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GENERAL NOTICE

NOTICE 2238 OF 2004

DEPARTMENT OF AGRICULTURE

PROCEDURES FOR THE APPLICATION, ADMINISTRATION AND ALLOCATION OF EXPORT PERMITS UNDER THE TRADE, DEVELOPMENT AND CO- OPERATION AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF SOUTH AFRICA

A Trade, Development and Co-operation Agreement (TDCA) between the European Community (EC) and the Republic of South Africa has been established and came into force on 1 January 2000. This agreement provides for the establishment of a Bilateral Free Trade Area between the EC and South Africa in accordance with the World Trade Organization (WTO) rules and the strengthening of European development assistance to South Africa.

As part of the concessions provided for under the TDCA, the EC has agreed to grant tariff preferences on limited quantities of selected products in the form of tariff quotas. Export permits will be issued for the access quantities at reduced levels of duty under the conditions set out in the Schedule.

B.N. Njobe.

DIRECTOR-GENERAL: AGRICULTURE.

SCHEDULE

1. Countries for Export

Permits for exportation of any of the products specified in the Table on Export Arrangements, to the European Community, will be issued only to exporters in South Africa registered at SARS of which proof is required as stipulated in paragraph 6 of the Annexure.

2. Application for EC export permits

2.1 Any person interested in exporting any of the products specified in the Table (excluding cut flowers – EC tariff code 0603.10 – 0603.90) must apply therefor on a copy of the application form attached as an Annexure.

2.2 Application for export permits issued annually must be submitted to the Manager: Marketing Administration within four weeks from the date of publication of this notice. Permits will be valid from 1 January 2005 until 31 December 2005.

2.3 Applications for export permits issued on a half-yearly basis must be submitted to the Manager: Marketing Administration during the following periods:

- (a) For the first half of the quota valid for exportation during the period 1 January 2005 to June 2005, within four weeks from the date of publication of this Notice.

- (b) For the second half of the quota valid for exportation during the period 1 July 2005 to 31 December 2005 from 1 to 31 May 2005
- 2.4 In the case of cut flowers, potential exporters must apply to Customs and Excise on a first-come, first-served basis until the quota allocated is fully utilized.
- 2.5 The application form is available electronically on request from: casg@nda.agric.za.
- 2.6 The application form will only be accepted if duly completed.
- 2.7 An applicant bears the responsibility to ensure that –
- (a) the application form reflects the correct information as requested for the product concerned;
 - (b) the application is submitted timeously as set out in paragraph 2.2, and
 - (c) the application (whether faxed or posted) has been received by the Manager: Marketing Administration.
- 2.8 All exporters and potential exporters must comply with –
- (a) the sanitary, phyto-sanitary and other technical requirements as stipulated by the EC; and
 - (b) the Rules of Origin that form part of the TDCA and which can be obtained on request from the Department of Trade and Industry (Chief Directorate: Foreign Trade Relations, EU desk). Please note: The EUR 1 form that must accompany each consignment to be exported in terms of the TDCA, is obtainable from the applicant's local SARS office.
- 3. Addresses for applications**
- 3.1 Applications must –
- (a) when forwarded by post, be addressed to:
The Manager: Marketing Administration
Department of Agriculture
Private Bag X15
ARCADIA
PRETORIA, 0007
(For attention: Mr. G J Kamfer, Room 715);
 - (b) when delivered by hand, be delivered to:
The Manager: Marketing Administration
Department of Agriculture
Maize Board Building
503 Belvedere Street
ARCADIA
PRETORIA
(For attention: Mr. G J Kamfer, Room 703);

- (c) when sent by facsimile, be transmitted to:

Facsimile number: (012) 319 8077

For attention: Mr. G J Kamfer

An application transmitted by facsimile must be followed up by forwarding the original application (do not include copies of the bills of entry export, DAs 550/32 or Certificates of Export) to the address contemplated in paragraph (a) or (b) to reach the Department within 14 days of the facsimile transmission.

- 3.2 Applications delivered by hand will only be accepted during the Department's official hours, namely 07:30 to 16:00.

