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REVIEW OF TRADE AGREEMENTS AND ISSUES

MARIANNE KURZWEIL

OLIVER VON LEDEBUR

AND

PETRA SALAMON

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ENARPRI Coordination: CEPS, Place du Congrès 1 • B-1000 Brussels
Tel: (32.2) 229.39.85 • Fax: (32.2) 219.41.51 • e-mail: eleni.kaditi@ceps.be

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MARIANNE KURZWEIL
OLIVER VON LEDEBUR
AND
PETRA SALAMON*

ABSTRACT

Along with multilateral agreements such as the WTO agreement, the EU evolved different trade agreements to induce European integration, perpetuate economic relations with former colonies and improve relations with developing, emerging and transitional countries by granting trade preferences. Common features of the EU preferential agreements are that they:

- cover general trade;
- allow a phasing-in period with a fast implementation in non-agricultural sectors (except for textiles);
- grant preferences for sensitive products of agri-food sectors (e.g. sugar, beef, bananas and dairy products) in terms of tariff-rate quotas (limited imports by reduced most-favoured nation rates);
- implement special safeguards, because the CAP is regarded as the ultimate objective; and,
- address more qualitative aspects such as common standards, sanitary and phytosanitary measures, property rights and institutional settings as well as the investment environment.

* Federal Agricultural Research Centre (FAL), Braunschweig Institute of Market Analysis and Agricultural Trade Policy, October 2003

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1 Introduction

Along with being an ample single market, the EU also is a major player on the global agricultural and food markets, ranking first in agri-food imports and second in exports when extra trade is considered. The CAP (Common Agricultural Policy) governs European agri-food production and therefore influences trade and trade patterns strongly, even though EU trade is also regulated by additional trade regimes.

Because of the outcome of the GATT Uruguay Round and the creation of the WTO (World Trade Organisation), the EU trading system experienced substantial adjustments in 1995. Export and import regimes of the EU, and more or less indirectly, the CAP, were then subject to multilateral bindings. A key feature of the EU trade policy is the fact that any customs or trade negotiations, including third countries or international bodies such as the WTO, must be conducted by the EU Commission in accordance with the instructions of the Council of Ministers.

Within this overall framework of the CAP and the WTO agreements, different trade relations as well as bilateral agreements exist, which in principle, stem from various sources:

- One source was the existing relations between EU member states and their former colonies. The Treaty of Rome provided for the association of the colonies and the overseas territories – African, Caribbean and Pacific countries (ACP) – of the initial member states of the emerging European Community. Mutual trade preferences were established in a series of consecutive conventions, starting with the Lomé Conventions, which were replaced by the Cotonou Conventions.
- The European integration process has always been an important cornerstone for preferential trade agreements. The EU and essential candidate states started the process with a gradual implementation of a customs union by means of a partial reduction in tariffs and the establishment of tariff-rate quotas (TRQs) or both. This is also reflected in the Europe Agreements and Association Agreements with Central and Eastern European Countries (CEECs), Malta, Cyprus and Turkey. Agreements such as the European Economic Area may also be established with European trading partners that did not actually become new member states.
- Agreements are also negotiated with some non-European trading partners. With this approach, the EU improves relations with developing, emerging and transitional countries in order to further integrate them into the world economy and also to facilitate trade relations in both directions. This group comprises the negotiations or signed agreements with MERCOSUR, Chile, Mexico and South Africa.
- Broader frameworks for different trading regimes are provided by the WTO Agreement, the Generalised System of Preferences (GSP) and therein the Everything but Arms (EBA) initiative. The latter two were established with a dual purpose as trade and development instruments.

Generally the term ‘bilateral agreements’ refers to agreements between two political entities, thus legally binding these two territories only. Bilateral agreements can be contracted with third countries and also with regional areas. Bilateral trade relations are about agreement on custom unions, free-

trade, association, cooperation and partnership. These preferential trade agreements are notified under either Article XXIV of the GATT or Article V of the GATS. Multilateral agreements comprise intergovernmental agreements aimed at expanding and liberalising international trade under non-discriminatory, predictable and transparent conditions. The GATT was the first multilateral trade agreement when it entered into force in 1948 and remains pre-eminent. Since the focus of this working paper is on the EU's bilateral trade agreements, the WTO as a multilateral agreement is excluded from the analysis. Moreover, the WTO regulations merely represent a framework for the bilateral trade agreements.

According to the WTO's Trade Policy Review, the European Union has largely kept its markets open through multilateral, regional and bilateral initiatives, with the exception of textiles and agriculture. This is also true for the different preferential trade agreements. Even though bilateral trade agreements of the EU quite often include agriculture, this sector has not been fully addressed by or integrated in agreements. The CAP, and prospects for its reform, is an important aspect when analysing the impacts of different trade agreements. Adverse impacts of the CAP on imports of agricultural products from trading partners are often discussed. It is frequently argued that the CAP has hampered the development of the agricultural sector in developing countries, which would otherwise be an important source for economic growth and poverty reduction. With regard to this aspect, the role of preferential trade agreements as development measures is heavily debated.

The purpose of this review of trade agreements is

- to provide an overview of the numerous trade agreements concluded or under negotiation by the EU;
- to identify objectives and criteria concerning these trade agreements; and,
- to identify key issues within the trade agreements.

The paper is structured as follows: after the introduction, the second chapter gives a short overview of the existing trade regime of the European Community in order to facilitate the understanding of the general rules on trade. Afterwards, a short overview on the existing or negotiated trade agreements is presented. Some of the more important trade agreements are described and analysed in the next section. These especially include the Europe and Association Agreements, the Agreement with the ACP states, the GSP, the EBA initiative, the FTA (Free Trade Area) with South Africa and the Cooperation Agreement with the MERCOSUR countries that are still under negotiation. The subsequent chapter deals with special issues including special access of certain products, rules of origin, standards, etc.

2 General trading system in agri-food products

All agricultural and food products are to be found in the Common Customs Tariff (CCT), which covers all charges levied by EU member states on imports from third countries. A definition of the products is available within the so-called 'Combined Nomenclature' (CN) that combines the requirements of the external trade statistics with the CCT and is updated annually (Reg. 2658/87). The basic regulation concerning agri-food products is Reg. 3290/94, which sets out the legal framework for integrating the provisions of the WTO agreements into the CAP. Detailed rules are formulated sector-wise within specific regulations. Duties on imports are set either as *ad valorem* percentage rates or as absolute values, or in special cases as a combination of both. Most agri-food tariffs are set out in the EU's tariff schedule within the WTO representing legal maximum rates. Nevertheless, applied lower rates can be set and are administered for given products and supplier countries (CAP Monitor, 2003).

Prior to the GATT agreement in 1995, the EU operated a system of import quotas, variable levies and other measures. Owing to the Uruguay Round, all non-tariff barriers were converted into quantifiable tariffs in the process of 'tariffication', whereby non-tariff import measures were transformed into 'tariff equivalents'. These tariffs were subject to reductions by an overall unweighted average of 36% in the period 1995–2001 but differed by products (Buchholz, et al., 1994).

Even though the Uruguay Round Agreement basically only allowed tariffs as a form of market protection, certain other measures, such as TRQs, are permitted. Under this regime, a lower tariff rate (in-quota tariff) can be applied on a certain quantity of imports, with a higher rate within the WTO-bound rates (over-quota rate) on imports over that quota. Imports under TRQs are governed by import licenses. The licenses are distributed according to various schemes such as a first-come, first-served basis, or, for example, are designated for traders who have imported in the past (with a limited number held back for 'new entrants'). When applications exceed the volume available, the Commission often scales down the quantity of each application (CAP Monitor, 2003).

With 'minimum access' and 'current access', the Uruguay Round agreement differentiates between two main types of tariff quota. Each country was required to grant 'minimum access'. Where current levels of imports were below 3% of domestic consumption, import opportunities were to be opened for the equivalent of 3% at the outset, rising to 5% by 2001. The WTO rules only required the setting up of preferential tariff quotas for the 'minimum access' volumes, but not actual imports of those quantities. Current access quotas integrate existing preferential agreements into the context of the Uruguay Round. The EU's long-term import quota for New Zealand butter falls into this category (Buchholz, et al., 1994). The current levels of market access must at least be regarded when new forms of market schemes are introduced, e.g. a new EU tariff quota system for feed wheat and barley starting in 2003.

The majority of imports from outside the EU require licenses by the relevant intervention agency. After paying the charges to the customs office, the license automatically releases the goods into so-called 'free circulation' within the Union. Inward Processing Relief (IPR) releases imports from charges on imported goods that are processed further within the EU. Goods purchased by one IPR trader are to be relieved from duties if re-export also qualifies for relief. Inward processing may involve anything from sorting and repackaging to the most complicated forms of manufacturing (CAP Monitor, 2003).

Export of EU agri-food goods listed in Chapters 1 to 24 of the CN may be eligible for refunds. They represent a form of export subsidy that is equal to the difference between the market support price and the lowest representative world price. Refunds may be uniform for all destinations or vary for distinct destinations. If world prices rise significantly above the EU domestic prices, an export levy may be applied. Extra exports of CAP products require an export license. As part of the Uruguay Round Agreement, export refunds are restricted to maximum amounts that are applied to the overall export quantity subject to subsidies as well as to the budgetary expenditure for such subsidies. The 'base-period' determined to establish these limits is the average of subsidised exports over the period 1986-90. For some products it was agreed to take into account higher levels of subsidies in 1991–92. Export subsidy commitments were appointed for a wide range of agricultural products. These 'base-data' were reduced in six equal steps from 1995–96 to 2000–01, with a cut of subsidy expenditures of 36% and of subsidised volumes by 21% (CAP Monitor, 2003).

The WTO Agreement includes a so-called 'peace clause' that is to expire at the end of 2003. This clause guarantees the exemption of agricultural policies from challenges with WTO dispute settlement procedures as long as they follow the provisions of the Uruguay Round Agreement on Agriculture. When the peace clause expires – at the end of 2003 – the EU may face challenges to the CAP within the settling of WTO disputes. A further element of WTO are 'non-trade' issues, which in the case of agriculture, are especially linked to other questions such as veterinary standards and animal welfare, human health and safety, consumer protection and information (food labelling) and biotechnology (GMOs). The EU is seeking to recognise such issues as legitimate factors to be taken into account in framing trade policy within the Doha Round.

3 Overview of important EU agreements

Because of the historical background, the nature of trade agreements between the EU and third countries differ. It is even difficult to generate a complete list, especially when preferential trade measures are to be studied, not all agreements and their perquisites are noted within the WTO. Table 1 lists the most important trade agreements and preferential access of imports into the EU.

The Europe Agreements with the CEECs as well as the Association Agreements are intended to induce and prepare the way for the enlargement process of the EU. The signing of the **Europe Agreements** with the CEECs gave European integration a new dimension. These Europe Agreements allow for an increasing degree of trade liberalisation and support of macroeconomic harmonisation. Since the EU accession to those countries was established in a bilateral process, differences in the time paths and in the textual coverages occur. Information on the existing Association Agreements and their first signing can be found in Table 2. Following the first accession wave with CEECs as well as with Malta and Cyprus, Association Agreements also were made with Romania and Bulgaria whose accession is envisaged in 2007, as well as with Turkey. The Turkish accession has thus far been hindered by concerns on human rights and other political issues (see below).

Table 1. Overview of different EU trade agreements

Trade Agreement	**Countries or Regions Covered**
Europe Agreements	Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia → **EU-CEEC**
Association Agreements	Cyprus, Malta → **EU-CEEC** Turkey → **EU-RASS**
Stabilisation and Association Agreements	Former Yugoslav Republic of Macedonia (FYROM), Croatia
Euro-Mediterranean Association Agreements	Israel, Morocco, the Palestinian Authority, Tunisia → **EUROMED**
Cooperation Agreements (Euro-Med Association Agreements concluded, but not in effect, or under negotiation)	Algeria, Egypt, Jordan, Lebanon, Syria → **EUROMED**
Other Free-Trade Agreements	(Denmark) Faroe Islands, Iceland, Liechtenstein, Norway, Switzerland → **EU-EEA** South Africa
Other Customs Unions	Andorra, San Marino → **EU-OCU**
Association of Overseas Countries and Territories	*Anguilla*, Antarctica, Aruba, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, French Polynesia, French Southern and Antarctic Territories, Greenland, *Mayotte*, *Montserrat*, Netherlands Antilles, New Caledonia, Pitcairn, *Saint Helena*, *Ascension Island*, *Tristan da Cunha*; South Georgia and the South Sandwich Islands, *St. Pierre and Miquelon*, *Turks and Caicos Islands*, *Wallis and Fortuna Islands*. → **EU-OCT**
EU-African, Caribbean and Pacific (ACP) Partnership	*Angola*, Antigua and Barbuda, Bahamas, Barbados, Belize, *Benin*, Botswana, *Burkina Faso*, *Burundi*, Cameroon, *Cap Verde*, *Central African Republic*, *Chad*, *Comoros*, Congo, Cook Islands, *Dem. Rep. of Congo*, Cote d'Ivoire, *Djibouti*, Dominica, Dominican Republic, *Equatorial Guinea*, *Eritrea*, *Ethiopia*, Federated States of Micronesia, Fiji, Gabon, *Gambia*, Ghana, Grenada, *Guinea*, *Guinea-Bissau*, Guyana, *Haiti*, Jamaica, Kenya, *Kiribati*, *Lesotho*, *Liberia*, *Madagascar*, *Malawi*, *Mali*, Marshall Islands, *Mauritania*, Mauritius, *Mozambique*, Namibia, Nauru, *Niger*, Nigeria, Niue Islands, Palau, Papua New Guinea, *Rwanda*, St. Christopher and Nevis, St. Lucia, St. Vincent and the Grenadines, *Samoa*, *Sao Tome and Principe*, *Senegal*, Seychelles, *Sierra Leone*, *Solomon Islands*, *Somalia*, South Africa, *Sudan*, Suriname, Swaziland, *Tanzania*, *Togo*, Tonga, Trinidad and Tobago, *Tuvalu*, *Uganda*, *Vanuatu*, *Zambia*, Zimbabwe → **EU-ACP**
Autonomous Trade Measures for the Western Balkans	Albania, Bosnia-Herzegovina, the Federal Republic of Yugoslavia, Kosovo (→ **EU-ATM-Western Balkan)**
Cooperative Agreement	MERCOSUR (under negotiation), Chile, Mexico.

