

**EUROPEAN COMMUNITIES – REGIME FOR THE IMPORTATION,  
SALE AND DISTRIBUTION OF BANANAS**

Status Report by the European Communities

Addendum

The following communication, dated 21 January 2002, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 21.6 of the DSU.

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Status Report on the Implementation of the Recommendations and Rulings in the  
Dispute regarding European Communities – Regime for the Importation,  
Sale and Distribution of Bananas

Regulation (EC) No. 2587/2001 has been adopted by the Council on 19 December 2001 and published in the *Official Journal of the European Communities L 345 of 29 December 2001*. The text of the Regulation is enclosed.

By this Regulation, the EC has implemented Phase 2 of the Understandings with the United States and Ecuador (circulated as document WT/DS27/58 of 2 July 2001).

**COUNCIL REGULATION (EC) NO 2587/2001  
OF 19 DECEMBER 2001  
AMENDING REGULATION (EEC) NO 404/93 ON THE COMMON ORGANIZATION  
OF THE MARKET IN BANANAS**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Whereas:

1. Following amendments to the tariff and statistical nomenclature and the common customs tariff, the CN codes for products covered by the common organisation of the market in bananas should be updated and the CN codes for products to which Articles 17 to 20 of Regulation (EEC) No 404/93<sup>4</sup> apply should be corrected.
2. Provision should be made for the possibility for Member States not to grant, during a limited period, compensatory aid for produce obtained from new banana plantations in order to continue the sustainable development of the production areas; this possibility must also be subject to authorisation by the Commission.
3. There have been numerous close contacts with supplier countries and other interested parties to settle the disputes arising from the import regime established by Regulation (EEC) No 404/93 and to take account of the conclusions of the panel set up under the dispute settlement system of the World Trade Organization (WTO).
4. Article 18 of Regulation (EEC) No 404/93 opened an autonomous tariff quota C of 850,000 tonnes for all origins, subject to a customs duty of EUR 300 per tonne with a tariff preference of EUR 300 per tonne for imports originating in ACP countries, in addition to the 2,200,000 tonnes bound under the World Trade Organisation and the additional B quota of 353,000 tonnes. The quantities relating to the different quotas should be amended to widen access for bananas originating in third countries and at the same time to ensure access for a specific quantity of bananas originating in ACP countries.
5. In view of amendments made to agricultural legislation and in line with the part-financing of aid to producer organisations provided for in Article 14(2) of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the

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<sup>1</sup> OJ C 304 E, 30.10.2001, p.331.

<sup>2</sup> Opinion delivered on 12 December 2001 (not yet published in the Official Journal).

<sup>3</sup> Opinion delivered on 28 November 2001 (not yet published in the Official Journal).

<sup>4</sup> OJ L 47, 25.2.1993, p.1. Regulation as last amended by Regulation (EC) No 216/2001 (OJ L 31, 2.2.2001, p.2).

market in fruit and vegetables<sup>5</sup>, it should be laid down that the Community aid to producer organisations provided for in Article 6 of Regulation (EEC) No 404/93 will be financed from the EAGGF Guarantee Section, for all producer organisations that are to be established until 31 December 2006. Since the regions concerned are covered by Objective 1, the same rate of Community contribution should be fixed for this aid as for the aid provided for in Article 14(2) of Regulation (EC) No 2200/96 for Objective 1 regions.

6. The provisions of Regulation (EEC) No 404/93 relating to the committee procedure should be amended. The measures necessary for the implementation of Regulation (EEC) No 404/93 should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>6</sup>,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EEC) No 404/93 is hereby amended as follows:

1. Article 1 shall be replaced by the following:

#### 'Article 1

1. A common organization of the market in bananas is hereby established.
2. The organization shall cover the following products:

CN codes	Description
0803 00 19	Fresh bananas, excluding plantains
ex 0803 00 90	Dried bananas, excluding plantains
ex 0812 95 90	Bananas provisionally preserved
ex 0813 50 99	Mixtures containing dried bananas
1106 30 10	Flour, meal and powder of bananas
ex 2006 00 99	Bananas preserved in sugar
ex 2007 10 99	Homogenized preparations of bananas
ex 2007 99 39	Jams, jellies, marmalades, purées and pastes of bananas
ex 2007 99 58	
ex 2007 99 98	
ex 2008 92 59	Mixtures containing bananas otherwise prepared or preserved
ex 2008 92 78	
ex 2008 92 93	
ex 2008 92 98	
ex 2008 99 49	Bananas otherwise prepared or preserved
ex 2008 99 68	
ex 2008 99 99	
ex 2009 80 35	Banana juice
ex 2009 80 38	
ex 2009 80 79	
ex 2009 80 86	
ex 2009 80 89	
ex 2009 80 99	

<sup>5</sup> OJ L 297, 21.11.1996, p.1. Regulation as last amended by Regulation (EC) No 911/2001 (OJ L 129, 11.5.2001, p.3).