4. Conditions for the issuing of export permits

- 4.1 Permits for the products specified in the Table will be allocated on the basis of the following categories, unless specified differently in the Table:

- (a) 10% to exporters who did not export the product applied for during the period stipulated for the product, referred to as new exporters.
- (b) 10% to exporters that are Small, Medium and Micro Enterprises, referred to as SMME exporters.
- (c) 80% to exporters who exported the product applied for during the period stipulated for the product, referred to as historical exporters.

- 4.2 The allocation of quotas for permits will be done as follows:

- (a) new exporters on an equal basis;
- (b) SMME exporters either on an equal basis or as a historical exporter, whichever will enhance government policy for SMME development; and
- (c) Historical exporters in proportion to the average quantity of the product concerned, exported by the applicant during the period stipulated for the product in column 4 of the Table.

- 4.3 The quantity exported by a historical exporter will be calculated on the basis of the detailed list of bills of entry export (DA 550/32 or export certificates) for the product applied for, for the period concerned, submitted together with the application form.

- 4.4 (a) If the allocation for a particular category is not fully utilized, the balance may be re-allocated to the other categories.
- (b) In order to enhance government policy on new exporters and SMME's, quotas for new exporters and SMME's can be combined to ensure the most beneficial allocation.

- 4.5 If half-yearly permits are not fully utilized or committed by 31 May 2005 permit holders will be requested to either return the permit or declare back the unused quantity. The unused balance will be re-allocated for the period 1 July 2005 – 31 December 2005, if such quantities can be identified.

- 4.6 Permits for the exportation of products under tariff headings 2008.40; 2008.50 and 2008.70 will be allocated on receipt of a letter of intent from a local supplier indicating that the exporter can source the product for exportation to the EC.
- 4.7 The provisions of this section shall apply subject to the conditions specified in the Table.

5. General

- 5.1 Applicants must return all expired permits within thirty (30) days after the date of expiry thereof. Applicants who do not return their expired permits timeously will not be considered for the granting of permits.
- 5.2 This notice replaces all previous notices regarding the procedures for the application, administration and allocation of export permits under the TDCA between the EC and the Republic of South Africa.

TABLE
EXPORT ARRANGEMENTS SET OUT PER EC TARIFF CODE LINE

EC TARIFF CODE	DESCRIPTION OF PRODUCT	TARIFF QUOTA DUTY (% REDUCTION)	CONDITIONS FOR THE ISSUING OF PERMITS
1	2	3	4
Under EC tariff code 0406.10 – 0406.90.99, a total quantity of 6 250 tons [(agf 5%) ²¹] is allocated			
0406	Cheese and curd:	100 MFN ¹⁾	<p>In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with:</p> <p>(a) Permits will be allocated in collaboration with the industry.</p> <p>(b) Exportation can only take place from an approved EC registered processing plant. Proof of EC registration must be included with the application.</p> <p>(c) Permits will be issued on an annual basis and will be valid for 12 months.</p>
0406.10	- Fresh (unripened or uncured) cheese, including whey cheese, and curd:		
0406.10.20	-- Of a fat content, by weight, not exceeding 40%		
0406.10.80	-- Other		
0406.20.90	- Grated or powdered cheese (excluding glarus herb cheese (known as Schabziger) made from skimmed milk and mixed with finely ground herbs)		
0406.30	- Processed cheese, not grated or powdered:		
0406.30.10	-- In the manufacture of which no cheeses other than Emmentaler, Gruyère and Appenzeller have been used and which may contain, as an addition, Glarus herb cheese (known as Schabziger); put up for retail sale, of a fat content by weight in the dry matter, not exceeding 56%		
0406.30.31	-- Processed cheese, not grated or powdered, of a fat content, by weight, not exceeding 36% and of a fat content, by weight, in the dry matter not exceeding 48%		
0406.30.39	-- Processed cheese, not grated or powdered, of a fat content, by weight, not exceeding 36% and of a fat content, by weight, in the dry matter exceeding 48%		
0406.30.90	-- Processed cheese, not grated or powdered, of a fat content, by weight, exceeding 36%		
0406.40.90	- Blue-veined cheese (excluding Roquefort and Gorgonzola)		
0406.90.01	Cheese for processing (not elsewhere specified ³⁾)		
0406.90.21	--- Cheddar (excluding grated or powdered, and for processing)		
0406.90.50	--- Cheese of sheep's milk or buffalo milk in containers containing brine, or in sheep or goatskin bottles		
0406.90.69	----- Cheese of a fat content, by weight, not exceeding 40% and a water content, by weight, in the non-fatty matter not exceeding 47% (not elsewhere specified)		
0406.90.78	----- Gouda of a fat content, by weight, not exceeding 40% and a water content, by weight, in the non-fatty matter exceeding 47% but not exceeding 72%		