Generalised System of Preferences (GSP)	*Afghanistan*, Argentina, Armenia, Azerbaijan, Bahrain, *Bangladesh*, Belarus, *Bhutan*, Bolivia, Brazil, Brunei Darussalam, *Cambodia*, Chile, People's Republic of China, Colombia, Costa Rica, Cuba, East Timor, Ecuador, El Salvador, Georgia, Guatemala, Honduras, India, Indonesia, Iran, Iraq, Kazakhstan, Kyrgyzstan, Kuwait, *Lao People's Dem. Rep.*, Libyan Arab Jamahiriya, Malaysia, *Maldives*, Moldova, Mongolia, *Myanmar*, *Nepal*, Nicaragua, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saudi Arabia, Sri Lanka, Tajikistan, Thailand, Turkmenistan, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Venezuela, Viet Nam, *Yemen*; American Samoa, Bermuda, Bouvet Island, Cocos Islands, Cook Islands, Gibraltar, Guam, Heard and McDonald Islands, Macao, Norfolk Island, Northern Mariana Islands, United States Minor Outlying Islands, Tokelau Islands, Virgin Islands (US) (→ **EU-GSP)**
Everything but Arms (EBA)	The ACP LDCs are: *Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Togo, Benin, Central African Republic, Equatorial Guinea, Sao Tomé and Principe, Democratic Republic of Congo, Rwanda, Burundi, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Mozambique, Madagascar, Comoros, Zambia, Malawi, Lesotho, Haiti, Solomon Islands, Tuvalu, Kiribati, Vanuatu and Samoa.* The non-ACP LDCs are : *Yemen, Afghanistan, Bangladesh, Maldives, Nepal, Bhutan, Myanmar, Laos, and Cambodia* (→ **EU-EBA)**
Other preferential access	New Zealand, Australia, US, Canada
Note: Least-developed countries (LDCs)are in italics.	

Source: WTO Secretariat, based on DG Trade (2001b).

Table 2. Association Agreements of accession countries

Country	Signature of Association Agreement	Official Journal Reference	Application for Accession
Bulgaria	01.03.1993	L 358 – 31.12.1994	14.12.1995
Cyprus	19.12.1972	L 133 – 21.05.1973	03.07.1990
Czech Republic	06.10.1993	L 360 – 31.12.1994	17.01.1996
Estonia	12.06.1995	L 68 – 09.03.1998	24.11.1995
Hungary	16.12.1991	L 347 – 31.12.1993	31.03.1994
Latvia	12.06.1995	L 26 – 02.02.1998	13.10.1995
Lithuania	12.06.1995	L 51 – 20.02.1998	08.12.1995
Malta	05.12.1970	L 61 – 14.03.1971	03.07.1990
Poland	16.12.1991	L 348 – 31.12.1993	05.04.1994
Romania	08.02.1993	L 357 – 31.12.1994	22.06.1995
Slovakia	06.10.1993	L 359 – 31.12.1994	27.06.1995
Slovenia	10.06.1996	L 51 – 26.02.1999	10.06.1996
Turkey	12.09.1963	L 217 – 29.12.1964	14.04.1987

Source: EU Commission.

Key trade actions in the enlargement process were established by the so-called 'double-zero' agreements in the year 2000. These offered limited or unlimited duty-free access to the EU and an abolition of export subsidies. Similar but asymmetrical concessions were granted by the CEECs. Double-zero agreements were replaced by 'double-profit' agreements in 2002, which extended completely free-trade to a wider number of goods and opened up tariff quotas for sensitive CAP products. These agreements will be in force until trade between the EU and eight CEECs, as well as Malta and Cyprus, is fully liberalised in the course of the EU accession in 2004 (CAP Monitor, 2003).

An **Association Agreement with Malta** came into force in 1971 aiming at a customs union. In the first stage, trade in industrial goods was liberalised except for textiles, which were administered by import quotas (EU Commission, 1971). In subsequent tariffs on EU imports, some agricultural products were regulated by preferential regimes. Malta's first application for full EU membership was in 1990, which was renewed in 1998. The integration process for **Cyprus** was similar, starting with an Association Agreement in 1973 providing for a gradual customs union. In the first stage, tariffs on a wide range of agricultural products were reduced. EU imports of non-agricultural goods from Cyprus were allowed to enter duty-free, whereas EU exports to Cyprus were subject to a 35% reduction of tariffs (EU Commission, 1973a, 1973b, 1973c). A customs union was gradually established in two phases in 1997 and 2002. The country applied for EU membership in 1989.

The **Association Agreement between the EU and Turkey** was already signed in 1963 (EU Commission, 1963). It prepared for a three-stage customs union. Most tariffs on Turkish industrial exports into the EU were abolished 1973, but on EU industrial exports the reductions only came into effect in 1985 and 1995. In the preparatory phase, most agricultural trade is regulated by preferential trade schemes. Even during the collapse of the Turkish civilian government in 1980, trade schemes were maintained. Owing to concerns on human rights, the renewed application of the Turkish government to the EU in 1987 was not considered in the upcoming enlargement negotiations. Nevertheless, on 1 January 1996, an FTA came into force that excluded agricultural products. Existing preferential schemes remained in place (CAP Monitor, 2003).

Customs unions exist with some smaller European countries, such as **Andorra and San Marino**, (EU Commission, 1997).

The **Stabilisation and Association Agreements** and the Autonomous Trade Measures for the Western Balkans are less advanced in the European integration process. In June 2000, the EU abolished TRQs and tariffs on most imports of agricultural products from **Albania, Bosnia-Herzegovina, Croatia, Kosovo, FYROM and Serbia-Montenegro**. Still restricted are imports of fishery products, beef and wine, but a concession was granted to the highly protected EU sugar market. Concessions for Serbia-Montenegro were withdrawn because of violations of the rules of origin. In addition, Croatia applied for EU membership in 2003 (CAP Monitor, 2003).

Bilateral agreements are based mostly on long-standing trade and neighbour relationships (**Faroe Islands, Iceland, Liechtenstein, Norway and Switzerland**) or as descendants of former colonial relationships. Relations between the EU and EFTA are regulated by the **EEA (European Economic Area),** which came into force 1 January 1993 (EU Commission, 1994e). The four freedoms of the single European market concerning goods, persons, services and capital also apply to the EFTA states. Nevertheless, restrictions are still in force for sensitive CAP commodities and trade in agricultural products is mostly governed by bilaterally negotiated TRQs. A treaty for development and cooperation was signed with **South Africa** in March 1999 (EU Commission, 1999a). Trade, except for agricultural products, is supposed to be almost entirely liberalised over the next 12 years. Stumbling blocks are fisheries, wines and spirits. South Africa was granted membership to the Lomé Convention excluding trade regimes and special protocols.

Information on the **Euro-Mediterranean Association Agreements** with Israel, Morocco, the Palestinian Authority and Tunisia, as well as the Cooperation Agreements still to be concluded or to come into effect with further North African and Near East countries such as Algeria, Egypt, Jordan, Lebanon and Syria can be found within another ENARPRI Working Paper.

As already described in the previous section, the Treaty of Rome provided for the association of the **ACP countries** and the EU. These were conventions principally signed by former French colonies between 1960 and 1975 especially covering mutual trade preferences, but also the free movement of capital and the creation of development funds. The relationship was regulated by a series of agreements called **Lomé** Convention in the period from 1975 to 2000, and was later replaced by the **Cotonou** Convention (see: OJ L317 of 15 December 2000). The main provisions cover trade, industrial and technical cooperation, stabilisation of export receipts of primary producing countries and financial aid. Because of the increasing erosion of the trade preferences caused by a general reduction of tariffs induced by the Uruguay Round, the Cotonou Convention enables the negotiation of Regional Economic Partnerships (REPAs) between the EU and groups of ACP states by the end of 2007. Special treatment is granted to support Less Developed, Land-locked and Island ACP states (LDLICs) (EU Commission, 2000a).

Agreements comparable to the Lomé Convention are also applied to the Association of **Overseas Countries and Territories** (OCT) (EU Commission, 2001b).

The practice of **GSP** was established upon a recommendation of the United Nations Conference on Trade and Development (UNCTAD) in 1968 that industrialised countries should grant trade preferences to all developing countries. Developed countries were authorised to establish their individual GSPs, as the EU did in 1971. The EU's GSP grants either duty-free access or a tariff reduction to products imported from GSP beneficiary countries. In 1994, the EU implemented reviewed guidelines for the period 1995–2004 to promote development. The GSP offers tariff reductions or duty-free access to the EU for manufactured products and certain agricultural products as a complement to the WTO. It is regarded as both a trade policy and a development policy instrument. As such, the GSP has a transitional function and will be phased out. The **new scheme** is based on a general element and on special incentive arrangements comprising areas such as the protection of labour rights and trafficking (EU Commission, 1998 and EU Commission, 2001b).

Among other special arrangements, the GSP incorporates the **EBA** initiative adopted by Regulation (EC) No. 416/2001 of 28 February 2001. Here the European Community extends duty-free access without any quantitative restrictions to products originating in the least developed countries, with the exception of arms and ammunition. Basically the regime eliminates quotas and duties of all products with the exception of arms. But nevertheless, phasing-in periods were established for sugar, rice and bananas that will be completed in 2009 at the latest. To compensate the LDCs for the delay, duty-free import quotas for sugar and rice are offered (EU Commission, 2001b).

In December 1995, a **Cooperative Agreement** was signed between the **EU and MERCOSUR** member states (Argentina, Brazil, Paraguay and Uruguay) intended to lead to trade liberalisation. MERCOSUR imports mostly cover industrial goods, whereas exports to the EU consist principally of agricultural products. The EU offered some tariff reductions on agricultural products except for sensitive products such as beef, sugar, fruits and vegetables. The negotiations came to a halt as a result of the subsequent financial crisis that hampered several emerging economies (EU Commission, 2001c).

The EU has established **'Partnership and Cooperation Agreements'** (PCAs) with **CIS countries**. The first one was in cooperation with the Russian Federation in 1993, followed by one with the Ukraine in 1995. On the trade side, both involve a gradual extension of GSP and freer movement of goods, services and capital, along with the establishment of mutually favourable conditions for business investments (CAP Monitor, 2003).

With China, a non-preferential five-year agreement was signed in 1978, providing for a mutual granting of 'most favoured nation' status in regard to tariffs. A new trade cooperation agreement came into force in 1985. The agreement provides financial assistance to some food and agriculture sectors, including fruit processing, milk production, sugar-beet production, soil protection and flood control. The EU has supported China's recent accession to membership of the WTO, subject to removal of its severe restrictions on the imports of industrial goods and services. An extensive market-opening deal with China was concluded by the EU in June 2000 (CAP Monitor, 2003).

4 Survey of different EU Agreements

In the following section a deeper survey of some of the agreements was conducted. The emphasis was laid on trade aspects as well as agriculture. Different criteria can be used to characterise the different agreements such as:

- partners of the agreement;
- aims to be achieved by the arrangements;
- international and domestic policy measures tackled;
- sector and product coverage;
- period to implement agreed measures;
- defined preferences;
- exceptions of these preferences as well as sensitive products; and,
- special aspects.

4.1 European Integration: Europe Agreements and Association Agreements

The actual process of a deeper European Integration started after the fall of the Berlin Wall in 1989. The EU extended the **Generalised System of Preferences (GSP)** and concluded **Trade and Cooperation Agreements** with Bulgaria, the former Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia. Financial support was given by the Phare programme set-up in 1989, which provided technical expertise and investment support. During the 1990s, the EU established **Association Agreements** called '**Europe Agreements**' with ten CEECs, providing the legal basis for bilateral relations between these countries and the EU. Similar Association Agreements were already concluded with Turkey (1963), Malta (1970) and Cyprus (1972). In the case of Turkey, a Customs Union entered into force in December 1995 (EU Commission, 2003)

The political aim was accession to the EU 'as soon as an applicant is able to assume the obligations of membership by satisfying the economic and political conditions required'. **Membership criteria**, often called Copenhagen Criteria, comprise: "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union". In joining the EU, candidate countries are expected to accept the *acquis,* i.e. the detailed laws and rules established on the basis of the EU's founding treaties, mainly the treaties of Rome, Maastricht and Amsterdam (EU Commission, 2003).

In 1998, the EU formally launched the process of enlargement. On 31 March 1998, **accession negotiations** started with Hungary, Poland, Estonia, the Czech Republic, Slovenia and Cyprus. The EU Commission also proposed negotiations with Romania, the Slovak Republic, Latvia, Lithuania, Bulgaria and Malta on 13 October 1999. Almost three years later, in December 2002, negotiations were concluded with Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia. The date of 1 May 2004 was agreed as the date of accession. Accession criteria are still to be completed by Bulgaria and Romania and negotiations are still underway, while Turkey is currently not negotiating (EU Commission, 2003).

To prepare for a 'deeper' economic integration and to promote a convergence of services, standards and technical regulations, customs etc., the EU had established the Europe Agreements. Owing to the characteristics of the bilateral process, the treaties and dates of signature differ according to the political and economical needs. Trade aspects are no exception in this regard. Most Europe Agreements, as well as Association Agreements, involved a **gradual implementation of a free trade agreement** within ten years divided in two steps of five years each. Adjustments in the second step were possible when required by evaluation. The reduction of tariffs was based on tariff rates applied when the agreement came into force but were replaced by reduced duties of the GATT Agreement. Tariffs and duties were notified. Export-regulating policy instruments, including export levies and quantitative export restrictions, were either removed promptly or within a five- to six-year period.

The liberalisation schemes applied in the different agreements show a similar pattern with respect to trade in **industrial commodities**. Tariff reductions were shaped according to various categories of goods set down in the annexes of the corresponding agreement. Only a few of those categories were supposed to experience a 100% tariff reduction as soon as the agreement entered into force. In most of the cases, full trade liberalisation proceeded stepwise. Depending on the agreement and product category, this gradual abolishment follows a distinct time table lasting for between two and nine years while the number of steps and their size also can differ. Furthermore, quotas were implemented for other commodities with in-quota tariffs of zero. Those quotas experience a yearly increase while out-of-quota tariffs are at the same time reduced. The time schedule as well as the reduction patterns of quotas and in-quota and out-of-quota tariffs follow the individual design laid down in the specific agreement. In general, quotas as well as out-of-quota tariffs are supposed to be abolished within three to five years. In some cases, distinct protocols with specific separate provisions for textiles and coal and steel were set up. For some very few products, full liberalisation took place in one single act after six years. Under certain conditions, the candidate country may temporarily introduce higher tariffs than agreed upon in industries being constituted or restructured.

Owing to the sensitivity of agricultural markets, in particular, **regular evaluations** of the provisions were stipulated in all agreements. Furthermore, in the case of serious market disturbance (e.g. price declines) caused by the gradual liberalisation, the temporary implementation of **countervailing actions** could be possible with mutual consultation. The formation of new customs unions or free trade agreements by one of the trading partners will be discussed within the Association Council, especially when aspects of a further EU enlargement are to be tackled.

