixed in those paragraphs if there is reason to believe that these shares might not be used up. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 15 April 1979.

Article 5

The Member States shall not later than 1 March 1979, return to the reserve the unused portions of their initial shares which, on 15 February 1979 is in excess of 20 % of the initial amount. They may return a greater portion if there are grounds for believing that such portion may not be used in full.

The Member States shall, not later than 1 March 1979 notify the Commission of the total imports of the products concerned effected under the Community quota up to 15 February 1979 inclusive, and where appropriate, the proportion of their initial shares that they are returning to the reserve.

Article 6

The Commission shall keep account of the shares opened by the Member States in accordance with Articles 2 and 3, and shall inform each of them of the extent to which the reserve has been used as soon as it receives the notifications.

The Commission shall, not later than 5 March 1979, notify the Member States of the state of the reserve after the return of shares pursuant to Article 5.

The Commission shall ensure that any drawing which uses up the reserve is limited to the balance available and, for this purpose, shall specify the amount thereof to the Member State which makes the final drawing.

Article 7

1. The Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 3 are opened in such a way that changes may be made without interruption against their accumulative shares of the Community quota.
2. 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 Member States shall charge imports of the said goods against their shares as and when the goods are entered with customs authorities for home use.
4. The extent to which a Member State has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 8

On receipt of a request from the Commission, Member States shall inform it of imports actually charged against their shares.

Article 9

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

Article 10

The rules of origin applicable to the products imported under this Regulation shall be, respectively, those of Protocol 1 annexed to the ACP-EEC Convention of Lomé concerning the definition of the concept of 'originating products' and the methods of administrative cooperation, and those of Annex II to Council Decision 76/568/EEC of 29 June 1976 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾.

Article 11

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

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

Done at Brussels,

For the Council

The President