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PROPOSAL FOR A
RECOMMENDATION (EEC) OF THE COUNCIL

opening, allocating and providing for the administration of a tariff quota for cocao butter and a tariff quota for instant coffee originating in developing countries

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(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

The Council has authorized the Commission to negociate a trade agreement between the EEC and Brazil and to this end it drew up negotiating directives on 5 March 1973 and directives supplementary thereto on 3 December 1973. These directives are in particular concerned with the tariff treatment of cocoa butter and instant coffee imported into the Community.

As from 1 January 1974 the United Kingdom in particular will bring her customs tariff into line with the CCT and this could normally entail a substantial increase in import duties on cocoa butter and instant coffee. Brazil is by far the largest supplier of instant coffee to the United Kingdom and also supplies her with a substantial amount of cocoa butter. In the light of this situation, Brazil has requested the Community to agree either to a reduction in the CCT for the two products to the level of the duty applicable to cocoa beans and to raw coffee respectively, or alternatively to the opening of tariff quotas, reserved for the United Kingdom, at the level of British customs duties for the two products in question.

Such a solution would give rise to a certain number of difficulties. There could in fact be no question either of reducing erga omnes the CCT duties to the extent requested, in view of Brazil's marketing policy for the two products and in the interests both of producers in associated countries and of European manufacturers nor of compromising the unity of the Community market by isolating the British market for the two products.

Since Brazil is a developing country and a member of the "77" Group, the Commission prefered to seek a solution within the framework of the Community system of generalized preferences in favour of developing countries.

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It proposes to make cocoa butter and instant coffee subject to tariff preferences according to special rules. These consist in opening Community tariff quotas for an amount of 21.600 metric tons for cocoa butter and of 18.750 metric tons for instant coffee, such quotas being allocated to allow the United Kingdom a substantial share. The Commission does not propose to introduce a Communtity reserve share for this quota. This is an exceptional and transitional case and one for which a choice of a special allocation scale can only be fully meaningful if such scale be applied to the entire quota from the time it is opened. Moreover, if this scale is applied, one may reckon that the share will be used up at a more or less constant rate throughout the exercise. This attitude is to be interpreted in the light of the solution adopted by the Council regarding the introduction of reserve shares in "generalized preferences" tariff quotas.

The measures proposed, which diverge somewhat from the usual arrangements in respect of generalized preferences, have the advantage of satisfaying Brazilian exporters and British consumers, while at the same time protecting the interests of associated countries and of European manufacturers. Moreover, they afford additional advantages to all developing countries which benefit under the Community's system of generalized preferences.

Proposal for a

REGULATION (EEC) OF THE COUNCIL

opening, allocating and providing for the administration of a tariff quota for cocao butter and a tariff quota for instant coffee originating in developing countries

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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, within the context of UNCTAD, the European Economic Community offered to grant tariff preferences on certain processed agricultural products falling within Chapters 1 to 24 of the Common Customs Tariff, originating in developing countries: whereas the preferential treatment provided for in this offer consists, on the one hand, in respect of certain goods subject to the trade arrangements laid down in Regulation (EEC) n° 1059/69, in reducing the fixed component of the levy applicable to these goods under that Regulation and, on the other hand, in respect of products subject to the uniform customs duty, in reducing this duty; whereas, for the products involved, preferential imports will be able to be made without restriction on quantity; whereas, however, in view of the fact that cocoa butter and instant coffee are sensitive products, and in view of the necessity to protect the interests of associated countries in this field, special arrangements should be laid down for these two products, such arrangements consisting in a granting of a reduction in the customs duty applicable to these products within the limits of Community tariff quotas;

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Whereas the offer by the Community includes a clause stating that it is made on the assumption that 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 associated countries following the implementation of the generalized preference scheme;

Whereas in respect of cocoa butter and instant coffee originating in the countries and territories listed in Annex A the Community should therefore open for 1974 two Community tariff quotas within the respective limits of 21.600 metric tons and at a customs duty of 8% for cocoa butter and of 18.750 metric tons and a duty of 9% for instant coffee;

Whereas under Protocol N° 23 to the Act annexed to the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community (1), signed on 22 January 1972, the new Member States are authorized to defer until 1 January 1974 the application of the generalized tariff preferences scheme applied by the European Economic Community to products originating in developing countries; whereas, accordingly, from that date the new Member States will be obliged to apply the full customs duties provided for in the generalized tariff preferences scheme of the European Economic Community for coffee and cocoa butter and the calculation of the amount of the shares must be based on the assumption that the new Member States are to play a full part in the generalized preferences scheme;

Whereas however, in respect of the abovementioned products, such a scheme of generalized preferences would, on the basis of the provisions of the Act referred to above, involve applying in 1974 customs duties in excess of or very close to those which will be applied by the new Member States to third countries in general; whereas this situation would not be in accordance either with the spirit of the Protocol N° 23 nor with the nature of the generalized preferences

