REGULATION (EEC) No 3508/73 OF THE COUNCIL

of 18 December 1973

opening, allocating and providing for the administration of a Community tariff quota for preserved pineapples other than in slices, half slices or spirals, 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;

Whereas in the Joint Declaration of Intent [1] on the development of trade relations with Sri-Lanka, India, Malaysia, Pakistan and Singapore, 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 in respect of several Asian countries of the Commonwealth and particularly as regards Malaysia the said preserved pineapples 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; whereas the system of generalized tariff preferences may constitute a solution to the problems of this nature and whereas certain forms of preserved pineapples should therefore be included in the system of generalized preferences;

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 originating 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 preserved fruit and vegetable sector generally and of the need to safeguard the interests of the associated countries in this field, to lay down for preserved pineapples, other than in slices, half slices or spirals special conditions consisting in a reduction of the customs duty applicable to that product 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 associated countries following the implementation of the generalized preference scheme;

Whereas tariff preferences have been applied as from the second half of 1971 and whereas it is expedient to continue to apply them throughout 1974;

Whereas it is expedient, therefore, that the Community should open for 1974 in respect of the said products, originating in the countries and territories listed in the Annex, a Community tariff quota limited to 20 000 metric tons and at a customs duty of 12%, increased by the levy on sugar in the case where the sugar content exceeds 17% by weight;

Whereas, in accordance with Protocol No 23 to the Act of Accession [2], the generalized tariff preference scheme will be fully applicable in the new Member States from 1 January 1974;

Whereas, for the said products, this scheme would, however, involve the application in the new Member States in 1974 of customs duties higher than or very

[1] OJ No L 73, 27. 3. 1972, p. 195.

[2] OJ No L 73, 27. 3. 1972, p. 14.

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 abovementioned 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 to 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 abovementioned Article 1 should also be applied wherever the duties calculated according to the abovementioned 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; whereas to this end, the provisions concerning the definition of the concept of 'originating products' should be applied in respect of the Community to the products from the developing countries, for the period from 1 January to 31 December 1974 as well as the provisions derogating from the said definition of the concept of originating products;

Whereas it is necessary to ensure equal and continuous access for all Community importers to the abovementioned quota and the uniterrupted 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 statistical data available which cover only a relatively brief period and whereas they should be weighted on the basis of the estimates which may be made for the quota year, the percentage of the shares of the quota amount may be drawn up as follows:

Germany	20·5%
Benelux	4·9%
France	0·5%
Italy	2·0%
Denmark	1·9%
Ireland	1·0%
United Kingdom	69·2%

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 percentage set out in the above table;

Whereas the percentage for the shares of the Member States in the Community tariff quota, in view of its duration and its amount, does 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 the share allocated to the Benelux Economic Union may be carried out by any one of its Members,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January to 31 December 1974, a Community tariff quota of 20 000 metric tons shall be opened by the Community for the imports of preserved pineapples other than in slices, half slices or spirals, falling under the following subheadings of the Common Customs Tariff: ex 20.06 B II a) 5, ex 20.06 B II b) 5, ex 20.06 B II c) 1 cc) and ex 20.06 B II c) 2. Within this tariff quota the customs duty shall be suspended at 12% with a charge on sugar for the said products with a sugar content exceeding 17% by weight.

On importation into Denmark, Ireland and the United Kingdom, there shall be applied to the abovementioned products the customs duty obtained by

multiplying, by a coefficient equal to the margin of preferences existing between the duty of 12% given in the first subparagraph and the Common Customs Tariff duties applicable, the duties obtained by reducing by 20% 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 duty of 12% given in the first subparagraph shall be applied when the customs duty resulting from the abovementioned calculation is higher than it.

2. The benefit of this tariff quota shall be reserved for the products originating in the countries and territories listed in the Annex. However, the imports already benefiting from exemption customs duties under another preferential tariff scheme granted by the Community shall not be charged to this quota.

