



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION**

**on the modification of the European Community's import regime for bananas**

## **The current import regime for bananas**

The Understandings reached with respectively the United States and Ecuador in April 2001, after a challenge to the EC's banana regime in the WTO dispute settlement system, provided for a number of modifications to the EC's banana regime. Council Regulation (EEC) No 404/93 on the common organisation of the market for bananas was modified accordingly, and the relevant Commission regulations repealed and replaced.

The Understandings provide for the introduction of a tariff-only import regime no later than 1 January 2006 and until then for an interim regime in two phases.

Since 1 January 2002 the import of bananas into the Community takes place through import licenses distributed on the basis of past trade. The current import licence arrangements are largely managed on the basis of historical references (83% of the quantities of the quotas go to "traditional operators" within the A/B quota and 89% within the C quota). However, to ensure that non-traditional operators can pursue trade in bananas, 17% of A/B quota and 11% of the C quota are reserved for operators who do not have a suitable historic reference (non-traditional operators).

The following three tariff quotas apply:

- Quota A 2 200 000 tonnes at a tariff of € 75/t (0 for ACP bananas),
- Quota B 453 000 tonnes at a tariff of € 75/t (0 for ACP bananas),
- Quota C 750 000 tonnes at a tariff of € 0/t (reserved to ACP bananas)

Quotas A and B are open to bananas from any origin, the C quota is reserved for ACP countries.

Banana imports outside the quotas are subject to a customs duty of € 680/t.

ACP countries benefit from a tariff preference of € 300/t.

## **Adapting the present regime to enlargement**

In view of the accession of the ten new Member States on 1 May 2004, appropriate arrangements have been made to ensure sufficient supply of bananas to consumers in the enlarged Community.

To this end, Commission Regulation (EC) No 838/2004 of 28 April 2004 has increased the current import volumes of bananas by an additional quantity of 300 000 tonnes for the period 1 May–31 December 2004. This quantity was determined so as to ensure market supply, in particular in the new Member States. Regulation (EC) No 838/2004 together with Commission Regulation (EC) No 414/2004 of 5 March 2004 and Regulation (EC) No 839/2004 of 28 April 2004 define the detailed transitional measures necessary to manage the new additional quantity respecting the current licensing mechanisms.

These transitional measures are without prejudice to the decision taken by the Council to move to a tariff-only import system no later than 1 January 2006 and to the outcome of negotiations to compensate relevant WTO members for the enlargement of the Community and the move to a tariff-only system.

## **Negotiating Article XXIV.6 GATT compensation for enlargement**

The Community intends to negotiate, according to WTO rules (Article XXIV.6 GATT), with relevant third countries possible trade compensations for the increase in the import duties for bananas resulting from the application of the Community 15 tariff to the new Member States.

On 19 January 2004, the EC notified to the WTO the withdrawal of the EC schedule, the withdrawal of the schedules of the ten new Member States and the temporary application of the EC schedule for the EC-25 pending the finalisation of negotiations concerning compensatory adjustment as well as the EC's readiness to enter into negotiations to address compensatory adjustments under Article XXIV.6 of the GATT.

On 22 March 2004, the Council authorised the Commission to conduct Article XXIV.6 negotiations with the Community's trading partners.

A number of countries consider they have negotiating rights on bananas under Article XXIV.6<sup>1</sup> with the EC and have submitted claims of interest accordingly, notably Colombia, Costa Rica, Ecuador and Panama. The Commission is currently evaluating the various claims submitted and will negotiate with relevant third countries as a matter of priority.

## **Move to tariff-only under Article XXVIII GATT**

As mentioned, in the Understandings on bananas the EC undertook to introduce a tariff-only regime for the imports of bananas no later than 1 January 2006. The Understandings also provide that GATT Art. XXVIII negotiations shall be initiated in good time to that effect. Article XXVIII of the GATT sets out rules and procedures to be followed when a WTO member intends to modify its schedule of commitments.

The decisions of the WTO Doha Ministerial Conference in 2001 as regards the ACP-EC Partnership Agreement, which waive certain WTO obligations in respect of the Partnership Agreement<sup>2</sup>, also contain a number of provisions concerning bananas. In particular the waiver from Article I GATT provides for the possibility of an arbitration procedure to determine whether the envisaged rebinding of the EC tariff would result in at least maintaining total MFN access for MFN bananas suppliers, which may be requested after the EC has provided information to interested parties on the methodology used for such rebinding.

In view of the above, the Commission has requested negotiating directives to the Council in order to modify the bindings on bananas in the Community GATT tariff schedule for agricultural products. Once the negotiating mandate is adopted by the Council, the Commission will proceed with the appropriate notification to the WTO under Article XXVIII of the GATT.

As the Article XXIV.6 negotiations for enlargement and the Article XXVIII negotiations to move to tariff-only will be running in parallel, it is possible that the latter be concluded earlier than the former, in which case the consequences of enlargement will be taken into account.

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<sup>1</sup> i.e. initial negotiating rights, principal or substantial supplier status in one or more of the new Member States.

<sup>2</sup> Waivers from Articles I and XIII of the GATT 1994.

## **Safeguarding Community producers and ACP's interests**

In the course of the negotiations to move to the tariff-only regime, the Commission will pay particular attention to the impacts of the proposals on Community production and on the situation of Community producers of bananas. The Commission intends to safeguard the interests of the Community banana producers and ACP's interests. As to the Community producers, the Commission will seek to maintain a level of protection equivalent to that currently existing in order to ensure that Community production is maintained and that these producers are not put in a less favourable situation as before the entering into force of the import quota regime in 1993.

Commission Regulation (EC) No 914/2004 fixed the compensatory aid for bananas produced and marketed in the Community in 2003 and the advances for 2004.

Compensatory aid is granted as the difference between the so called "flat rate reference income" and the "average production income" as communicated by Member States.

The mechanism of the current CMO leads to higher compensation in the event that average EU banana prices fall.

As far as the ACP banana suppliers are concerned, the Commission is committed to respect its obligations stemming from the Cotonou Agreement and accordingly intends to pay particular attention to the implications of the change in its import regime for the ACP banana producers, to examine appropriate ways to address their specific situation, including preferential access for ACP products, and seek to maintain a level of preference to the ACP countries equivalent to that afforded by the enlarged Community of 25.

The EC, in order to address the problems of competitiveness of ACP banana producers, has put in place in 1999 the Special Framework of Assistance for traditional banana suppliers.