Three regulations provide for the pre-accession aid as part of the Agenda 2000. Aid will be funded by an extended use of the Phare programme and by a new Instrument for Structural Policies for Pre-Accession (ISPA). Largely through the Pre-Accession Partnerships inaugurated in 1998, the Phare programme provides necessary administrative and institutional support for implementing the *acquis communautaire*. ISPA, which does not apply to Cyprus or Malta, mainly gives funding to improve transport infrastructure and environment. Aid to agriculture and rural development 'to follow the priorities of the reformed CAP' represents a major extension of Phare funding. This is related to different rural policies such as infrastructure, farm structure, marketing, animal and plant health, the environment, land registration, water resources, forestry diversification, and village renovation and development. EU funding grants of 75% will be allotted according to each applicant's needs in terms of GDP, percentage of agricultural employment, utilised agricultural area, environmental problems, etc. These developments are summarised in the new acronym SAPARD: Support for Pre-Accession Measures for Agriculture and Rural Development. An annual expenditure from the EU budget of almost €3.1 billion is available.

4.1.1 EC-Hungary

Hungary was the first CEEC to enter into a trade and cooperation agreement with the EU in September 1988, while still a member of COMECON. Much earlier, Hungary had for some time enjoyed limited access for beef and live animals. A tariff quota for sheep meat exports was then still in force. A Europe Agreement was concluded in 1992 (EU Commission, 1993b). Agriculture was handled in a different chapter, separate from the regulations regarding industrial goods, with detailed conditions in Protocol 3. Levies of import quotas or tariffs were reduced for products originating from Hungary as defined in Annexes VIIIa and VIIIb (ducks, geese, pork, horses, beef, other meat, game, honey, flowers, vegetables, fruits, jam and apple juice). Quantitative restrictions were not applied for EU products listed in Annex IXa (nuts, certain spices, certain oils, certain teas and certain oilcakes), in contrast to Annex IXb products (living animals, tomatoes and certain other vegetables, hop extracts, certain jams), which were handled by import quotas. Mutual preferences were granted according to the Annexes Xa (EU imports of cattle), Xb (EU imports of goats, sheep, goat meat, sheep meat, pork, poultry, turkey, eggs, certain cheese and soft wheat), Xc (EU imports of vegetables, seeds, fruits and fruit products, seeds, certain jams and tobacco) XIa (Hungarian imports of pigs, living poultry, pork, cheese, rice, barley, margarine and oils), XIb (Hungarian imports of offal, trees and other plants, plant

potatoes, certain vegetables and certain fruits) and XIc (referring among other things to fruits and fruit juices) (EU Commission, 1993b).

4.1.2 EC-Poland

The EU established a formal Europe Agreement with Poland, the largest candidate country, in 1993, superseding earlier arrangements for commercial and economic cooperation from September 1989. The importance of Poland's agricultural production and trade presents particular difficulties in negotiating accession. Since Poland was the only country in the Soviet sphere in which farmers resisted collectivisation, its agriculture also faces severe structural problems similar to the EU in the course of the CAP. Different conditions were defined for agriculture, which were laid down in Protocol 3. Levies of import quotas or tariffs were reduced for products originating from Poland as defined in Annexes VIIIa and VIIIb (duck, duck meat, geese and geese meat, pork, potato starch, honey, rabbit, game, different flowers, different fruits, different vegetables, apple juice). Poland removed quantity restrictions according to the rules of Annex IX for products originating from the EU. Mutual preferences were granted according to Annexes Xa, Xb, Xc, XI (referring among other things to cattle, beef, pigs, goats, sheep, poultry, pork, turkey, butter, cheese, milk powder, eggs, potatoes, vegetables and fruits) (EU Commission, 1993a).

4.1.3 EC-Romania

Negotiations for a trade and economic cooperation agreement with Romania began after the collapse of the Ceacescu regime in 1991. With no functioning market economy, scant progress in privatisation and high inflation, the progress of political and economic development in Romania was slow. Accession to the EU was therefore delayed. Romania has received Phare aid, EIB and EBRD loans. A Europe Agreement came into force in 1995, following the general lines of establishing a Europe Agreement as explained above. Agriculture was handled in a specific chapter with details laid down in Protocol 3. In general, quantitative import restrictions were removed. Levies of import quotas or tariffs were reduced for products originating in Romania defined in Annexes XIa and XIb (geese, pork, living horses, offal of cattle, meat of rabbits, game, honey, certain flowers, certain vegetables and fruits, certain protein crops, jams, beef, sheep and goats, meat of sheep and goats, poultry, cheese and soft wheat). Mutual preferences were granted according to the Annexes XIIa (EU imports of goats, sheep, goat meat, sheep meat, pork, poultry, turkey, eggs, certain cheese, soft wheat), XIIb (EU imports of certain fruits and vegetables, nuts, tobacco, apple juices, certain jams and tobacco) and XIII (Romanian imports) (EU Commission, 1994c).

4.1.4 EC-Bulgaria

Along with Romania, Bulgaria is likely to remain one of the latecomers for some time. Both countries have been slow to shed some of the aspects of their former regimes. Bulgaria's Europe Agreement superseded an earlier ten-year Cooperation Agreement. This came into force in 1993. Agriculture was handled in a specific chapter with details laid down in Protocol 3. In general, quantitative import restrictions were removed. Levies of import quotas or tariffs were reduced for products of Bulgarian origin defined in Annexes XI (ducks, geese, living horses, pork, offal of cattle and horses, meat of rabbits and game, honey, certain flowers, fruits and vegetables and apple juice). EU products imported into Bulgaria were exempted from quantitative import restrictions if they were registered in Annex XIIa (tomatoes). But products found in Annex XIIb (tobacco, certain fruits and ice cream) were subject to import quotas. Mutual preferences were granted according to the Annexes XIII (import to the EU: beef, sheep and goats, meat of sheep and goats, pork, poultry, cheese, eggs, soft wheat, sorghum, fruits, vegetables, nuts, sun oil, jams, tobacco and potatoes) and XIV products (Bulgarian imports: cheese, plant potatoes, coconuts, certain fruits, coffee, tea, spices, oils, meal, tobacco, poultry, beef, milk powder, sugar and certain juices) (EU Commission, 1994f).

4.1.5 EC-Slovakia

As in other cases (e.g. Poland and Hungary), a Europe Agreement superseded the Cooperation Agreement originally concluded with Czechoslovakia. Ratification was delayed owing to the formal

separation of the Czech and Slovak Republics on 1 January 1993. Still, as a part of Czechoslovakia, Slovakia was included in a Cooperation Agreement with the EU, which was superseded by a Europe Agreement. A comparable agreement entered into force after separation. The Europe Agreement with Slovakia came into force in 1993. The outlay concerning trade related issues followed the design of Europe Agreements with CEECs. As in the other agreements, agricultural trade was handled in a separate chapter with details laid down in Protocol 3. In general, quantitative import restrictions were removed. Levies on import quotas or tariffs were reduced for products of Slovakian origin defined in Annexes XIa and XIb (EU imports: ducks, geese, living horses, pork, meat of rabbits, game, honey, certain flowers, vegetables and fruits, certain jams). EU products imported into Slovakia were not governed by any quantitative import restrictions. Mutual preferences were granted according to the Annexes XII (EU imports: living cattle), XIII (EU imports: beef, sheep and goats, meat of sheep and goats, pigs, pork, poultry, turkey, skimmed milk powder, whole milk powder, butter, certain cheese, eggs, barley, meal of wheat and hop), and XIV products (Slovakian imports: pork, milk powder, yogurt, butter, certain cheese, eggs, certain trees and flowers, potatoes, certain vegetables and fruits, certain nuts, durum wheat, corn, rice, certain seeds, oils, certain meats, certain juices, oil cakes and animal fodder) (EU Commission, 1994b).

4.1.6 EC-Czech Republic

A separate chapter was set up for agricultural trade with details laid down in Protocol 3. In general quantitative import restrictions were removed. Levies on import quotas or tariffs were reduced for products of Czech origin as defined in Annexes XIa and XIb (EU imports: ducks, geese, living horses, pork, meat of rabbits, game, honey, certain flowers, vegetables and fruits, certain jams). EU products imported into the Czech Republic were not subject to any quantitative import restrictions. Mutual preferences were granted according to the Annexes XII (EU imports: living cattle), XIII (EU imports: beef, sheep and goats, meat of sheep and goats, pigs, pork, poultry, turkey, skimmed milk powder, whole milk powder, butter, certain cheese, eggs, barley, meal of wheat and hop) and XIV products (Slovakian imports: pork, milk powder, yogurt, butter, certain cheese, eggs, certain trees and flowers, potatoes, certain vegetables and fruits, certain nuts, durum wheat, corn, rice, certain seeds, oils, certain meats, certain juices, oil cakes and animal fodder) (EU Commission, 1994a).

4.1.7 EC-Baltic Republics

The three Baltic Republics, Estonia, Latvia and Lithuania, have had similar relations with the EU. Along with the other two Baltic Republics, Latvia concluded a Cooperation Agreement with the EU in 1993, subsequently superseded by a Europe Agreement in 1995.

Similar to the agreements described previously, a separate chapter was set up for agricultural trade with details laid down in Protocol 2. In general, quantitative import restrictions in bilateral trade between **Latvia** and the EU were removed. Mutual preferences were granted according to the Annexes VII (EU imports: honey, certain trees, bushes and flowers, certain fruits and vegetables, apple juice), VIII (EU imports: cattle, beef, meat of sheep and goats), IX (EU imports: pork, poultry, skimmed milk powder, whole milk powder, milk or cream, butter, certain cheese, tomatoes, certain vegetables, potatoes, beef), X (Latvia imports: living horses, mules and donkeys, cattle, goats, sheep, poultry, beef, meat of sheep, goats, mules, horses and donkeys, offal, milk, cream, milk powder, whey, butter, cheese, eggs, honey, other animal products, flowers or parts of flowers, potatoes, tomatoes, vegetables, protein crops, manioc, nuts, fruits, coffee, wheat, rye, barley, oats, corn, rice, sorghum, meal, malt, starch, oil seeds, other seeds, straw, oils, fats, margarine, sugar, cocoa, fungi, wine, oil cakes, tobacco, cotton, flax and hemp) and XI (Latvian imports: certain beef, certain pork, yogurt, certain cheese, bulbs and flowers, plant potatoes, certain vegetables, durum wheat, certain meat and wine) (EU Commission, 1998c).

A separate chapter was set up concerning agricultural trade between **Lithuania** and the EU with details laid down in Protocol 2. In general, quantitative import restrictions in bilateral trade were removed. Mutual preferences were granted according to the Annexes IX (EU imports: living horses, offal, liver, honey, bulbs, fungi, certain fruits and vegetables, apple juice), X (EU imports: cattle, beef, meat of sheep and goats), XI (EU imports: pork, poultry, skimmed milk powder, whole milk powder,

milk or cream, butter, certain cheese, tomatoes and certain vegetables), XII (Lithuanian imports: living animals, pork, beef, meat of sheep, goats, mules, horses and donkeys, offal, milk, cream, milk powder, whey, butter, cheese, eggs, honey, other animal products, flowers or parts of flowers, potatoes, tomatoes, vegetables, fruits, wheat, durum wheat, rye, barley, oats, meal, malt, starch, animal fats, oils, fats, sugar, jams, juices and wine) and XI (Lithuanian imports: certain beef, certain pork, fermented dairy products, certain cheeses, eggs, bulbs and flowers, certain vegetables, durum wheat, certain meats and apple juice) (EU Commission, 1998b).

The details concerning agricultural trade are laid down in Protocol 2. Most quantitative import restrictions and tariffs in bilateral trade between **Estonia** and the EU were removed. Mutual preferences were granted according to the Annexes III (EU imports: honey, bulbs, parts of plants, trees, bushes, flowers, certain fruits and vegetables and apple juice), IV (EU imports: cattle, beef, meat of sheep and goats) and V (EU imports: pork, poultry, skimmed milk powder, whole milk powder, milk or cream, butter, cheese, potatoes, certain vegetables and fruits) (EU Commission, 1998a).

4.1.8 EC-Slovenia

Because of the Slovenian geographical position in the north of former Yugoslavia and the absence of any Serb minority, Slovenia succeeded in establishing its independence soon after the break-up of Yugoslavia. Consequently, a trade and economic Cooperation Agreement established in 1993 has become a Europe Agreement. Here the details concerning agricultural trade are laid down in Protocol 3. The majority of quantitative import restrictions for Slovenian imports into the EU were abolished. EU commitments concerning Slovenian products were laid down in Annex VI (EU imports: living horses, beef, poultry, game, whole milk powder, yogurt, certain cheese, honey, potatoes, certain vegetables, fungi, certain fruits, hops, other animal fats, certain juices and certain fodder). Quantitative import restrictions concerning imports of European Community products were removed and commitments on preferential imports were defined in Annex VII (beef, pork, meat of poultry, certain cheeses, butter milk, bulbs, onions, certain vegetables, certain fruits, soy beans, seeds and oil cake) (EU Commission, 1999b).

4.1.9 EC-Turkey

The oldest Association Agreement between the EU and Turkey was signed in 1963 and came into force in 1964, aiming at preparing for a customs union in three stages (EU Commission, 1964). The preparatory stage lasted from 1964 to 1973. The transitional phase was supposed to last from the 12th to the 22nd year, while in the final stage application for full membership would be possible following the completion of the customs union. In the preparatory phase, the EU granted TRQs for tobacco, raisins, dried figs and hazelnuts. Since 1973, most agricultural trade is regulated by preferential trade schemes additionally covering citrus, wines, olive oil and cereals. Even during political disturbances in the 1980s, trade schemes were maintained. On 1 January 1996, a free-trade agreement came into force that excluded agricultural products. Existing preferential schemes remained in place (CAP Monitor, 2003).

In the case of EU agricultural imports, a preferential scheme including TRQs was established for sheep and goat meat, turkey meat, certain cheeses, sugar and cereals, certain fruits and vegetables. Traditionally, Turkey granted only small amounts for preferential agricultural imports from the EU. After formation of the customs union between the EU and Turkey, negotiations were broadened to cover agricultural goods and TRQs were implemented for a number of products (cattle, beef, milk powder, butter, certain cheeses, seed potatoes, durum wheat, soft wheat, rye, barley, corn, rice, cotton seed, animal fats, soy bean oil, sunflower oil, rape oil, tomatoes, vinegar and animal feed). Arrangements imply an adjustment of the Turkish policy to the CAP in order to establish free trade in all agricultural products (Grethe, 2003).

