COMMISSION RECOMMENDATION

of 3 July 1987

to the French Republic concerning the adjustment of the State monopoly of a commercial character in matches *vis-à-vis* the new Member States

(Only the French text is authentic)

(87/389/EEC)

1. By letter dated 1 April 1986, the French Government informed the Commission that, in the case of matches (CCT heading No 36.06), it was still applying its import monopoly within the meaning of Article 37 (1) of the EEC Treaty *vis-à-vis* the new Member States.

Article 1 of Law No 72/1069 of 4 December 1972 provides that the State alone may, import matches, this exclusive right being delegated to the 'Service d'exploitation industrielle des tabacs et des allumettes'. By Law No 80/495 of 2 July 1980, the monopoly was delegated to the 'Société d'exploitation industrielle des tabacs et des allumettes' (SEITA). Though the monopoly on the importation of matches still applies to imports from third countries, it is no longer applicable to imports of matches from the Community of Ten.

2. The first subparagraph of Articles 48 (1) and 208 (1) of the Act of Accession provides that Spain and Portugal shall, from 1 January 1986, progressively adjust their State monopolies of a commercial character within the meaning of Article 37 (1) of the EEC Treaty so as to ensure that by 31 December 1991, in the case of Spain, and 31 December 1992, in the case of Portugal, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States.

The second subparagraph of Articles 48 (1) and 208 (1) stipulates that the other Member States shall have obligations in relation to Spain and Portugal equivalent to those laid down in the first subparagraph for the two new Member States.

The third subparagraph of Articles 48 (1) and 208 (1) provides that the Commission shall make recommendations to the relevant Member States of the Community of Ten as to the manner in which and the timetable according to which the adjustment provided for in those Articles must be carried out.

3. Matches are not subject to any monopoly of a commercial character in the new Member States.

France has not yet taken any steps to liberalize imports of matches from the new Member States.

On 18 July 1986, the French Government pointed out that there had been no trade in matches with the new Member States in the five years prior to accession.

4. The Commission considers that, in carrying out the adjustment provided for in Articles 48 and 208 of the Act of Accession, the restrictions on imports of matches from Spain and Portugal must be gradually removed by immediately opening quotas and increasing them annually so as to ensure that the French monopoly is completely dismantled by 31 December 1991, in the case of Spain, and 31 December 1992 in the case of Portugal.

As there is no trade in matches between France and the two new Member States, the Commission believes that the initial level of the quota to be opened by France for this product can be set at a percentage of national production of matches in the country holding the monopoly.

Since, as stipulated in Articles 48 (1) and 208 (1) of the Act of Accession, the Member States of the Community of Ten must have equivalent obligations to those laid down for Spain and Portugal, the Commission considers it reasonable to base the adjustment of the French monopoly on the criteria applied to Spain, pursuant to Article 48 (3) of the Act of Accession and Annex V thereto, as regards the gradual adjustment of its monopoly in manufactured tobacco.

It was decided in this respect that Spain's basic quota volumes must be at least equivalent to certain percentages (5 % or 6 % depending on the product) of Spain's total average production during the last three years prior to accession for which statistics were available.

In addition, there was to be a gradual annual increase of at least 20 % in the quotas at the beginning of each year, with the previous year's quota being automatically increased by 20 %.

5. Since the production of matches in France is roughly the same as the combined production of the two new Member States, and since the same applies to the populations of the countries, the Commission considers that the initial quota which France has been required to open as from 1 January 1986 *vis-à-vis* the new Member States should be set at 5,5 % of its production.

   The Commission also considers that the quota to be opened by France should be allocated between Spain and Portugal on the basis of their respective levels of production. According to the Commission's information, average production over the last three years 1984 to 1986 in the case of Spain and 1983 to 1985 in the case of Portugal was 31 000 million matches in Spain and 14 000 million in Portugal.

   The Commission is therefore of the opinion that France should allocate 70 % of the quota to Spain and 30 % to Portugal.

   So as to facilitate administration of the quota, the Commission considers that, even though the transitional period for Portugal is one year longer than that for Spain, it is reasonable not to treat the two new Member States differently at least until 1991.

6. For these reasons, and subject to the position the Commission may subsequently adopt in the light of the results of applying this Recommendation, the Commission hereby recommends to the French Republic, pursuant to the third subparagraph of Articles 48 (1) and 208 (1) of the Act of Accession :

   (a) That it should open, for imports of matches (CCT heading No 36.06) from Spain and Portugal :

   — in respect of each type of presentation or packaging (boxes or books of matches) and for the remaining period of 1987, a quota equal to not less than 6,6 % of national production in 1985, 70 % of the quota being allocated to Spain and 30 % to Portugal,

   — the 1987 quota should be increased by at least 20 % in 1988,

   — the previous year's quota should be increased by at least 20 % in the years thereafter.

   It is understood that, by 31 December 1991 in the case of Spain and 31 December 1992 in the case of Portugal, all quantitative restrictions will have been removed.

   The quotas should be administered in a transparent, objective and non-discriminatory manner. They should be opened for all operators without restriction, and the products imported under them should not be made subject to any exclusive marketing rights in France ;

   (b) That it should inform all interested parties, in particular by publishing a notice to importers in the *Journal Officiel de la République française,* of the possibilities available to them under the above-mentioned quotas of obtaining supplies of matches falling within CCT heading No 36.06 from Spain and Portugal.

Done at Brussels, 3 July 1987.

For the Commission

Peter SUTHERLAND

Member of the Commission