EC TARIFF CODE	DESCRIPTION OF PRODUCT	TARIFF QUOTA DUTY (% REDUCTION)	CONDITIONS FOR THE ISSUING OF PERMITS
1	2	3	4
0406.90.86	----- Cheese of a fat content, by weight, not exceeding 40% and a water content calculated, by weight, in the non-fatty matter exceeding 47% but not exceeding 52% (not elsewhere specified)	100 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: (a) Permits will be allocated in collaboration with the industry. (b) Exportation can only take place from an approved EC registered processing plant. Proof of EC registration must be included with the application. (c) Permits will be issued on an annual basis and will be valid for 12 months.
0406.90.87	----- Cheese of a fat content, by weight, not exceeding 40% and a water content calculated, by weight, in the non-fatty matter exceeding 52% but not exceeding 62% (not elsewhere specified)		
0406.90.88	----- Cheese of a fat content, by weight, not exceeding 40% and of a water content calculated, by weight, in the non-fatty matter exceeding 62% but not exceeding 72% (not elsewhere specified)		
0406.90.93	----- Cheese of a fat content, by weight, exceeding 40% of a water content calculated, by weight, in the non-fatty matter, exceeding 72% (not elsewhere specified)		
0406.90.99	----- Cheese of a fat content by weight exceeding 40% (not elsewhere specified)		
Under EC tariff code 0603.10.10: 0603.10.30 and 0603.10.50, a total quantity of 575 tons [(agf 3%) ²⁾] is allocated			
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	50 MFN ¹⁾ or 80 GSP ⁴⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following condition must be complied with: Potential exporters must apply to Customs and Excise on a first-come, first-served basis until the quota allocated is fully utilised.
0603.10	- Fresh flowers		
0603.10.10	-- Roses (from 1 January to 31 May and from 1 November to 31 December only)		
0603.10.30	-- Orchids (from 1 June to 31 October only)		
0603.10.50	-- Chrysanthemums (from 1 January to 31 May and from 1 November to 31 December only)		

<u>Under EC tariff code 0603.10.80 a total quantity of 690 tons [(agf 3%)²⁾ is allocated</u>			
0603.10.80	-- Other fresh flowers (from 1 June to 31 October only)	50 MFN ¹⁾ or 80 GSP ⁴⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following condition must be complied with: Potential exporters must apply to Customs and Excise on a first-come, first-served basis until the quota allocated is fully utilised.
<u>Under EC tariff code 0603.10.80.30, a total quantity of 1 125 tons [(agf 5%)²⁾ is allocated</u>			
0603.10.80.30	- Proteas (from 1 January to 31 May and from 1 November to 31 December only)	100 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following condition must be complied with: Potential exporters must apply to Customs and Excise on a first-come, first-served basis until the quota allocated is fully utilised.
<u>Under EC tariff code 0603.90.00, a total quantity of 575 tons [(agf 3%)²⁾ is allocated</u>			
0603.90.00	- Cut flowers and flower buds; dried, dyed, bleached, impregnated or otherwise prepared, of a kind suitable for bouquets or for ornamental purposes	75 MFN ¹⁾ or 80 GSP ⁴⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following condition must be complied with: Potential exporters must apply to Customs and Excise on a first-come-first-served basis until the quota allocated is fully utilised.
<u>Under EC tariff code 0811.10.90, a total quantity of 287,5 tons [(agf 3%)²⁾ is allocated</u>			
0811	Fruits and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter	100 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in proportion to market share figures to historical exporters, based on actual exports during the 2002 and 2003 calendar years. Permits will be issued annually and will be valid for 12 months.
0811.10.90	- Strawberries, not containing added sugar or other sweetening matter		