4.1.10 EC-Cyprus

The integration process for Cyprus was similar, starting with an Association Agreement in 1973 providing for a gradual customs union. In the first stage, tariffs on a range of agricultural products, e.g. citrus fruits, grapes, early potatoes, carrots, preserved fruit juice and wine (especially sherry), were

reduced. EU imports of non-agricultural goods from Cyprus were allowed to enter duty free, whereas EU exports to Cyprus were subject to a 35% reduction in tariffs (EU Commission, 1973). In 1987, the second stage began, aiming to reduce further border protection between Cyprus and the EU. A customs union was gradually established in two phases in 1997 and 2002. In 1990, Cyprus applied for EU membership. In 1993, the Commission concluded that the application was made in the name of the whole island. Trade preferences for products entering the EU are granted for certain flowers, certain vegetables, certain fruits, vine grapes, wine and juices. Cyprus also benefits from regional and horizontal measures under the MEDA Programme (the principal financial instrument of the European Union for the implementation of the Euro-Mediterranean Partnership) (EU Commission, 2003).

4.1.11 EC-Malta

The first Association Agreement between Malta and the EU was signed in 1970 and came into force in 1971. The agreement comprised two steps of five years each to implement a customs union and common tariffs. Agri-food products were exempted from the regulations. Subsequent trade protocols extending the original agreement led to a gradual inclusion of agricultural goods owing to the implementation of TRQs. Practically all industrial products that are considered as 'originating in Malta' are exempt from payment of customs duties on entry into the EU. No quotas, anti-dumping duties or other non-tariff barriers are imposed on any exports of Maltese origin to the EU. Several agricultural products tend to be excluded from preferential treatment when entering the EU market. Some concessions, however, have been extended to selected agricultural products of Maltese origin (beer, potatoes and certain other vegetables) that may benefit from a reduction of the normal rates of duty applied on imports entering the EU. In some cases, duty-free access was also granted to special agricultural products when exported from Malta to the EU (EU Commission, 1971).

4.2 Other Bilateral Agreements

4.2.1 RSA – EC Trade Agreement

The **countries covered** by the RSA-EC Trade Agreement are the Republic of South Africa (RSA) and 15 EU member states. The Trade, Development and Cooperation Agreement (TDCA) that governs the relations between the EU and South Africa was signed in Pretoria on 11 October 1999. The agreement came into force on 1 January 2000. In addition to the TDCA, separate agreements on wine and spirits were signed on 28 January 2002. These agreements provide for the reciprocal protection of wine and spirits names and cover issues such as oenological practices and processes, and product specifications. The **main objective** of the agreement is to create an FTA between South Africa and the EU over an asymmetric, transitional period of 12 years – which means that the EU and South Africa will open their markets to each other at a different pace (EU Commission, 1999a).

On the European Community side, the combined nomenclature of goods shall apply to the classification of goods imported from South Africa. On the South African side, the harmonised system shall apply to the classification of goods imported from the Community. Basically, **products covered** by the agreement are in the field of energy, machinery, transport material, chemical products, textiles and clothing. Agricultural products account for the second largest share of EU imports from South Africa (in terms of value). With regard to **preferences** for South Africa as well as for the EC, customs duties applicable on imports into both regions originating in South Africa or the EC are abolished on the entry into force of this agreement. This covers all industrial and agricultural products besides those listed in Annexes II, III, IV and VI of the agreement. The products listed in Annexes II, III, IV and VI are further split up into specific lists and are thereby subject to a certain schedule (see also Appendix 8.3.1). Each schedule regulates the progressive abolishment of customs duties for the corresponding products (EU Commission, 1999a).

The **rules of origin** define specific requirements that products imported into South Africa and the EC have to fulfil with respect to various issues. Those requirements include criteria such as territorial requirements, proof of origin, administrative cooperation etc. (for details, see Appendix 8.3.2). Both parties stressed the smooth and efficient functioning of the implementation of **sanitary and**

phytosanitary (SPS) measures (EU Commission, 1999a). In the agreement both parties ensure protection of **intellectual property rights** in conformity with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) of 1 January 1996 and undertake to improve, where appropriate, the protection provided for under the agreement (see also Appendix 8.3.3).

Furthermore, the parties agreed to cooperate in the field of **standardisation** in order to reduce differences in these areas, remove technical barriers and facilitate bilateral trade. The cooperation comprises measures in accordance with the provisions of the WTO Agreement on Technical Barriers to Trade (TBT) to promote greater use of international technical regulations, etc. The agreement also includes cooperation in the area of quality management and facilitation of technical assistance for South African capacity-building initiatives (EU Commission, 1999). South Africa also belongs to the group of ACP countries. It is therefore also covered by the EU-ACP Partnership Agreement signed in Cotonou on 23 June 2000. It has to be mentioned that South Africa's participation in this agreement is subject to some qualifications (EU Commission, 2000a).

4.2.2 Mexico – EC Trade Agreement

The Mexico Partnership Agreement or 'Economic Partnership and Political Cooperation' comprises the United States of Mexico on the one hand and the European Communities on the other hand. The so-called 'Global Agreement' of 1997 was signed in Brussels and came into force on 1 October 2000. With respect to trade, the agreement sets the **objective** of establishing a Free Trade Agreement in goods and services, the mutual opening of the procurement markets, the liberalisation of capital movements and payments and the adoption of disciplines in the fields of competition and intellectual property rights (EU Commission, 2000b).

The **products covered** by the agreement are industrial goods and agricultural and fishery products.[1] The **preferences** agreed upon envisage full liberalisation of industrial products by 2003 for the EC, and by 2007 – with a maximum 5% tariff applied by 2003 – for Mexico. There are preferential tariff quotas for certain agricultural products not subject to liberalisation, as well as review clauses for further liberalisation (see the section below on 'EC-policies coherence'). Products included in the CAP represent **exceptions** and have therefore been the object of special treatment under the EU-Mexico Free Trade Agreement, since they mainly were excluded from the bilateral liberalisation process. Essentially, all fishery products are covered by the EU-Mexico Free Trade Agreement. Some products have received special treatment and are subject to tariff quotas. Details are laid down in the Council's Regulation (EC) No. 1362/2000 of 29 June 2000.[2] Sector Cooperation Agreements regarding **sensitive products,** the cooperation on the control of precursors and chemical substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances were agreed to and signed on 13 March 1997 (EU Commission, 2000).[3]

Another sector agreement concerning the mutual recognition and protection of designations for spirit drinks, which was signed on 27 May 1997, specially treats **rules of origin**. The European Commission states: "as regards rules of origin, a satisfactory balance between EC policy of harmonisation and market access considerations" could be achieved (EU Commission, 2000). With respect to this issue, both parties agreed to follow the guidelines of several multilateral conventions, including the WTO's TRIPs Agreement.[4] Furthermore, the decision contains provisions for cooperation in the field of **SPS** measures (see section on 'EC-policies coherence' below). The Parties reaffirm their rights and obligations as set out in the WTO Agreement on the Application of Sanitary and Phytosanitary

[1] For a detailed list of all products see database/Mexico-EC/L133_23.pdf and database/Mexico-EC/L133_28.pdf.

[2] The complete and long relationship of applied tariffs was published under 2000/415/EC, L 245, Volume 43, 29 September 2000. Several amendments with accelerated tariff reduction or tariff quotas (re)definition (especially for agricultural products) were published in sequence.

[3] For a detailed documentation of the regulations laid down in the agreement see database/Mexico-EC/L157_1.pdf, database/Mexico-EC/L157_10.pdf, database/Mexico-EC/L226_25.pdf, database/Mexico-EC/L276_45.pdf and database/Mexico-EC/general-provisions.pdf.

[4] For further documentation see Appendix 8.3.4 and database/Mexico-EC/RoO_L70_7.pdf and database/Mexico-EC/RoO_L44_97.pdf.

Measures. Cooperation in the field of protection of **intellectual property rights** was established. The parties agreed to follow the guidelines of the WTO's TRIPs and the existing international conventions.

Adverse trade effects may occur because of the very complex system of rules of origin (EU Commission, 2000). As a so-called 'substantial liberalisation for agricultural and fisheries products' has been agreed upon, and as differentiated tariff rates for agricultural products within the Free Trade Agreement with the EU and the other North American Free Trade Agreement (NAFTA) countries may apply, an increase of the amount of regulations on rules of origin to avoid the 'transit' of products through 'trade deflection' from one Free Trade Agreement to the other may occur. This can make trade operations with Mexico even more difficult – since the rules of origin regulation issue is a well-known problem within the NAFTA as noted by Panagaryia (1996:498).[5] According to the Commission, the Free Trade Agreement is said to provide EU operators with access to the Mexican procurement and services markets substantially equivalent to NAFTA.

From the EU perspective, the most important policies with an impact on relations with Mexico, including relations at the regional level, are: trade, CAP, SPS control policy/consumer protection, internal markets, competition, research and development, and an information society. The **CAP** is perceived by Mexico as a protectionist policy for European products. Even though some studies carried out in the context of the negotiations for the Free Trade Agreement showed that European and Mexican agricultural products are in general complementary, it should be noted that products included in the CAP are the object of special treatment under the EU-Mexico Free Trade Agreement and excluded from the bilateral liberalisation process. Mexico perceives the **SPS measures**, the implementation of the governing EU principles (ensuring a high level of protection of health, safety and economic interests for consumers), as non-tariff trade protection measures preventing certain products – mainly agricultural – from obtaining access to European markets. At the same time, Mexico has questioned the lack of reciprocity of the EC regarding the implementation of certain European Community principles, such as that of regionalisation.

4.2.3 Chile – EC Agreement

The **countries covered** by this agreement are Chile on the one hand and the EC on the other hand. While the first Framework Cooperation Agreement between Chile and the EU launched in 1990 merely restored political relations, the second Framework Cooperation Agreement launched in 1996 already established the framework for a political and economic association. This process concluded with the establishment of an Association Agreement between the European Communities and Chile in April 2002 (EU Commission, 2002b). The **objectives of the agreement** with Chile are based on three priority lines for cooperation, namely: institutional support and the consolidation of the democratic process, the fight against poverty and social exclusion and support for the economic reforms and the improvement of competitiveness (private sector, information society, mutual economic cooperation, industrial, scientific and technological cooperation, strengthening of industrial promotion and of investments, and promotion of foreign trade).

The **products covered** by the agreement basically range among all sectors: industry, agriculture and fishery. The **preferences** granted foresee full trade liberalisation regarding trade in industrial goods, 80.9% in agricultural products and 90.8% in fishery. Annexes I and II (Tariff elimination schedules), V and VI (agreement on wine and drinks) of the agreement provide a detailed documentation of the preference pattern. Some agricultural products represent **exceptions** and will thereby enter the EU with preferential access within the framework of tariff contingents.

In order to achieve better cooperation concerning the implementation and administration in the field of **rules of origin,** the parties established a Special Committee on Customs Cooperation and Rules of Origin, comprising representatives of both parties. A detailed documentation on the rules of origin applied is provided in Annex III of the agreement. With respect to **SPS measures**, the parties agreed to follow the guidelines of the WTO Agreement on SPS measures and standards of other competent international organisations. A detailed description is provided in Annex IV of the agreement. The

[5] On the trade deflection topic see also Balassa (1989:45), Torre & Kelly (1992: 4) and Robson (1993:23).

negotiations on **property rights** ensure an effective and appropriate protection of intellectual property rights in accordance with the guidelines arising from several conventions, among others WTO agreements, the Paris Convention, the Bern Convention, etc. (EU Commission, 2002b).

As with Mexico's **trade relations** with NAFTA, Chile participates as an associated member of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), which is reflected in an FTA of goods and Chile's participation in the negotiations on the Free Trade Area of the Americas – although Chile concluded negotiations on a preferential trade area with the US. The Association Agreement is considered innovative concerning **other non-agricultural issues**, as it covers the main aspects of the EU-Chile relations, i.e. political relations, trade relations and cooperation. The **EU strategy** is to adopt a public procurement agreement aimed at opening up the sector to European companies and, more generally, the EU is seeking to promote its practices in this area. The EU is also interested in concluding an agreement on agricultural products from Chile (wine, apples, etc.). Some products enter with a preferential access within the framework of tariff contingents. Nevertheless Chile, which remains an important agricultural producer, rejects the EU CAP and is striving for a total liberalisation of trade in this area, in particular through the Cairns Group.

4.2.4 MERCOSUR – EC Agreement, under negotiation

On 26 June 2001, both parties signed a Memorandum of Understanding, which lays down agreed cooperation priorities by sector over the period 2000–2006 (EU Commission, 2001c). An agreement on the negotiation directives for negotiations on gradual and reciprocal trade liberalisation could be achieved in 1999. The **countries covered** by this agreement are Brazil, Argentina, Paraguay and Uruguay on the one hand and the EC on the other hand. The beginning of the process goes back to the **Inter-institutional Cooperation Agreement** of 1992. Another important milestone was the **Interregional Framework Cooperation Agreement** of 1995, which fully entered into force in July 1999 between the EU and the MERCOSUR.[6] This agreement is expected to be replaced by a more comprehensive regional Association Agreement, for which negotiations have been on-going since November 1999. By 2001 the negotiations on customs duties and services started. As the negotiations on trade topics are ongoing, no specific figures are available.

With respect to trade, the **objectives of the agreement** are formulated as follows:

> The Parties shall undertake to forge closer relations with the aim of encouraging the increase and diversification of trade, preparing for subsequent gradual and reciprocal liberalization of trade and promoting conditions which are conducive to the establishment of the Interregional Association, taking into account, in conformity with WTO rules, the sensitivity of certain goods.

Concerning the **products coverage** of such an agreement, it must be remarked that since the negotiation process is still going on and several interests have to be considered, no final decision is taken. In the negotiations, finding a trade-off between liberalisation for the EU's industrial goods into the MERCOSUR on the one hand and a corresponding improvement of market access for MERCOSUR's agricultural commodities on the other hand is a permanent stumbling block. Moreover, if and how agricultural products can be included will also depend on the outcome of the CAP's mid-term review and the developments or results of the WTO negotiations. Since negotiations are still on-going, specific information concerning **preferences** is not available. Sensitive agricultural products are well known for representing **exceptions**. In the MERCOSUR-EC Agreement these comprise sugar, certain beef products (also pork and poultry meat), certain cereals and some fruits (Reis, et al., 2002; Salamon, et al., 2003).