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(1) OJ N° L 148, 29 June 1968, p. 1

scheme, whereas in order to maintain, in accordance with Protocol N° 23, an equivalent preferential margin in respect of these products also, provision should be made for the new Member States to apply to them reduced customs duties, the rules for which are based upon the principle of maintaining the same preferential margin between the duties applied by the new Member States under the provisions of the aforementioned Act and the duties applied by way of generalized preferences, as that which exists between the CCT duties and the suspended duties referred to above in respect of instant coffee and cocoa butter; whereas however, with a view to granting the beneficiary developing countries the best possible treatment, in accordance with the spirit which motivated the introduction of the preference scheme, the above mentioned suspended duties should be applied in cases where the duties calculated according to the said rules are found to exceed them;

Whereas only those products originating in the countries and territories considered should be allowed to benefit from these tariff quotas; whereas to this end the provisions regarding the definition of the concept of "originating products" should be applied in respect of the application of tariff preferences granted by the European Economic Community to products from developing countries, for the period from 1 January to 31 December 1974; whereas however provision should be made for an amendment to the list A annexed to those provisions concerning cooa butter.

Whereas it is necessary to ensure equal and continuous axcess for all Community importers to the above mentioned quotas and the uninterrupted application of the rate laid down for those quotas to all imports of the products concerned into all Member States until those quotas are used up; whereas, having regard to the principle set out above, the Community nature of the quotas can be respected by allocating the Communuty tariff quota among Member States; whereas moreover, to this end and in the context of the utilization system, the actual charges against the quotas may relate only to products which are entered for home use and are accompanied by a certificate of origin;

Whereas the statistical information available which only covers a relatively short period and which should in this particular casebe considered in conjunction with the forecasts which can be made for the quota year, the quota shares therefore can be drawnup as follows :

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	metric tons	
	cocoa butter	instant coffee
Germany	800	900
Benelux	12.300	1.550
France	100	250
Italy	50	50
Denmark	50	50
Irèland	50	50
United Kingdom	8.250	15.900

Whereas, without affecting the Community nature of the tariff quotas 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 constitution of a reserve; whereas at the present juncture it appears feasible that such allocation could as a rule be made according to the quota amounts set out in the table above;

Whereas the percentages of the shares of the Member States in the Community tariff quotas do not in this case appear to compromise equal access for Community importers to the Community tariff quota, given the period for application and the amounts of such quotas; whereas, for the same reason it would seem appropriate to leave each Member State to choose how to administer its share;

Whereas provision should be made for measures enabling any serious disturbance within the sector of the Community's economic activity to be avoided and to this end, the Commission should be empowered to reintroduce in part or in full the Common Customs Tariff duties in order to avoid such disturbance;

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 the share allocated to the Benelux Economic Union may carried out by any one of its members;

HAS ADOPTED THIS REGULATION :

Article 1

1. From 1 January to 31 December 1974 two Community tariff quotas shall be opened within the European Economic Community for imports of cocoa butter falling within tariff heading ex 18.04 and for instant coffee falling within tariff heading 20.02. ex A of the Common Customs Tariff respectively. Within the framework of these tariff quotas of a volume of 21.600 metric tons for cocoa butter and of 18.750 metric tons for instant coffee respectively the Common Customs Tariff duties shall be suspended at a level of 8% for cocoa butter and at a level of 9% for instant coffee respectively.

Denmark, Ireland and the United Kingdom shall apply to the abovementioned products reduced customs duties derived from the multiplication of the basic duties, aligned with the Common Customs Tariff in accordance with the provisions of the Act of Accession for 1974, by a coefficient equal to the preferential margin existing between the aforementioned suspended duties and the applicable Common Customs Tariff duties.

However they shall apply the abovementioned suspended duties of the duties derived from such calculations exceed them.

2. These tariff quotas shall apply solely to products originating in the countries and territories listed in Annex A. However, those imports which enjoy exemption from customs duties under other preferential tariff arrangements granted by the Community may not be charged against these tariff quotas.

For the purposes of the Regulation, the concept of originating products shall be as laid down by the provisions of Regulation N° ...../73 of the Commission (1) applicable to the products enjoying tariff preferences granted by the European Economic Community to developing countries for the period from 1 January to 31 December 1974, account being taken of the insertion in the list A annexed to those provisions of the special rule which appears in Annex B.

Article 2

The Community Tariff quotas mentioned in Article 1 shall be allocated in shares the amounts of which are set out below in respect of each Member State.

	Cocoa butter - in metric tons -	instant coffee
Germany	800	900
Benelux	12.300	1.550
France	100	250
Italy	50	50
Denmark	50	50
Ireland	50	50
United Kingdom	8.250	15.900

(1) OJ N° L ..../73

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Article 3

The Member States shall ensure free access to the shares which have been allocated to them for importers of the products concerned who are established on their territories.

