

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

STATE TRADING

Notifications under Article XVII:4(a)

FEDERAL REPUBLIC OF GERMANY

I. Enumeration of State-trading enterprises

(a) Spirits Monopoly

This monopoly comprises: ethyl alcohol¹, undenatured ethyl alcohol (mixtures of ethyl alcohol and water) and spirits² containing a considerable amount of ingredients giving the taste and smell. These products are subject to the import monopoly (unless they were in free circulation in one of the EEC member States); however, the Federal Spirits Monopoly Administration permits the general importation of the following products, notwithstanding the existence of any legal exemptions from import prohibitions (for rum, arrak, cognac and liqueurs):

1. potable spirits ready for consumption;
2. spirits made from cane-sugar products, in specific combinations;
3. whisky;
4. spirits distilled from wine and distilled wine (Weindistillat) as defined by the Wine Law of 14 July 1971 (Federal Law Gazette I, page 893);
5. first distillation from wine or wine fortified for distillation as defined by the Wine Law, whereby distillation must proceed under customs surveillance.

(b) Inflammables Monopoly

This monopoly comprises: matches, fire-lighters made of straw, board, shavings or any other material, vestas made of stearine, wax or similar materials.

II. Reason and purpose for introducing and maintaining State-trading enterprises

Legal basis

(a) Spirits Monopoly

Within the Federal Republic of Germany, the Spirits Monopoly is operated by the Federal Monopoly Administration, in pursuance of the Spirits Monopoly Law of 8 April 1922 (Reichsgesetzblatt I, page 405). The Spirits Monopoly is a financial monopoly (Article 106 of the Fundamental Law of the Federal Republic of Germany) which is required to contribute to government revenue. In addition, it was established for purposes relating to agricultural, social (particularly for the middle classes) and economic policy.

¹ Ethyl alcohol obtained from non-agricultural raw materials for industrial and technical use (e.g. for use in solvents and chemical reactions) was taken out of the monopoly in 1979.

² The term "brandy" used currently is an incorrect translation of the German word "Branntwein", as brandy covers only spirits distilled from wine.

With a view to improving agriculture and maintaining and increasing the productivity of light and poor soil, the Spirits Monopoly promotes the production of spirits in rural undertakings, thus making it possible to utilize certain surplus root crops (processing) which could otherwise not be used profitably in those areas far away from the market. The residues obtained on the farm from the distilling of potatoes and grains constitute valuable feeding stuffs for livestock and can thus be used to advantage in animal husbandry. The increased quantities of fertilizer resulting can be used further to improve yield on the farms concerned. In addition, fruit farms can use any unmarketable surpluses of fruit in the distillery.

The economic aim of the Monopoly is to supply the domestic economy with the quantities and types of spirits needed, to prevent over-production of spirits and to promote the sale and consumption of spirits for industrial and technical purposes.

In order that these domestic economic policy objectives may be attained, the production, processing and import of spirits have to be controlled.

Paragraph 3 of the Spirits Monopoly Law states in this connexion:

"The Federal Monopoly Administration has the exclusive right of importing spirits, with the exemption of rum, arrack, cognac, and liqueurs, into the territory of the Monopoly. Imports by others are prohibited. The Federal Monopoly Administration may grant exceptions."

As already pointed out in I. (a), the general import authorization granted by the Federal Monopoly Administration has rendered paragraph 3 virtually meaningless.

(b) Inflammables Monopoly

Within the Federal Republic of Germany, the Inflammables Monopoly is operated in pursuance of the Inflammables Monopoly Law of 29 January 1930 (Reichgesetzblatt I, page 11) by the German Inflammables Monopoly Company.

The Inflammables Monopoly is based on a contract regarding the grant of a loan to the German Reich, concluded on 29 October 1929, between the German Reich on the one hand, and the Swedish Match AB, Stockholm - now at Jönköping - (STAB) and the Financieele Maatschappij, Kreuger Toll, Amsterdam (which has ceased to exist) on the other hand. The loan was granted on condition that an Inflammables Monopoly was established for a period of at least thirty-two years and until full redemption of the loan. The Inflammables Monopoly came into operation on 1 January 1930. The amount of the debt is now DM 9.55 million (as of 30 September 1980).

Paragraph 2 of the Inflammables Monopoly Law reads, in extracts, as follows:

"Unless otherwise provided in this Law, the Inflammables Monopoly comprises the import of inflammables from other countries into the area of the monopoly (import monopoly), the export of inflammables to other countries from the area of the monopoly (export monopoly)..."

III. Description of the functioning of the State-trading enterprises

(a) Spirits Monopoly

The Federal Monopoly Administration imports unprocessed spirits to the extent needed, by quantity or type, to make up the shortfall in domestic production.¹ The Law does not provide for any export monopoly and does not restrict exports. The Federal Monopoly Administration does not take part in export trade, which is entirely left to the free economy.