Under EC tariff codes 2008.40, 2008.50 and 2008.70, a total quantity of 47 225 (agf 3%) ²⁾ is allocated			
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.40	- Pears		
2008.40.51	---- Pears not containing added spirit, containing added sugar, with a sugar content exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.40.59	---- Pears not containing added spirit, containing added sugar, with a sugar content not exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.40.71	---- Pears not containing added spirit, containing added sugar, with a sugar content exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.40.79	---- Pears not containing added spirit, containing added sugar, with a sugar content not exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg		
2008.40.91	---- Pears not containing added spirit, not containing added sugar, in immediate packings of a net content of 4,5 kg or more		
2008.40.99	---- Pears not containing added spirit, not containing added sugar, in immediate packings of a net content of less than 4,5 kg		
2008.50	- Apricots		
2008.50.61	---- Apricots not containing added spirit, containing added sugar with a sugar content exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.50.69	---- Apricots not containing added spirit, containing added sugar with a sugar content not exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.50.71	---- Apricots not containing added spirit, containing added sugar with a sugar content exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg		
2008.50.79	---- Apricots not containing added spirit, containing added sugar with a sugar content not exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg		
	--- Apricots not containing added spirit, not containing added sugar, in immediate packings of a net content :		
2008.50.92	---- of 5 kg or more		
2008.50.94	---- of 4,5 kg or more but less than 5 kg		
2008.50.99	---- of less than 4,5 kg		

2008.70	- Peaches, including nectarines	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.70.61	----- Peaches not containing added spirit, containing added sugar with a sugar content exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.70.69	----- Peaches not containing added spirit, containing added sugar with a sugar content not exceeding 13% by weight, in immediate packings of a net content exceeding 1 kg		
2008.70.71	----- Peaches not containing added spirit, containing added sugar with a sugar content exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.70.79	----- Peaches not containing added spirit, containing added sugar with a sugar content not exceeding 15% by weight, in immediate packings of a net content not exceeding 1 kg		
2008.70.92	----- Peaches not containing added spirit, not containing added sugar, in immediate packings of a net content -		
2008.70.94	----- of 5 kg or more		
2008.70.99	----- of 4,5 kg or more but less than 5 kg ----- of less than 4,5 kg		
<p><u>Under EC tariff code 2008.92.59 – 2008.92.98 (excluding 2008.92.72), a total quantity of 21 040 tons [(agf 3%) ²⁾ is allocated</u></p> <p><u>Under EC tariff code 2008.92.72, a total quantity of 2 300 tons [(agf 3%) ²⁾ is allocated</u></p>			
2008.92.59	----- Mixtures of fruit not containing added spirit, containing added sugar, in immediate packings of a net content exceeding 1 kg, of tropical fruit (excluding mixtures containing 50% or more by weight of tropical nuts and tropical fruit)	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.92.72	----- Mixtures of tropical fruit not containing added spirit, containing added sugar, in immediate packings of a net content not exceeding 1 kg, mixtures of fruit in which no single fruit exceeds 50% of the total weight of the fruit, of tropical fruit (including mixtures containing 50% or more by weight of tropical nuts and tropical fruit)		
2008.92.74	----- Mixtures of tropical fruit not containing added spirit, containing added sugar, in immediate packings of a net content not exceeding 1 kg, mixtures of fruit in which no single fruit exceeds 50% of the total weight of the fruit, of tropical fruit (excluding mixtures containing 50% or more by weight of tropical nuts and tropical fruit)		