Article 4

Member States shall inform the Commission monthly of imports of the products in question actually charged against their shares, both in value expressed in units of account and in quantity expressed in metric tons.

Article 5

If the Community should find that the product benefiting under the arrangements provided for in Article 1 are being imported into the Community in quantities or at prices such as to put or be likely to put Community producers of similar or directly competitive products at a serious disadvantage or to create an infavourable situation in associated countries, the customs duties applied within the Community may be reintroduced 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 Common Customs Tariff 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 6 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 six 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

The provisions of Article 5 and 6 shall not prejudice the application of the protective clauses drawn up in connection with the common commercial policy pursuant to Article 113 of the Treaty.

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Article 8

This Regulation shall enter into force on 1 January 1974.

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

Done at Brussels,

For the Council

The President

ANNEX A

List of developing countries and territories
benefiting under the Generalized Tariff Preferences

INDEPENDENT COUNTRIES

Afghanistan
Algeria
Argentina
Bahamas
Bahrain
Bangladesh
Barbados
Bhutan
Bolivia
Botswana
Brazil
Burma
Burundi
Cameroun
Central African Republic
Chad
Chile
Colombia
Congo, People's Republic of
Costa Rica
Cuba
Cyprus
Dahomey
Dominican Republic
Ecuador
Egypt, Arab Republic of
El Salvador
Equatorial Guinea
Ethiopia
Fiji
Gabon
Gambia
Ghana
Guatemala
Guinea, Republic of
Guyana
Haiti

Honduras
India
Indonesia
Iran
Iraq
Ivory Coast
Jamaica
Jordan
Kenya
Khmer Republic
Korea, Republic of (South Korea)
Kuwait
Laos
Lebanon
Lesotho
Liberia
Libya
Malagasy Republic
Malawi
Malaysia
Maldive Islands
Mali
Mauritania
Mauritius
Mexico
Morocco
Nauru
Nepal
Nicaragua
Niger
Nigeria, Federal Republic of
Oman
Pakistan
Panama
Paraguay
Peru
Philippines

Qatar
Rwanda
Soudi Arabia
Senegal
Sierra Leone
Singapore
Somalia
South Vietnam
Southern Yemen
Sri Lanka
Sudan
Swaziland
Syria
Tanzania
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia
Uganda
Union of Arab Emirates:
- Abu Dhabi
- Ajman
- Dubai
- Fujairah
- Ras al Khaimah
- Sharjah
- Umm al Qaiwain

Upper Volta
Uruguay
Venezuela
Western Samoa
Yemen
Yugoslavia
Zaire, Democratic Republic of
Zambia

COUNTRIES AND TERRITORIES

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

Afars and Issas (Territory of the)
Angola (including Cabinda)
Bermuda
British Honduras
British Indian Ocean Territory (Chagos Archipelago, Des Roches)
British Oceania (Territories under the jurisdiction of the Western Pacific High Commission[1]
Brunei
Cape Verde Islands
Cayman Islands and Dependencies
Comoro Archipelago
Cook Islands
Falkland Islands (Malvinas) and Dependencies
French Polynesia
French Southern and Antarctic Territories
Gibraltar
Hong Kong
Macao
Mozambique
Netherlands Antilles
New Caledonia and Dependencies
New Guinea (Australian) and Papua
Pacific Islands administered by the United States of America or under United States trusteeship[2]
Papua (see Australian New Guinea)
Portuguese Guinea
Portuguese Timor
St Helena (including Ascension, Gough Island, and Tristan da Cunha)
Saint Pierre and Miquelon
São Tomé and Príncipe
Seychelles (including Amirantes)
Sikkim
Spanish territory in Africa
Surinam
Territories for which New Zealand is responsible (Niuwe Island, Tokelau Islands)
Turks and Caicos Islands
Virgin Islands of the United States (St Croix, St Thomas, St John, etc.)
Wallis and Futuna Islands
West Indies[3]

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

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[1] Gilbert and Ellice Islands, British Solomon Islands, New Hebrides Condominium, Canton, Enderbury and Pitcairn Islands.

[2] 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, Mariana and Marshall Islands).

[3] Leeward Islands, Antigua, Montserrat, St Kitts-Nevis-Anguilla, British Virgin Islands, Windward Islands, Dominica, Grenada, St Lucia, St Vincent.

ANNEX B

The following heading and rule relating thereto is inserted into list A, annexed to the provisions to which the second subparagraph of Article 1 applies.

Products obtained		Opening and processing which does not confer the status of "originating products"	Opening and processing which confers the status of "originating products" when the conditions below are fulfille
CCT heading N°	Description		
18.04	Cocoa butter (fat or oil)		Manufacturing from "originating cocoa beans"