As the general import authorization granted by the Federal Monopoly Administration has rendered the restrictions imposed by paragraph 3 of the Spirits Monopoly Law virtually meaningless, the spirits monopoly does not stand in the way of the free movement of goods; even before this development, exports by private traders were not subject to restrictions or controls.

Trade in products with a spirits base is carried on by private traders, since for many decades the Monopoly Administration has not availed itself of its right to manufacture and sell brandies (paragraphs 83, 90, 95 of the Spirits Monopoly Law). The Monopoly Administration has the exclusive right to purchase or import alcohol.

The Monopoly Administration does not engage in exports; these are effected by private traders, subject only to the competitive conditions of the free market. The quantities of alcohol imported by the Monopoly Administration depend on domestic needs, to the extent that these cannot be covered by domestic production. The quantities of brandies imported depend on sales possibilities.

Export prices correspond to domestic prices free of taxes and monopoly charges. Imported products are not subject to any price increase, but to a monopoly compensation charge which corresponds to the tax and monopoly charges applied on domestic products.

The Federal Monopoly Administration does not enter into any long-term contracts, and does not serve to fulfil contractual obligations entered into by the Government.

(b) Inflammables Monopoly

Within the Federal Republic of Germany, producers of inflammables are partners in the Inflammables Monopoly Company. They share in the overall needs of the Monopoly Company according to quotas allocated to them by the Company. The Monopoly Company pays for inflammables supplied by producers at fixed prices. It sells inflammables at monopoly prices to traders, who in turn sell them to consumers at retail prices.

¹Unprocessed spirits have, however, not been imported for several years.

Imports and exports of inflammables are also within the responsibility of the Monopoly Company, but to date there have been no imports or exports of inflammables.

Private traders may not import or export inflammables. State-trading methods are used if the Federal Government has to fulfil the contractual obligations mentioned above.

IV. Statistical information

(a) Spirits Monopoly

Imports^{1/}

Accounting year (1.10-30.9)	By Monopoly Administration		By private traders	
	hl. in spirits	Value in DM '000	hl. of spirits	Value in DM '000
1977/78	-	-	873,910	445,938
1978/79	-	-	816,696	522,482
1979/80 ^{2/}	-	-	908,111	585,721

^{1/} Foreign trade statistics

^{2/} Provisional figures

Exports^{1/}

Accounting year (1.10-30.9)	By Monopoly Administration		By private tenders	
	hl. in spirits	Value in DM '000	hl. of spirits	Value in DM '000
1977/78	-	-	36,489	52,464
1978/79	-	-	44,324	58,675
1979/80 ^{2/}	-	-	179,563	77,979

^{1/} Foreign trade statistics

^{2/} Provisional figures

Domestic Production

Accounting year	Total production (hl. of spirits)	Alcohol			
		Not purchased ^{1/} by the Monopoly Administration		Purchased	
		hl.	Value in DM '000	hl.	Value in DM '000
1977/78	2,722,355	1,519,436	294,965	1,202,919	278,844
1978/79	2,885,697	1,945,015	369,069	940,682	275,119
1979/80 ^{2/}	3,070,484	2,128,411	397,656	942,073	292,434

^{1/} Of which from monopoly distilleries: 876,927 in 1977/78
1,186,603 in 1978/79
1,444,933 in 1979/80

^{2/} Provisional figures

(b) Inflammables Monopoly

Exports and imports: nil.

Domestic Production

Year	Million matches	Value in DM million
1977	60,465	63.04
1978	49,064	52.31
1979	41,769	46.87

V. Reasons why no foreign trade has taken place in the products affected

(a) Spirits Monopoly

No comment.

(b) Inflammables Monopoly

According to paragraph 3, No. 12 of the contract, imports can be affected only if the demand cannot be covered by domestic production.

Paragraph 3, No. 12 of the contract reads as follows:

"The inflammables of the 'DZVAG' (German Inflammables Monopoly Company) have, in principle, to be manufactured within the monopoly area. They must be kept available in adequate quantities and types to meet domestic demand. If deliveries by the Swedish group lag behind the quantity corresponding to their quota, the compensation shall be effected by an increased delivery by the German group. If it is not even thereby possible to meet demand, the 'DZVAG' shall have the right to import the quantities lacking ...".

The capacity of domestic manufacturing plants is, at present, utilized to the extent of about 45 per cent only.

According to paragraph 3, No. 11 of the contract, exports can be effected only at the domestic purchase prices, increased by 10 per cent.

Paragraph 3, No. 11 of the contract reads as follows:

"Inflammables shall not be exported at prices lower than the purchase prices prevailing for the corresponding kinds, increased by 10 per cent ...".

These prices are not competitive on the world market.