2008.92.78	----- Mixtures of tropical fruit not containing added spirit, containing added sugar, in immediate packings of a net content not exceeding 1 kg, other than mixtures of fruit in which no single fruit exceeds 50% of the total weight of the fruits, of tropical fruit (excluding mixtures containing 50% or more by weight of tropical nuts and tropical fruit)	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2008.92.98	----- Mixtures of tropical fruit not containing added spirit, not containing added sugar, in immediate packings of a net content of less than 4.5 kg, of tropical fruit (excluding mixtures containing 50% or more by weight of tropical nuts and tropical fruit)	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
<u>Under EC tariff code 2009.11.99, a total quantity of 805 tons [(agf 3%) ²⁾ is allocated</u>			
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: - Orange juice, frozen, of a Brix value not exceeding 67, other than that of a value not exceeding 30 Euro per 100 kg net weight and with an added sugar content exceeding 30% by weight	50 MFN ¹²⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
<u>Under EC tariff code 2009.40.30 - 2009.70.99, a total quantity of 5 750 tons [(agf 3%) ²⁾ is allocated, split into 4 312.5 tons [(agf 3%) ²⁾ for pineapple juice and 1 437.5 tons [(agf 3%) ²⁾ for apple juice</u>			
2009.49.30	- Pineapple juice, other, of a Brix value exceeding 20 but not exceeding 67, of a value exceeding 30 Euro per 100 kg net weight, containing added sugar	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.

2009.79.11	----- Apple juice, other, of a Brix value exceeding 67, of a value not exceeding 22 Euro per 100 kg net weight	50 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in collaboration with the industry, based on actual exports during the 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2009.79.19	----- Apple juice, other, of a Brix value exceeding 67, of a value exceeding 22 Euro per 100 kg net weight		
2009.79.30	----- Apple juice, other, of a Brix value exceeding 20 but not exceeding 67, of a value exceeding 18 Euro per 100 kg net weight, containing added sugar		
2009.79.91	----- Apple juice, other, of a Brix value exceeding 20 but not exceeding 67, other: with an added sugar content exceeding 30% by weight		
2009.79.93	----- Apple juice, other, of a Brix value exceeding 20 but not exceeding 67, other: with an added sugar content not exceeding 30% by weight		
2009.79.99	----- Apple juice, other, of a Brix value exceeding 20 but not exceeding 67, other: not containing added sugar		
Under EC tariff code 2204.10.11 and 2204.10.19, a total quantity of 562 500 litres [agf 5%] ²⁾ is allocated			
2204	Wine of fresh grapes, including fortified wines; grape must other than that of heading no. 2009	100 MFN ¹⁾	In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with: Permits will be allocated in proportion to market share figures to historical exporters, based on actual exports during the 2001, 2002 and 2003 calendar years. Permits will be issued on a half-yearly basis and will be valid for six months.
2204.10.19	--- Sparkling wine, of an actual alcoholic strength by volume of not less than 8.5% volume, other excluding Champagne		
2204.10.99	--- Sparkling wine, of an actual alcoholic strength of not less than 8.5% volume, other excluding Asti spumante		

Under EC tariff code 2204.21.79 – 2204.21.84, a total quantity of 45 197 000 litres [(agf 3%) ²⁾] is allocated		
2204.21.79	----- White wine of fresh grapes: Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding 2 litres or less, of an actual alcoholic strength by volume not exceeding 13% volume	100 MFN ¹⁾
2204.21.80	----- Wine of fresh grapes: Other than white wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding 2 litres or less, of an actual alcoholic strength by volume not exceeding 13% volume	
2204.21.83	----- White wine of fresh grapes: Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding 2 litres or less, of an actual alcoholic strength by volume exceeding 13% volume but not exceeding 15% volume, excluding quality wines produced in specified regions	
2204.21.84	----- Wine of fresh grapes: Other than white wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding 2 litres or less, of an actual alcoholic strength by volume exceeding 13% volume but not exceeding 15% volume, excluding quality wines produced in specified regions	

In addition to the conditions stipulated in item 4 of the Schedule, the following conditions must be complied with:

Permits will be allocated in proportion to market share figures to historical exporters, based on actual exports during the 2001, 2002 and 2003 calendar years.

Permits will be issued on a half-yearly basis and will be valid for six months.

1) MFN = Most favoured nation.

2) Agf = annual growth factor = % of base year volume.

3) Entry under this subheading is subject to conditions laid down in the relevant European Commission provisions.

4) GSP (Generalised system of preferences) = whichever results in the lower duty application.