A key component of the EC-MERCOSUR negotiations is to shape trade as well as trade-related issues such as **rules of origin, SPS measures** and **property rights** in accordance with WTO rules. With

[6] See the Council Decision of 20 November 1995 (96/205/EC) concerning the provisional application of certain provisions of the Interregional Framework Cooperation Agreement between the European Community and its Member States, of the one part, and the Southern Common Market and its Party States, of the other part; Official Journal L 069, 19/03/1996, p. 0001.

regard to **property rights,** the EU's strategy within the inter-regional negotiation process is the reinforcement of the economic integration process with a liberalisation of markets and the development of a legislative framework, which ensures an 'adequate and effective' protection of intellectual and industrial property rights.

On the issue of **interaction with other agreements** it should at least be noted that the MERCOSUR block is also negotiating the conditions for the implementation of an American Free Trade Area with other American countries, mainly with the NAFTA-countries. Here the MERCOSUR countries disagree with the NAFTA countries on how to negotiate the process framework. The simultaneous negotiation with the two main trading partners (EU and NAFTA) is obviously part of an overall strategy (Panagariya 1996; Fernandez & Portes, 1998). It should also be noted that the MERCOSUR member countries benefit from the EU's GSP scheme.

Foreign Direct Investment (FDI) into the MERCOSUR has grown rapidly over the last decade from a level of $6.5 billion in 1994; FDI inflow peaked in 1999 at $55.8 billion, representing an almost nine-fold increase. This represented around 50% of all investment going into the Latin American region, or 24.7% of total investments channelled into developing countries. On average, FDI flows into the MERCOSUR region during the period 1994–1999 grew by a rate of 50%. In the same period, MERCOSUR's share of total investments going into the Latin American region grew from 21% to 50.7%. The opening of the economies and the implementation of market economic reforms including the restructuring of public enterprises and major privatisation schemes have mainly driven this development. In 2000, however, FDI slowed and decreased by 20% to $44.8 billion, as the region recorded a general slow down in economic activity. The bulk of the investment in 2000 went to the two largest economies of the region, Argentina and Brazil, who received $11.1 billion and $33.4 billion respectively, or 99% of the total FDI inflows. In these two countries in particular, major privatisation projects, notably involving public utilities, have played an instrumental role in attracting overseas investment.

In terms of trade aspects, the long-term objective with MERCOSUR is to conclude the Association Agreement and implement a full liberalisation of trade and investments, services, public procurement and industrial and intellectual property rights. To that end, the cooperation instrument may help the negotiating process through the implementation of projects in the field of customs, standards, statistics and other areas that will be of reciprocal interest. The cooperation is expected to reinforce MERCOSUR's institutional, administrative and judicial capacity. The current negotiations with MERCOSUR are viewed as instruments to ensure that the four member countries provide an adequate and effective protection of intellectual and industrial property rights.

The EU is the most important importer of agricultural products from the MERCOSUR countries, absorbing 39% of the agricultural exports of MERCOSUR. According to the Commission, more than 60% of the agricultural imports from MERCOSUR enter the EU at a 0% customs rate. In addition, certain products benefit from a preferential access in the framework of tariff contingents. Nevertheless, the MERCOSUR countries, which are major producers in the agricultural field, have great concerns about the effects of the EU's CAP and are calling for a total liberalisation of trade in this area, in particular through the Cairns Group at the WTO. The Commission responds that the CAP has significantly changed during the past years, with social and environmental measures being strengthened, while institutional prices have been lowered, leading to gradual approximation of community agricultural prices to the level of world prices for some products – some products remain either highly protected or are subject to common market organisations and are among the well-known sensible products (beef, poultry meat, sugar and some fruits).

4.3 Preferential arrangements

4.3.1 ACP – EC Partnership Agreement (Cotonou Agreement)

The **countries covered** by the ACP-EC Partnership Agreement are currently represented by 48 African, 15 Caribbean, 14 Pacific states and 15 EU member states (see Annex Table 8.1.1). The agreement was signed on 23 June 2000. Relations between the EU and the African, Caribbean and

Pacific states have developed as a unique combination of aid, trade and political cooperation (EU Commission, 2000). These special EU-ACP relations date back to the Treaty of Rome (1957). At that time, the first of today's ACP countries (mainly African states), as dependent countries and territories of some of the founding member states, were associated with the Community, in order "to promote (their) economic and social development…and to establish close economic relations between them and the Community as a whole" (Art. 131 of the Treaty). Following independence in the 1960s, the first Yaoundé Convention was negotiated with 18 of these former countries and territories (1963): the Associated African States and Madagascar (AASMs). Yaoundé II followed in 1969. Then, after the accession of the UK to the European Community, the first Lomé Convention took place, signed in 1975 (with 46 ACP countries), then Lomé II in 1979 (58 ACP countries), Lomé III in 1984 (65 ACP countries) and Lomé IV in 1989 (68 ACP countries, extended in 1995 to 70 ACP countries). In 2002, the Lomé Convention was replaced by the Cotonou Convention, which includes many arrangements of the former, but also additionally enables REPAs negotiations between the EU and groups of ACP states. The Cotonou Convention will enter into force after ratification of all member states and a minimum of two third of the ACPs. The convention will last until 2020 and should be reviewed every five years (CAP Monitor 2003). The **main objective of the agreement** is a common provision underlining that development strategies, and economic and trade cooperation are interlinked (and complementary) and that the efforts undertaken in both areas must be mutually reinforcing. Economic and trade cooperation is thus primarily conceived as an instrument of development cooperation (EU Commission, 2000a).

Products covered by the ACP-EC Partnership Agreement are energy, machinery, transport material, chemical products, textiles and clothing and agricultural products. The bulk of ACP exports are raw materials, particularly agricultural products. There are non-reciprocal **preferences** for industrial and processed goods and for agricultural products. Products originating in the ACP states shall be imported into the Community free of customs duties, quantitative restrictions and charges having equivalent effect. The EC agreed to ensure more favourable treatment than that granted to third countries benefiting from the most-favoured-nation clause for the same products. Thereby it is agreed that products covered by the CAP follow specific rules and regulations, in particular with regard to safeguard measures (EU Commission, 2000).[7] Some agricultural products represent **exceptions** such as beef, veal and sugar. They are handled under a specific regime (beef, veal and sugar protocols).

The **rules of origin** define specific requirements that products imported into the EC must fulfil with respect to various issues. Those requirements include criteria such as the cumulation of origin, territorial requirements, proof of origin, administrative cooperation, etc.[8] With respect to **SPS,** both parties recognise the right of each party to adopt and to enforce SPS measures provided that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade. Furthermore they reaffirm their commitments under the SPS-Agreement annexed to the WTO-Agreement.[9] In the agreement the parties recognise the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial **property rights** and other rights covered by TRIPs in line with the international standards with a view to reducing distortions to bilateral trade.[10]

Out of the ACP countries, 40 countries are also declared as Least Developed Countries (LDCs) and are thereby additionally covered by the EBA Agreement (see section 4.3.3). With respect to **coherence of Community policies** and their impact on the agreement, it is agreed that the EC will inform the ACP states about future measures that may affect the interests of those countries.[11]

[7] For a detailed documentation of preferences concerning agricultural products and foodstuffs agreed upon in the agreement see the database of the ACP-EC/Final Act.

[8] For a detailed documentation of the rules of origin laid down in the agreement see Appendix 8.3.7 and the database/ACP-EC/Final Act.

[9] For further documentation see Appendix 8.3.8.

[10] For further documentation see Appendix 8.3.9.

[11] For further documentation see Appendix 8.3.10.

4.3.2 GSP (Generalised System of Preferences)

The **countries covered** by the GSP comprise all developing countries and the 15 EU member states. The agreement came into place for the first time in 1971 and was reformed in 1998. Since then, the regulation consists of **five different arrangements**: general arrangements; special incentive arrangements for the protection of labour rights, for the protection of the environment, for least developed countries and to combat drug production as well as trafficking. From there on the agreement was renewed every three years. Thus, the last renewal took place in 2002 and is valid until 2004. The **main objective** of this agreement is to grant special trade preferences to developing countries in order to foster development and help them to compete on international markets (EU Commission, 2001a).

The agreement covers virtually all sectors. A detailed list of all **products covered** is included in Council Regulation (EC) No. 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 and the corresponding Annexes (EU Commission, 2001). Each of the different GSP arrangements includes different products, which are listed in Annex IV of the Regulation. Different arrangements may grant different tariff preferences for the same products. The availability of tariff preferences as well as their extent therefore depends on the arrangement enjoyed by the individual beneficiary country in which the products originate. The GSP only covers products that are 'dutiable'. For roughly 2100 products (out of a total number of approximately 10300 tariff lines of the Common Custom Tariff), the most favoured nation (MFN) tariff is zero. On the other hand, the GSP does not include imports of products in Chapter 93 (arms and ammunition). The following section gives a rough overview of products covered by the special incentive arrangements.

The **special incentive arrangements for the protection of labour rights** cover all sensitive products included in the general arrangements (as non-sensitive products are exempted from duties under the general arrangements, they do not qualify for additional preferences). The special incentive arrangements provide additional tariff reductions on these products.

The **special incentive arrangements for the protection of the environment** cover a certain number of tropical forest products, for which they provide additional tariff reductions.

The **special arrangements to combat drug production and trafficking** provide duty-free market access for all industrial products (Chapters 25 to 97 of the CCT, except 93) included in the general arrangements and classified as sensitive (on non-sensitive products, no additional preferences can be applied). They also provide duty-free access to some agricultural products (Chapters 1 to 24 of the CCT), which are included in the general arrangements and classified as sensitive. Moreover, they grant duty-free access to certain agricultural products that are not covered by the general arrangements.

All 'dutiable' products (more or less 8200 tariff lines, without Chapter 93, arms and ammunition) are included in the **special arrangements for LDC's (EBA)**, which grant duty-free access to the EU market. Only imports of fresh bananas, rice and sugar are not fully liberalised immediately. EBA provides the most favourable regime available.

The basic preferential treatment under the GSP is offered by the general arrangements. These arrangements include roughly 7000 products, of which 3300 are classified as non-sensitive. Non-sensitive products enjoy duty-free access, while sensitive products benefit from a tariff reduction. The tariff **preferences** available under the GSP apply to normal MFN duty rates, without any quantitative restrictions.[12] In general the tariff preferences offered by the general arrangements differ according to the sensitivity of the products concerned. Products included in the general arrangements are classified as either non-sensitive or as sensitive. Duties on imports of non-sensitive products are exempted, while duties on imports of sensitive products are reduced. This is commonly referred to as 'tariff

[12] For documentation of the general arrangements concerning the tariff preferences see Appendix 8.3.11 and for a detailed documentation of all five arrangements see database/GSP/council_REG_2501_2001.pdf.

modulation'. Present rules on tariff modulation are shaped in a way so as to minimise the so-called 'erosion of preferences'.

As preferences are linked to MFN duty rates, they tend to shrink where MFN duties are lowered. Where MFN duty rates become zero, it becomes even impossible to grant preferences. It is therefore impossible to avoid the erosion of preferences resulting from total liberalisation. Nevertheless, as long as MFN duty rates are only lowered without being totally eliminated, the extent of the erosion depends on the way **preferences** are determined. Preferences, which are calculated as a percentage of the MFN duty rate, shrink in line with that rate, e.g. a preference of 25% on an MFN rate of 14% results in a preferential duty-rate of 11.5%, providing a reduction by 3.5 percentage points. When the MFN duty goes down to 7%, a preference of 25% results in a preferential duty rate of 5.25%, which means a reduction by no more than 1.75 percentage points. Yet a preference that is determined as a flat rate reduction of the MFN duty rate will remain the same in absolute terms and will even increase if expressed as a percentage of the MFN rate. Therefore, the present rules on tariff modulation apply a **flat rate reduction**.

That reduction has to be sufficient to motivate traders to make use of the preferences. The minimum that is required in this respect may not be the same in all cases. In sectors with fierce international competition and smaller profit margins in particular, even a smaller preferential margin may offer opportunities traders are prepared to seize. Experience has shown that reductions of less than 3.5 percentage points generally result in poor utilisation rates. Therefore the GSP provides, as a rule, for a **reduction of MFN** *ad valorem* duties by a flat rate **of 3.5 percentage** points, e.g. a reduction of an MFN rate of 14% by a flat rate of 3.5 percentage points results in a preferential duty-rate of 11.5% (here, the result of a 25% reduction of the MFN duty rate is the same). If the MFN rate becomes 7%, a reduction by 3.5 percentage points results in a preferential duty-rate of 3.5% (while the preferential duty-rate resulting from a 25% reduction is 5.25%). Now, the preferential margin becomes even 50% of the MFN duty. With respect to **specific duties**, the **reduction is 30%**, except for ethyl alcohol, for which it is 15%. Where duties include *ad valorem* and specific duties, only the *ad valorem* duties are reduced.

Additional tariff preferences under the special incentive arrangements apply only to products that are not exempted from import duties under the general arrangements, i.e. the sensitive products. For these products, the special incentive arrangements provide an additional tariff reduction that in general, is of the same extent as the one available under the general arrangements (thus doubling the latter). For textiles, the total reduction is therefore 40% and for specific duties it is 60% (except for ethyl alcohol, where it is 30%). For *ad valorem* duties, however, the additional reduction is more than the basic reduction. Instead of 3.5, it is 5 percentage points (thus raising the total reduction to 8.5 percentage points). Again, where duties include *ad valorem* and specific duties, only the *ad valorem* duties are reduced.

Duty-free access to the European Community market is granted under different arrangements. Although imports of all products included in the special arrangements for LDC's, as well as those included in the drug regime enjoy duty-free access, only non-sensitive products included in the general arrangements enjoy the same treatment. Sensitive products, too, may enjoy, *de facto*, duty-free access if the MFN duty is lower than the tariff reduction available. With regard to the EBA Regulation, it is foreseen that the special arrangements for LDC's should be maintained for an unlimited period of time and not be subject to the periodic renewal of the EC's GSP scheme. Therefore, the date of expiry of that scheme does not apply to EBA provisions.

Duty-free access may also be the effect of the provision on **nuisance duties,** where, as a result of a tariff reduction the remaining duties are below 1% in the case of *ad valorem* duties and below €2 in the case of specific duties, they are considered as nuisance duties and therefore waived. The combination of the flat rate reduction of 3.5 percentage points with the nuisance rate of 1% therefore provides that under the general arrangements products with an MFN *ad valorem* duty rate of 4.5% or less enter the EU market duty free. The same applies in the case of the special incentive arrangements to products with an MFN *ad valorem* duty rate of 9.5% or less.