For the purposes of implementing this Regulation the concept of originating products shall be that laid down by the provisions of Commission Regulation (EEC) No 3614/73 [1], applicable to the products benefiting from tariff preferences granted by the Community to the developing countries for the period from 1 January to 31 December 1974, taking into account the exceptions made to these provisions by Commission Regulation (EEC) No 3615/73 [2].

Article 2

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

Germany	4 100 metric tons
Benelux	980 metric tons
France	100 metric tons
Italy	400 metric tons
Denmark	380 metric tons
Ireland	200 metric tons
United Kingdom	13 840 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 actually filled 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 reintroduced.

Article 4

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

Article 5

If the Community should find that the products 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 unfavourable 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 disdvantage, 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, reintroduce 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 ten working days from the date of receipt of the request and shall inform the Member State of the action taken.

3. Each Member State may refer the measure taken by the Commission to the Council within a period of ten 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.

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[1] See p. 132 of this Official Journal.
[2] See p. 183 of this Official Journal.

Acting on a qualified majority, it may amend or repeal the measure in question.

Article 7

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

Article 8

This Regulation shall enter into force on 1 January 1974.

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

Done at Brussels, 18 December 1973.

For the Council

The President

J. CHRISTENSEN

ANNEX A

List of developing countries and territories enjoying generalized tariff preferences

INDEPENDENT COUNTRIES

Afghanistan
Algeria
Argentina
Bahamas
Bahrain
Bangladesh
Barbados
Bhutan
Bolivia
Botswana
Brazil
Burma
Burundi
Cameroon
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
Guyana
Haiti
Honduras
India
Indonesia
Iran
Iraq
Ivory Coast
Jamaica
Jordan
Kenya
Khmer Republic
Korea (South)
Kuwait
Laos
Lebanon
Lesotho
Liberia
Libya
Malagasy Republic
Malawi
Malaysia
Maldive Islands
Mali
Mauritania
Mauritius
Mexico
Morocco
Nauru
Nepal
Nicaragua
Niger
Nigeria
Oman
Pakistan
Panama
Paraguay
Peru
Philippines
Qatar
Rwanda
Saudi Arabia
Senegal
Sierra Leone
Singapore
Somalia
Sri Lanka
Sudan
Swaziland
Syria
Tanzania
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia
Uganda
United Arab Emirates:
- Abu Dhabi
- Dubai
- Ras al Khaimah
- Fujairah
- Ajman
- Sharjah
- Ummal Qaiwain

Upper Volta
Uruguay
Venezuela
Vietnam, Republic of
Western Samoa
Yemen, People's Democratic Republic of
Yemen Arab Republic
Yugoslavia
Zaire
Zambia

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)
Angola (including Cabinda)
Australian Antarctic Territory
Belize
Bermuda
British Antarctic Territory
British Indian Ocean Territory (Aldabra, Farquhar, Chagos Archipelago, Des Roches)
British Pacific Ocean (1)
Brunei
Cape Verde Islands
Cayman Islands and Dependencies
Christmas Island
Cocos (Keeling) Islands
Comoro Archipelago
Corn Islands and Swan Islands
Falkland Islands and Dependencies
French Polynesia
French Southern and Antarctic Territories
Gibraltar
Heard Island and MacDonald Islands
Hong Kong
Leeward Islands (2)
Macao
Mozambique
Netherlands Antilles
New Caledonia and Dependencies
Norfolk Islands
Pacific Islands administered by the United States of America or under United States trusteeship (3)
Papua-New Guinea
Portuguese Guinea
Portuguese Timor
St Helena (including Ascension, Gough Island, and Tristan da Cunha)
Saint Pierre and Miquelon
Sâo Tomé and Principe
Seychelles (including Amirantes)
Sikkim
Spanish territories in Africa
Surinam
Territories for which New Zealand is responsible (Cook Islands, Niuwe Island, Tokelau Islands and Ross Dependency)
Turks and Caocos 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.

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(1) Gilbert and Ellice Islands, 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, Grenada, St Lucia, St Vincent.