<sup>6</sup> OJ L 184, 17.7.1999, p.23.

3. The marketing year shall run from 1 January to 31 December.'

2. In Article 12, the following paragraph shall be added:

'9. A Member State may be authorized to introduce a temporary measure whereby no compensatory aid is paid for marketed produce of new banana plantations planted on or after 1 June 2002, when, in the Member State's view, there is a risk to the sustainable development of the production areas, with particular reference to conservation of the environment, and protection of the soil and the characteristic features of the countryside.

At the request of the Member State concerned, the Commission shall grant the authorisation provided for in the preceding paragraph in accordance with the procedure laid down in Article 27.'

3. In Article 16, paragraph 1 shall be replaced by the following:

'1. This Article and Articles 17 to 20 shall apply to imports of fresh products falling within CN code 0803 00 19 until the entry into force, no later than 1 January 2006, of the rate of the common customs tariff for those products established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade (GATT).'

4. Article 18 shall be replaced by the following:

'Article 18

1. Each year from 1 January the following tariff quotas shall be opened:

- (a) a tariff quota of 2 200 000 tonnes net weight, called "quota A";
- (b) an additional tariff quota of 453 000 tonnes net weight, called "quota B";
- (c) an autonomous tariff quota of 750 000 tonnes net weight, called "quota C".

Quotas A and B shall be open for imports of products originating in all third countries.

Quota C shall be open for imports of products originating in ACP countries.

The Commission may, on the basis of an agreement with World Trade Organization members with a substantial interest in the supply of bananas, allocate quotas A and B among supplier countries.

2. Imports under quotas A and B and imports of bananas from third countries other than the ACP countries shall be subject to customs duty of EUR 75 per tonne. Imports of products originating in the ACP countries shall be subject to a zero duty.

3. Imports under the C quota shall be subject to a zero duty.

4. A tariff preference of EUR 300 per tonne shall apply to imports originating in ACP countries.
5. The customs duty rates set in this Article shall be converted into national currency at the rates applicable for the products in question for the purposes of the common customs tariff.
6. Quota B may be increased if demand in the Community increases as indicated by a balance sheet of production, consumption, imports and exports.

The balance sheet shall be adopted and the tariff quota increased under the procedure set out in Article 27.

7. Where supply of the Community market is subject to exceptional circumstances affecting production or importation, the Commission shall adopt the specific measures necessary under the procedure set out in Article 27.

In such cases quota B may be adjusted on the basis of the balance sheet referred to in paragraph 6. The specific measures may derogate from the rules adopted under Article 19(1). They must not discriminate between third countries.

8. Bananas re-exported from the Community shall not be counted against the corresponding tariff quotas.'

5. Article 25 shall be replaced by the following:

'Article 25

1. The measures laid down in Articles 12 and 13 shall constitute intervention intended to stabilise the agricultural markets within the meaning of Article 1(2)(b) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy.\*
2. Expenditure relating to the aid granted by the Member States in accordance with Article 6 shall be deemed to be intervention to stabilise agricultural markets within the meaning of Article 1(2)(b) of Regulation (EC) No 1258/1999.

This expenditure shall be eligible in the case of all producer organisations established until 31 December 2006.

It shall be the subject of a Community contribution of 75% of eligible public expenditure.

3. The measures provided for in Article 10 shall be part-financed by the Guidance Section of the EAGGF.
4. Detailed rules for the application of this Article, and in particular a definition of the conditions to be met before the Community financial contribution can be paid, shall be adopted in accordance with the procedure laid down in Article 27.

6. Article 26 shall be deleted.

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\* OJ L 160, 26.6.1999, p.103.'

7. Article 27 shall be replaced by the following:

'Article 27

1. The Commission shall be assisted by a Management Committee for Bananas (hereinafter referred to as "the Committee").
2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.'

Article 2

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

Point 4 of Article 1 shall apply from 1 January 2002.

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

Done at Brussels, 19 December 2001.

For the Council  
The President  
A. NEYTS-UYTTEBROECK

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