The 3700 products that are classified as **exceptions and sensitive products** within the GSP are subject to a reduction of *ad valorem* duties by a flat rate of 3.5 percentage points and specific duties by 30%. As already specified above, the special incentive arrangements grant a further reduction of *ad valorem* and specific duties by an additional 5 percentage points and 30% respectively.

Products have to meet certain requirements that are laid down in the **rules of origin** to be considered as originating in the exporting country. A detailed description about this issue is included in Council Regulation (EC) No. 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004 and the corresponding Annexes.[13] Preferences under the GSP apply to imports of specific products from individual countries into the custom territory of the EC. The products have to originate in a beneficiary country and that country has to benefit from GSP arrangements that include those products. The rules of origin applying to imports under the GSP are meant to ensure that the tariff preferences foster the development of beneficiary countries. Therefore, the requirements that have to be met in order to accept that products originate in the exporting country are slightly stricter than in the case of non-preferential imports. Although products wholly obtained in the exporting country are considered as originating there, products manufactured with inputs from other countries are considered so only if they have undergone sufficient working or processing. The requirements, which vary between products of different chapters of the CCT, and sometimes also between different headings within those chapters, refer to technical criteria, the added-value or other economic criteria, or a change of tariff heading. The rules of origin also foresee that products can be accompanied by a certificate of origin or an invoice declaration and that they have to be shipped directly to the EU.

The rules of origin applying to imports under the GSP allow, under certain conditions, for cumulation of origin. Where those conditions are met, inputs from other countries are considered as originating in the exporting country. In order to foster economic cooperation between the European Community and beneficiary countries, the rules of origin provide that all imports under the GSP are entitled to bilateral cumulation of origin, which is also known as 'donor-country content'.

With regard to **SPS** measures, the parties agreed to follow the guidelines of the SPS-Agreement annexed to the WTO-Agreement. The parties agreed to protect and enforce **property rights** considering the guidelines laid down in the TRIPs Agreement of the WTO.

Countries no longer requiring preferential treatment will be removed from the list. There is one important exception from the rule of a flat rate reduction, concerning the sectors of textiles and clothing. As international competition in these sectors is very strong in order to preserve the structure of the EU CCT, imports of these products enjoy a reduction of 20% within the GSP scheme.

Since preferential treatment under the GSP is granted without any quantitative limitations, preferential imports may increase in a way that causes serious difficulties for European Community producers of the same or directly competing products. The GSP regulation provides for the possibility of applying **safeguard measures**, i.e. to reintroduce CCT duties should such difficulties arise. These measures apply to specific products (or products of a specific sector) originating in individual beneficiary countries.

Any arrangement may be subject to **temporary withdrawal measures** at any time, in respect of all products from a beneficiary country or only some of them, for different reasons. Some reasons refer to the conditions required for the implementation and the control of the respect of the GSP arrangements, in particular fraud or failure to provide administrative cooperation as required for the verification of certificates of origin. Others concern the effects of preferential treatment on trade and development. Where preferences provide incentives for maintaining unsustainable patterns of development, it may indeed be warranted to temporarily withdraw them. Temporary withdrawal of preferences is an exceptional measure applied only in cases of clearly unacceptable practices.

[13] This detailed description can be found in database/GSP/RoO_annex2.pdf, database/GSP/RoO_annex3.pdf, database/GSP/RoO_annex4.pdf and database/GSP/RoO_contents_guide.pdf.

Another reason for temporary withdrawal of tariff preferences is a situation where most developed countries prove to be highly competitive in certain sectors. The corresponding decision is based on a development index (per capita income and the level of exports compared with the EU's), a specialisation index (ratio of a beneficiary country's share of total Community imports in general to its share of total Community imports in a given sector). Temporary withdrawal also applies when a country's exports in a given sector exceed a certain percentage (15%–25%) of all beneficiaries' exports of those products in that sector over the course of a reference year.

4.3.3 EBA initiative

The **countries covered** by the EBA Initiative comprise 49 LDCs and 15 EU member states. The EBA Initiative came into place 1 February 2001. The **aim of this agreement** is to provide more favourable treatment to the group of LDCs than to other developing countries benefiting from the GSP. Concerning **product coverage,** the agreement extends duty-free access to imports of all products from LDCs without any quantitative restrictions, except to arms and munitions. EBA provides the most favourable regime available. Roughly 2100 products already enter the EU market duty-free for all countries. Practically all other products are covered by an EBA and are granted duty-free access (zero duty-rate) to the EU market if they fulfil the rules of origin requirements. This now includes all agricultural products by adding such sensitive products as: beef and other meat; dairy products; fruit and vegetables from apples to asparagus and from cucumbers to courgettes but also processed fruit and vegetables; maize and other cereals; starch; oils; processed sugar products; cocoa products; pasta; and alcoholic beverages (except for bananas, sugar and rice).

All products except for arms, munitions and the previously mentioned sensitive products enjoy **preferences** (see Appendix 8.3.12) of a zero duty-rate without any quantitative restrictions. Sensitive products are subject to certain phasing in periods that will be completed in 2009. For some **sensitive products** there is a tariff quota with zero duty in place from 2006–2009. For bananas, sugar and rice specific phasing in periods apply, as follows.

Concerning fresh **bananas**, the EBA initiative provides for full liberalisation between 1 January 2002 and 1 January 2006 by reducing the full EU tariff by 20% every year. Full liberalisation of the **rice** scheme will be phased in between 1 September 2006 and 1 September 2009 by gradually reducing the full EU tariff to zero. In the meantime, in order to provide effective market access, LDC rice can come in duty free within the limits of a tariff quota. The initial quantities of this quota shall be based on the level of the LDC accounting for the highest export levels to the EU in the recent past, plus 15 percent. The quota will grow by 15% every year, from 2,517 tonnes (husked-rice equivalent) in 2001–02 to 6,696 tonnes in 2008–09 (September to August marketing year). Full liberalisation of EBA imports of **sugar** will be phased in between 1 July 2006 and 1 July 2009 by gradually reducing the full EU tariff to zero. In the meantime, as for rice, LDC raw sugar can come in duty free within the limits of a tariff quota, which will grow from 74,185 tonnes (white-sugar equivalent) in 2001–02 to 197,355 tonnes in 2008–09 (July to June marketing year). Imports of sugar under the ACP-EC Sugar Protocol shall be excluded from the above calculations so as to uphold the viability of this protocol.

Since the EBA initiative represents one of the special incentive arrangements within the EC's GSP scheme the corresponding **rules of origin** also apply here.[14] Similar to the rules of origin, the **SPS** measures laid down in the agreement follow the guidelines of the GSP scheme and thereby the WTO's SPS agreement. With respect to the WTO's TRIPs Agreement, the same applies to the protection of **property rights**. The provisions of the EBA Regulations have been incorporated in the GSP Regulation. With respect to **safeguard and withdrawal measures,** the rules laid down in the GSP agreement apply.

[14] For a very detailed documentation see database/GSP/RoO_annex2.pdf, database/GSP/RoO_annex3.pdf, database/GSP/RoO_annex4.pdf and database/GSP/RoO_contents_guide.pdf.

5 Important issues

5.1 Special provisions on agri-food products

One stumbling block in the negotiations with third countries represents the EU's **adherence to the principle of the inviolability of the CAP**. This applies especially to agricultural, but also to industrial goods such as textiles. To overcome the obstacle, the agreements often include separate chapters for agricultural products as well as additional protocols defining detailed regulations. Even though the establishment of a customs union is sought in different agreement preferences; in the case of agri-food products, as a rule, they comprise tariff reduction and, particularly, the implementation of TRQs with a zero tariff or reduced in-quota tariff compared with the out-of-quota tariff. Most of the time the out-of-quota tariffs comply with the MFN tariffs, which are the tariffs charged on imports from non-preferred third countries. These preferences are granted for distinct products defined in an at least six-or eight-digit HS system. In most cases, pure quantitative import restrictions were removed. In general, but not always (e.g. the EBA Agreement), preferential access is granted for entry of EU exports into the third country. The preferences are not inevitably granted in a reciprocal ways and most often do not even cover the same products, reflecting a difference in product sensitivity that led to an exemption of agricultural products.

Even though all imports from ACP countries can enter duty-free since 1985, the exceptions are important agricultural raw products administered by the CAP. Nevertheless, special 'concessions' are granted for some products (sugar, bananas, beef, rice, maize and certain horticultural products as well as tropical products). In the Europe and the Association Agreements special trade provisions can be found for a wider range of products such as living animals, beef, pork, meat of sheep, goat, poultry, turkey, skimmed milk powder, whole milk powder, butter, certain cheeses, certain horticultural products, certain fruits, vegetables and nuts, wine, honey, durum wheat, soft wheat, feeding stuff, hops, cotton, wine, tobacco and others. Other bilateral agreements also cover preferential access for similar products. Of all products, sugar is the agricultural commodity treated most often as an exception. A special ENAPRI working paper deals with the questions of the inclusion of sugar in different trade agreements. Therefore the special import schemes of sugar, including the sugar protocol are not addressed here.

5.2 Provisions for special access of agricultural products

In the following section, an overview of special access of certain agricultural products is given. This account is by no means exhaustive. Special schemes exist for specific products, e.g. rice, tobacco, eggs and other products.

Although **bananas** are regarded within the EU as a less important commodity, the sector is regulated by a special protocol on behalf of the ACPs. The EU reserves a special duty-free import quota of 750,000 tonnes per year for suppliers of bananas from ACP countries. Additionally, the ACPs may also compete for a share of two other tariff quotas (in total 2,653 million tonnes) that are open to all exporters. Imports under the second regime are duty free for ACP suppliers, but non-ACP suppliers are subject to a tariff of €75 per tonne. Out-of-quota imports from ACPs are also subject to a €300 per tonne tariff reduction. Regardless of the fact that this banana regime was taken to the WTO for a dispute settlement procedure and was found to be invalid,[15] it will stay in force until 2005. From 2006 onwards, the EU has promised to use a tariff-only system and dismiss all tariff quotas. ACPs will then benefit from lower tariffs.

Different schemes may regulate the imports of **beef, veal and cattle** from third countries into the EU. For the most part, these TRQs are fixed in bilateral agreements. An overview on TRQs can be found in the Appendix 8.2.1. A number of African ACPs (Botswana, Swaziland, Madagascar, Kenya, Zimbabwe and Namibia) are subject to a special beef tariff quota of 52,100 tonnes with a tariff of 8% of the full tariff. The EU's stringent animal health rules led to occasional suspensions of imports from these states. Special trade preferences were also granted to imports from the CEECs, Switzerland,

[15] This in turn caused retaliatory sanctions by the US totaling €185 million as a counter-measure.

some South American countries (Argentina, Uruguay and Brazil), but also to North America, Australia and New Zealand. The preferences granted may differ according to the supplier. Under special preference schemes granted by agreements, general tariff quotas were set up for frozen beef and veal, special mountain breeds and buffaloes. Duty-free access is also available for EBA countries.

Also, in the case of **dairy products,** different preference schemes are implemented. These comprise TRQs and preferential rates (see also Appendix 8.2.2 and 8.2.3). For the Europe Agreements, TRQs are established with at least a duty or tariff reduction of 80%. The ACP countries are granted a reduction of 65% within the quota and for South Africa it is 100%. For Turkey, no duties are applied. No quantitative restrictions are determined for reduced custom duties concerning certain dairy products from ACP states, certain cheese types from Turkey, or infant milk and certain cheese from Switzerland. In the case of South Africa, out-of-quota tariffs are reduced to zero in 2010 for milk, cream, whey, certain acidified milks and cheese. Under the current access scheme of the Uruguay Agreement, fixed TRQs and duties are applied for cheese from New Zealand, Australia and Canada and also for New Zealand butter for the UK. A similar scheme covers imports of certain cheeses from Cyprus and Norway, but with an increasing ceiling in the case of Norway. Duty-free imports are provided for under the EU Stabilisation and Association process with Yugoslavia, Macedonia, Croatia and Bosnia-Herzegovina as well as for EBA countries.

The Europe and Association Agreements induced the implementation of TRQs for certain tariff lines of **pork** comprising living pigs, fresh, chilled, prepared and preserved pork. Under the 'double zero' and 'double profit' agreement, quantitative but increasing restrictions are applied on duty-free access of pork in bilateral trade. In accordance with the Uruguay Agreement, a special general quota of 68,600 tonnes at reduced duties was opened to all third countries from which TRQs of the association agreements may be deducted. Additionally, a duty-free tariff quota of 7,000 tonnes was established. For ACP countries, an import quota of 500 tonnes concerning sausages and of 500 tonnes of other pork meat was established at a reduced rate of 35% and 50% respectively. Imports originating from EBA countries may enter duty free.

In the process of implementing the Uruguay Round, mostly duty-free TRQs are in operation for **sheep and goat meat**. The quotas are specifically set up at source and take into account preference agreements. Quotas concerning fresh, chilled, frozen sheep meat and goat meat were issued to Argentina (23,000 tonnes), Australia (18,650 tonnes), Chile (3000 tonnes), New Zealand (226,700 tonnes), Uruguay (5,800 tonnes), Iceland (1,350 tonnes), Slovenia (50 tonnes), Greenland (100 tonnes), Faroe Islands (20 tonnes), Turkey (200 tonnes) and others (200 tonnes). Duty-free imports of living sheep and goats or equivalent meat are allowed within 9200 tonnes from Poland, 8,750 tonnes from Romania, 7,000 tonnes from Bulgaria, 2,150 tonnes from the Czech Republic and 4,300 tonnes from Slovakia. Under the agreements, duty-free imports of EBA origin are available.

Within the Uruguay Round Agreement, minimum access for **poultry meat** was determined as an overall TRQ with zero duty of 18,000 tonnes and further quota with reduced tariffs of 7,188 tonnes. Within the Europe and Association Agreements, import TRQs with a rate of zero or 20% were agreed for Poland, Hungary, Czech Republic, Slovakia, Bulgaria, Romania as well as for Slovenia. Imports from EBA countries are not charged any duties. Product coverage ranges from prepared or preserved meat, chilled or frozen meat, carcasses, legs, breasts and the offal of poultry, turkey, fowls, ducks and geese.

Owing to different agreements and commitments, the established TRQs for **cereals** vary. As a consequence of the last enlargement round, the US was granted an import TRQ of 2 million tonnes of maize and 0.3 million tonnes of sorghum for imports into Spain and 500,000 million tonnes of maize for imports into Portugal at a maximum duty of €50 per tonne. Because of some market disturbances induced by imports, a TRQ system for EU imports was implemented concerning low and medium quality wheat and barley. An overall import quantity was bound at 2,981,600 tonnes of wheat. Thereby 572,000 tonnes are reserved for the US and further 38,000 tonnes for Canada. The quota rate is €12 per tonne and the out-of-quota rate is €95 per tonne. For barley, the TRQ comprises 50,000 tonnes of malting barley with an in-quota rate of €8 per tonne and 300,000 tonnes of other barley with an in-quota rate of €16 per tonne. The out-of-quota rate accounts for €93 per tonne. Along with these

provisions, special access was granted owing to trade agreements. TRQs applied, for example, to Turkey in the case of rye and to Morocco in the case of durum wheat. Lower tariff rates are set for certain quantities originating from ACP countries, namely 15,000 tonnes of cereals at a quota rate reduction of 50%, 100,000 tonnes of sorghum at a reduction of 60% and 50,000 tonnes of malting barley at rate reduction of 50%. The TRQs are also granted for CEECs and totally account for 50,000 tonnes of durum wheat at zero duty, 300,000 tonnes of quality wheat, 21,000 tonnes of oats at a rate of €89 per tonne, 10,000 tonnes of worked oats at a zero rate and 50,000 tonnes of malting barley subject to a tariff reduction of 50%. These total amounts are distributed to individual countries, whereas quotas for the individual countries vary. Cereals are imported duty-free from EBA countries without any quantitative restriction.

Almost all of the different preference agreements grant special access for **certain fruits and vegetables**. These preferences follow varying schemes, according to the 'sensitivity' of the products from an EU perspective. This often leads to a temporal limitation of preferences during the year. Some TRQs are historical in origin, dried onions, for example, (12,000 tonnes at a 10% tariff), almonds (45,000 tonnes at a 2% tariff) and orange juice (1,500 tonnes at 13% tariff). The TRQs for oranges, orange juice and minneolas are limited to imports from Argentina, Colombia, Cuba, the US and, in the case of minneolas, Cyprus and Israel. Trade preferences are granted under bilateral agreements such as the Euro-Mediterranean Agreements as well as the Europe and Association Agreements, or under preferential arrangements like the Cotonou Convention or the GSP. In the case of fruits and vegetables, this results in a highly complex system of trade preferences. The ACP countries receive a broad range of trade preferences for fruit and vegetable exports to the EU. Although the entry price system is fully in force, tariff reductions (up to 100%) are granted for many products.

In some cases, the tariff reduction is limited to quotas. Major imports from the ACP countries, especially concerning tropical products, are duty-free. The country receiving the most comprehensive preferences for fruit and vegetable exports to the EU is Turkey. The entry price system is fully in force but almost all *ad valorem* tariffs are reduced to zero. TRQs are only in place for processed tomatoes and apricot pulp. The preferences granted in the context of the Euro-Mediterranean Agreement are not covered here but in a different working paper. The preferences that are provided for the candidate countries consist of two different categories. For some specific fruit and vegetable products, the GSP leads to reduced tariffs for unlimited quantities (by about one-quarter to one-half of MFN duties). Exemptions are potatoes, onions, beans, eggplant, celery, courgettes, pumpkins, grapes, watermelons, melons and plums on which *ad valorem* tariffs are charged during limited calendar periods. Further preferences are provided under the Association Agreements. For 'sensitive' fruit and vegetable products, quantitative quotas are set individually for each country of origin. For these products, tariffs are reduced by 80%. When the entry price system is applied, the CEECs are not granted preferences for entry prices, but preferences are provided for applied tariffs. Unlimited and duty-free access is granted for EBA countries.

5.3 Rules of origin

Rules of origin represent a means for determining where goods originate; i.e. not where they have been shipped from, but where they have been produced or manufactured. Those rules are necessary to accompany preferential trade agreements because they ensure that only those goods that genuinely originate in one of the preferential countries enjoy the low tariffs or other benefits laid down in the agreement.

With respect to EU trade agreements there are basically two applicable guidelines for the design of the rules of origin. On the one hand, there are the regulations laid down in the WTO Agreement and on the other hand, there are the guidelines for the specific regulatory framework of the EU's individual agreement. The WTO's Agreement on Rules of Origin provides the general rules shaping the basic framework of the rules of origin applied in an EU trade agreement. *Inter alia,* it defines the rules of origin and the disciplines governing their application. Furthermore the agreement lays down the

procedural arrangements on notification, review, consultation and dispute settlement, and regulates the harmonisation of the rules of origin.[16]

As a member of the WTO, the EU's rules of origin were designed in accordance with these guidelines. Basically the EU differentiates between two types of rules of origin: preferential and non-preferential rules. Non-preferential rules define the origin of goods for the purpose of such matters as trade statistics and import quotas. Such rules are important when trade measures, for example anti-dumping or quantitative restrictions, apply to goods imported from one country but not to goods imported from another. The rules must be applied objectively and in a non-discriminatory way, since the origin of goods is essentially a matter of fact. Preferential rules, which are often stricter, apply to preferential trade agreements and are defined by the EU and the preferential partner(s). According to the EC's rules, products acquire origin if they are wholly produced or if they are sufficiently processed or worked in a preferential partner country.

Generally, for a manufactured product incorporating imported components, 'sufficiently processed or worked' means that the final product must be classified under a different tariff heading (at a four-digit level) from any non-originating components. (These are components not manufactured in the preferential partner country from which the final product is being imported. A tariff heading is the internationally agreed code number for identifying a particular commodity. For example, briefcases are classified under tariff heading 4202; the leather from which they are largely made is classified under tariff heading 4104). Different rules, however, apply to many products, for example:

- There may be a limit on the value of the non-originating components. This is often 40% – in other words, the processing must create and added value of 60%; or,
- There may be a requirement to carry out a particular process.

In addition, for some products, a process does not lead to origin being acquired, even though it results in a different tariff heading. For some other products a process is considered 'sufficient' even though it does not result in a different tariff heading. The specific rules for some products consist of two or more of these requirements.[17] For the EU's GSP scheme, specific rules of origin apply.[18]

5.4 Property rights

Intellectual property rights represent rights granted to creators and inventors to control the use made of their production. They are traditionally divided into two branches. On the one hand there are the 'copyright and related rights' for literary and artistic work and on the other hand are trademarks, patents, industrial designs, geographical indications and layout-designs of integrated circuits, relating to 'industrial property'. A regulatory framework is necessary with respect to this issue in order to reach a balance between the need to encourage research and the wish to make innovation freely available to everyone. This is why most of the intellectual property rights are granted for a limited period of time.

In the agreements, the EU and the corresponding trading partner generally ensure the following of the guidelines of international standards and of a WTO agreement. The TRIPs Agreement determines the general provisions, principles and standards concerning the availability, scope and use of intellectual property rights. Further, the agreement regulates the enforcement of property rights, comprising guidelines for administrative procedures, provisional and border-related measures, etc. It also defines the main elements of protection: the subject matter to be protected, the rights to be conferred and permissible exceptions to those rights, as well as the minimum duration of protection.[19]

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[16] For a detailed documentation of the WTO's "Agreement on Rules of Origin" refer to database/Rules_of_Origin/WTO_ Rules_of_Origin.pdf.

[17] For further documentation see database/Rules_of_Origin/EC_ Rules_of_Origin.pdf.

[18] For further documentation see database/Rules_of_Origin/GSP_ RoO_annex2.pdf, database/Rules_of_Origin/GSP_ RoO_annex3.pdf, database/Rules_of_Origin/GSP_ RoO_annex4.pdf, database/Rules_of_Origin/GSP_ RoO_contents_guide.pdf

[19] For a detailed documentation of the TRIPs Agreement, refer to database/Property Rights/WTO_trips.pdf.

5.5 SPS measures

In order to ensure a certain standard of health protection, SPS measures accompany each of the EU's bilateral trade agreements. Consideration of SPS measures is particularly important in the case of trade with agricultural products. Similar to the rules of origin as well as to the TRIPs Agreement, the WTO provides certain guidelines the EU has to consider in its SPS regulations. The WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (SPSA) sets constraints on how measures can be taken to protect human, animal and plant health. The key principle is that they must be science-based. The agreement allows the EU to set their own level of quarantine protection, as long as they do not use unfair quarantine restrictions to block trade.[20]

5.6 Safeguard clause

In most of their preferential trade agreements, the EU includes so-called 'temporary withdrawal and safeguard provisions'. This regulation usually applies to all products originating in a beneficiary country and allows for a temporary withdrawal of the granted preferential arrangements. The EU can exercise this option in the case of various circumstances, e.g. exports of goods made by prison labour, shortcomings in customs control on export of drugs and unfair trading practices. The safeguard clause also serves as a protection measure for EC producers since the withdrawal measures also apply in the case that the preferential imports may cause serious difficulties to a Community producer of the same or directly competing goods. A committee was established for the purpose of assessing and proving the situation.[21]

5.7 Common standards, rights and institutional aspects

Some of the EU's agreements also include a specific assessment on standardisation and conformity. The purpose of this additional article is to reduce differences in these areas, remove technical barriers and facilitate bilateral trade. The cooperation comprises measures in accordance with the provisions of the WTO TBT Agreement, to promote greater use of international technical regulations, etc. Furthermore, it is aimed at developing agreements on mutual recognition of conformity assessment in sectors of mutual economic interest (EU Commission, 1999).

5.8 Foreign Direct Investments (FDI)

During the Uruguay Round, the WTO established the Agreement on Trade-Related Investment Measures (TRIMs) applying to measures that affect trade in goods. This agreement regulates certain investment measures, such as requirements related with national treatment (GATT, Article III) and quantitative restrictions (GATT, Article XI) that can have trade-restrictive and distorting effects. Operation and implementation of these commitments are monitored by an extra TRIMs Committee.[22]

6 Conclusion

The aim of this paper is to provide an overview of different preferential agreements signed by the EU, including the involved partners, political goals to be achieved, sector and product coverage, trading measures and exceptions of these preferences and special issues tackled in all agreements. The WTO Agreement, which is a multilateral agreement, is not incorporated in this survey because it merely represents a framework for the bilateral trade agreements.

Within bilateral agreements the EU is granting numerous preferences. Owing to the fact that the EU is a global player in international trade, these preferences have a major impact on preferential and non-preferential partners. Additionally, the various agreements show strong interactions, so that their impact differs across commodities, sectors and regions.

[20] For a detailed documentation of the EU's regulatory framework regarding import of live animals and animal products, refer to database/SPS/EU_animal_imports.pdf.

[21] For a detailed documentation of such a provision see, for example, database/GSP/L346_1_council_REG_2501_2001.pdf.

[22] For a detailed documentation of the TRIMs Agreement, refer to database/FDI/WTO_trims.pdf.

Although the EU's preferential agreements vary according to date of signature, aim or regional coverage on preferences granted, they provide some common features. The goal to be achieved by the EU is somewhat more than a provision of economically intended trade preferences. With the implementation of the agreements, overall political objectives such as European integration and stabilisation as well as improved conditions for developing or transitional countries, are promoted. Here the role of preferential agreements as development measures is heavily debated. But while following different political aims, adherence to the ultimate European preferences for domestic goods, especially in the agri-food sector is apparent, e.g. by the introduction of safeguard provisions and the definition of sensitive products such as sugar, beef, dairy products and bananas.

Most agreements are negotiated bilaterally, allowing for a better bargaining power of the EU and a straightforward approach in reflection of special and sensitive issues. This is even true for the Association Agreements in the course of EU enlargement. This may lead to biased economic development and distortions for associated countries and third countries.

Nearly all agreements cover general trade where, after longer phasing-in periods, customs unions or FTAs should be formed. A stepped implementation is usually combined with a gradual removal of tariffs and duties, quantitative import restrictions, export restrictions and export subsidies. Comparable swift adjustments are characteristic for most non-agricultural sectors except textiles. The adherence to the CAP implies a much slower implementation in agri-food sectors.

This is embodied in different facts. Tariff reductions are not always assigned in a reciprocal way. For example, sensitive products are often subject to lower preferences. Tariff preferences for agri-food products are very rarely granted without a limit by the EU, particularly in the case of highly protected CAP products. In this context, sugar, beef and veal, dairy products and certain fruits and vegetables should be mentioned. In the case of sugar, bananas and rice, even the EBA Agreement is subject to a longer implementation period.

Quite often the preferences are implemented as TRQs. This provides a certain quantity for which a zero tariff or reduced tariff or duty for imports is applied. Imports overshooting this limit are charged an out-of-quota tariff, which normally equals the MFN rate. These quotas can be established as a general quota applied to all countries under a certain scheme (e.g. wheat), but are much more often allocated to individual countries, implying that unfilled quotas cannot be used by other preferential suppliers (e.g. dairy products). Tariff reductions and TRQs are always fixed for specific tariff lines often based on an eight-digit level. Some of the tariff preferences are actually temporarily limited to some seasons when production is low in the EU (e.g. fruits and vegetables). The import licenses providing the preferences are distributed in various ways, e.g. 'first come, first served', historically based distribution or quotas for newcomers. Different allocation systems may imply different economic outcomes, depending on who is gaining the quota rent. Reduced duties applied on preference quantities that are not equal to zero are usually defined by a reduction rate. Duties are often defined in euros per tonne or 100 kg. Therefore, the exporter is subject to the impact of changing exchange rates.

From the very beginning, EU agreements were equipped with safeguard clauses as a further measure to protect domestic markets. These safeguard clauses allow for countervailing actions in the case of price erosions if a precise consultation process is adhered to. A second qualitative restriction is the rule of origin that ensures that a preference is only granted when the product originates in the country to which the preference is provided. SPS measures can be drawn upon to protect human, animal and plant health, but they have to be applied within WTO rules.

Along with other aspects, statements on property rights, institutional frameworks, acceptance of common standards and settings for foreign investments are referred to within the European agreements. Regulations and measurements in this respect prove necessary to generate stable economic growth and income. This political and economical environment is particularly needed to attract foreign capital for establishing new and more efficient firms. Nevertheless, under certain circumstances they can convert into obstacles when, for example, common standards prevent a part or all of imports. It has to be kept in mind, however, that trade is actually accomplished by firms and not

by nations. Often these firms themselves tend to set stricter standards than defined by legislative rules. This can have the same effect as NTBs. It also has to be mentioned that in the literature, the expression 'NTB' is usually only used in the context of legal restrictions. Nevertheless, firm standards can result in imperfect competition.

Based on the findings of this review, the requirements for quantitative analysis of trade agreements can be summarised as follows:

- Bilateral agreements of the EU cover general trade with a faster implementation in most non-agricultural sectors. This implies an economy-wide approach.
- In most cases agreements were phased in. Thus, a recursive, dynamic approach or projections representing a gradual implementation is required.
- Bilateral agreements, the interaction between non-preferential third countries and preferential third countries and the EU all demonstrate the need for a global approach.
- Since a characteristic of the agricultural part within the preferential agreements is the implementation of TRQs, tools to analyse TRQs are required for a proper impact analysis.
- While the CAP is not the only focus of trade agreements, it often provides the framework that reflects the rules and preferences granted. Changes in the CAP will imply some changes in the agreements at least in the long run and/or will have impacts through the preference margin on the preferential partner. Thus a specific representation of the CAP is indicated.
- Preferences are granted for distinct tariff lines and not for broad product groups. They are often defined as source-specific and are nearly always limited in quantity. An analysis of these measures would require an implementation of tariff lines and bilateral TRQs. In this regard it would be advantageous to take into account the distribution of import-license aligning and the distribution of quota rents.
- With respect to the protection of data, not only is the information on notified tariff rates necessary, but also data on applied rates within the different preferential agreements, as well as information on agreement-specific imported quantities and values.
- Qualitative issues such as SPS measures and common standards would need provision for product quality and consumer preferences as well as imperfect competition.
- Other aspects such as the free movement of labour, institutional frameworks and settings for improving foreign investments require an approach reflecting migration, capital accumulation and factor diversity.

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	http://europa.eu.int/eur-lex/en/search/search_treaties.html
02.20.30.21. Customs Union and free movement of goods – Basic customs instruments – Origin of goods – EFTA countries	http://europa.eu.int/eur-lex/en/lif/reg/en_register_02203021.html
03.80. Agriculture – Agreements with non-member countries	http://europa.eu.int/eur-lex/en/lif/reg/en_register_0380.html
11.40.10. External relations - Bilateral agreements with non-member countries – European countries	http://europa.eu.int/eur-lex/en/lif/reg/en_register_114010.html
11.40.10.10. External relations – Bilateral agreements with non-member countries – European countries – Member countries of the European Free Trade Association (EFTA)	http://europa.eu.int/eur-lex/en/lif/reg/en_register_11401010.html
11.40.50. External relations – Bilateral agreements with non-member countries – Central America and Latin America	http://europa.eu.int/eur-lex/en/lif/reg/en_register_114050.html
11.60.30.10. External relations – Commercial policy – Trade arrangements – Preferential arrangements	http://europa.eu.int/eur-lex/en/lif/reg/en_register_11603010.html
11.60.30.20. External relations – Commercial policy – Trade arrangements – Common import arrangements	http://europa.eu.int/eur-lex/en/lif/reg/en_register_11603020.html
11.40.30 - African, Caribbean and Pacific (ACP) Group of States	http://europa.eu.int/eur-lex/en/lif/reg/en_register_114030.html
11.70.40.10. External relations – Development policy – Associations – Overseas countries and territories (PTOM)	http://europa.eu.int/eur-lex/en/lif/reg/en_register_11704010.html

8 Appendices

8.1 Bilateral Agreements

Table 8.1.1. The ACP countries (signatories of Lomé and Cotonou Conventions)

Angola (h)	Gambia (e)	St. Kitts & Nevis
Antigua & Barbuda (h)	Ghana (e)	St. Lucia (h)
Bahamas (e)	Grenada (e)	St. Vincent & Grenadines (h)
Barbados (e)	Guinea (g)	Sao Tomé & Principe (f, h)
Belize	Guinea Bissau (f)	Senegal (a, b)
Benin (a, b)	Guyana (e)	Seychelles (e, h)
Botswana (e)	Haiti (f)	Sierra Leone (e)
Burkina Faso (a, b)	Ivory Coast (a, h)	Solomon Islands (e, h)
Burundi (a, b)	Jamaica (e)	Somalia (a, b)
Cameroon (a, b)	Kenya (c, e)	South Africa (h)
Cape Verde (f, h)	Kiribati (h)	Sudan (f)
Central Africa Republic (a, b)	Lesotho (e)	Surinam (a, h)
Chad (a, b)	Liberia (f)	Swaziland (e)
Comoros (a, h)	Madagascar (a, b)	Tanzania (c, e)
Congo (a, b)	Malawi (e)	Togo (e)
Cuba *	Mali (a, b)	Tonga (e)
Djibouti (a, h)	Mauritania (a, b)	Trinidad & Tobago (e)
Dominica (e, h)	Mauritius (d)	Tuvalu (e, h)
Dominica Republic (h)	Mozambique (h)	Uganda (c, e)
Equatorial Guinea (f)	Namibia (f)	Vanuatu (h)
Eritrea	Niger (a, b)	Western Samoa (e)
Ethiopia (f)	Nigeria (e)	Zaire (a, b)
Fiji (e)	Papua New Guinea (e, h)	Zambia (e)
Gabon (a, b)	Rwanda (a, b)	Zimbabwe (h)

* Observer statues only.
(a) Countries originally under Part IV of the treaty of Rome (1958).
(b) Countries formerly parties to the Yaoundé I (1963) and Yaoundé II Agreement (1969).
(c) Countries formerly associated under the Arusha Agreement (1969).
(d) Mauritius joined the Yaoundé Associates in 1972.
(e) Commonwealth countries associated with the Lomé Convention.
(f) Other signatories of Lomé, not previously under EC colonial rule.
(g) Guinea was an ex-French Colony, but never signed either Yaoundé Convention.
(h) New signatories to Lomé Convention, since its inception, in March 1975.

Source: CAP Monitor (2003), pp 4-17.

8.2 Provisions for special access of agricultural products

Table 8.2.1. Special access in the beef and veal sector

Special import scheme	Quantities	Tariff or duty reduction
frozen beef and veal quota	53000 t boneless beef equivalent	20% customs (ad valorem) duty applied
specified mountain breeds	5000 heads of heifers and cows for breeding	6% customs duty (ad valorem)
	additional 5000 heads of bulls, heifers and cows for breeding	4% customs duty (ad valorem)
high quality cuts	58100 t boneless beef equivalent of which ARG: 28000 t, BRA: 5000 t , URU: 6300 t North America, Canada 11500 t AUS: 7000 t, NZ: 300t, Paraguay: 1000 t	20% customs duty (ad valorem)
frozen buffalo meat	2250 t	20% customs duty (ad valorem)
frozen thin skirt quota	1500 t (of which 700 t for ARG)	4% customs duty (ad valorem)
tariff quota for frozen beef intended for processing	40000 t preserved beef products with a high proportion of beef and a min. of 20 % of lean beef	tariff free
	10700 t most other cooked manufactured beef products	45% of normal levy
young male animals balance sheet	169 000 heads of young male cattle for fattening (reguarly estimated)	import duty 583 €/t + 16% customs duty (ad valorem)
ACP scheme	52100 t boneless beef equivalent	8% of tariff, customs duty free
Europe Agreements	HU: 14655 t (increase 1365 t) PL: 19200 t (increase 1600 t) CZ: 3500 t SK: 3500 t RO: 3000 t (increase 250 t) BL: 250 t	20% of tariff, 20% of duty
	10500 t chilled beef from Slovenia	20% duty
	700 t beef from Switzerland	onlyl duty
	ES: 1100 t (increase 350 t) LV: 675 t (increase 75 t) LT: 2000 t (increase 200 t)	preferential rates for duties and tariffs
	7000 heads of special mountain breeds from Hungary, Poland, Czech Republic, Slovakia, Slovenia, Romania, Lithuania, Latvia and Estonia	6% customs duty (ad valorem)
calf imports	178000 heads up to 80 kg 153000 heads between 160 and 300 kg from Hungary, Poland, Czech Republic, Slovakia, Slovenia, Romania, Lithuania, Latvia and Estonia	20% of tariff 20% of duty

Source: CAP Monitor (2003).

Table 8.2.2. Special access for the dairy sector

Product	Source	Quota t	In-quota tariff € per 100 kg	Remarks
Butter	New Zealand	76667	86.88	
Cheese for processing	New Zealand	4000	17.06	
	Australia	500		
Cheddar	New Zealand	7000	17.06	
	Australia	3250		
Cheddar	Canada	4000	13.75	
Cheese (Jarlsberg,Ridder, whey,	Origin Norway	2716 2000: 5000 p.a. + 5%	66.41	different tariff positions
Cheese (Cheddar, Gouda, others)	Origin South Africa	2010 unlimited		different tariff positions
Milk, cream, yoghurt, some whey, lactose, animal feeds	Origin South Africa	unlimited	decreasing to 0 tariff in 2010	different tariff positions
Cheese (Kashkaval)	Origin Turkey	1500	0	over-quota tariff: €67.19/t
Cheese, condensed milk	Origin ACP	1000	-65%	
Milk, cream, yoghurt, whey, lactose, animal	Origin ACP	unlimited	-16%	
Infant milk, Emmental, Gruyere, Tilsit, and some specified other cheeses	Origin Switzerland	unlimited 3354	differing	
Other cheeses	Origin Switzerland	unlimited 2007	0	
Cream, natural yoghurt	Origin Switzerland	2000	0	
Sheep's cheese	Jordan	100	0	
Cheese (Kashkaval, Haloumio)	Cyprus	unlimited	67.19	
All dairy products	Bosnia-Herzegovina	unlimited	0	
All dairy products	Croatia	unlimited	0	
All dairy products	Macedonia	unlimited	0	
All dairy products	Yugoslavia	unlimited	0	

Source: CAP Monitor (2003).

Table 8.2.3. Special access in the dairy sector

Product	Source	Quota t	In-quota tariff € per 100 kg
		12000	
Powder	Poland	p.a. + 1000	0
		7200	
Butter	Poland	p.a. + 600	0
		10800	
Cheese	Poland	p.a. + 900	0
Powder	Czech Republic	2875	20%
Butter	Czech Republic	1250	20%
		6630	
Cheese	Czech Republic	p.a. + 765	0%
Powder	Slovakia	1500	20%
Butter	Slovakia	750	20%
		2860	
Cheese	Slovakia	p.a. + 330	0%
		1300	
Powder	Hungary	p.a. + 130	0
		300	
Butter	Hungary	p.a. + 30	0
		4200	
Cheese	Hungary	p.a. + 359	0
Fermented products, whey in pos. 0401 + 0402	Hungary	50	0
		2400	
Cheese	Romania	p.a. + 200	0
		6100	
Cheese	Bulgaria	p.a. + 300	0
Powder	Estonia	14000	0
		4800	
Butter	Estonia	p.a. + 900	0
		5120	
Cheese	Estonia	p.a. + 1410	0
Milk, cream	Estonia	800	0
Fermented products	Estonia	1920	0
Powder	Latvia	14000	0
		4800	
Butter	Latvia	p.a. + 900	0
		5120	
Cheese	Latvia	p.a. + 1410	0
Milk, cream	Latvia	800	0
Fermented products	Latvia	1920	0
		6350	
Powder	Lithuania	p.a. + 635	0
		2100	
Butter	Lithuania	p.a. + 210	0
		7200	
Cheese	Lithuania	p.a. + 600	0
Milk, cream	Lithuania	3000	0
Fermented products	Lithuania	300	0
Whey	Lithuania	2000	0
Powder	Slovenia	4400	20%
Butter	Slovenia	1350	20%
Cheese	Slovenia	1500	20%

Source: CAP Monitor (2003).

8.3 Different EU Agreements

8.3.1 RSA-EC: Preferences

TITLE II

TRADE

SECTION A

GENERAL

Article 5

Free trade area

1. The Community and South Africa agree to establish a Free Trade Area (FTA) in accordance with the provisions of this Agreement and in conformity with those of the WTO.

2. The FTA will be established over a transitional period lasting, on the South African side, a maximum of 12 years and,on the Community side, a maximum of 10 years starting from the entry into force of the Agreement.

3. The FTA covers the free movement of goods in all sectors. This Agreement will also cover the liberalisation of trade in services and the free movement of capital.

Article 6

Classification of goods

On the Community side, the combined nomenclature of goods shall apply to the classification of goods imported from South Africa. On the South African side, the harmonised system shall apply to the classification of goods imported from the Community.

Article 7

Basic duty

1. For each product, the basic duty to which the successive reductions set out in the Agreement are to be applied shall be that effectively applied on the day of entry into force of the Agreement.

2. The Community and South Africa shall communicate to each other their respective basic duties, in accordance with the standstill and rollback commitment agreed between the Parties, and the agreed derogations to these principles, as set out in Annex I.

3. In cases where the process of tariff dismantlement does not start at the entry into force of the Agreement (notably the products listed in Annex II, lists 3, 4 and 5; Annex III, lists 2, 3, 4 and 6; Annex IV, lists 3, 4, 7 and 8; Annex V; Annex VI, lists 2, 3 and 5; Annex VII) the duty to which successive reductions set out in the Agreement are to be applied shall be either the basic duty referred to in paragraph 1 of this Article, or the duty applied on an *erga omnes* basis on the starting day of the relevant tariff dismantlement schedule, whichever is the lower.

Article 8

Customs duties of a fiscal nature

The provisions concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature, with the exception of non-discriminatory excise duties levied on both imported and locally-produced goods which are in accordance with the provisions of Article 21.

Article 9

Charges having an equivalent effect to customs duties

The Community and South Africa shall abolish in their respective imports any charge having an effect equivalent to customs duties on imports on entry into force of the Agreement.

SECTION B

INDUSTRIAL PRODUCTS

Article 10

Definition

The provisions of this section apply to products originating in the Community and South Africa with the exception of the products covered by the definition of agricultural products under this Agreement.

Article 11

Tariff elimination by the Community

1. Customs duties applicable on import into the Community of industrial products originating in South Africa other than those listed in Annex II shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 2 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 86% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 72% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 57% of the basic duty;

three years after the date of entry into force of this Agreement each duty shall be reduced to 43% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 28% of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 14% of the basic duty;

six years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

six years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For a number of products indicated in this list, tariff elimination will start four years after the date of entry into force of this Agreement. Tariff elimination of these products will take place in three equal annual reductions, to be concluded six years after the date of entry into force of the Agreement.

For a certain number of steel products indicated in this list, tariff reduction will be realised on a MFN basis, to arrive at a zero duty in the year 2004.

5. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 4 shall be abolished within a maximum of 10 years after the date of entry into force of the Agreement.

For motor-car components indicated in this list, the applied tariff will be reduced by 50% as from the entry into force of the Agreement.

The precise Community basic duties and tariff elimination schedule for the products on this list will be established in the second six months of the year 2000, after both parties have examined the prospects for a further liberalisation of South African imports of automotive products from the Community mentioned in Annex III, lists 5 and 6, in the light of, *inter alia*, the outcome of the South African motor industry development programme review.

6. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 5 shall be reviewed in the fifth year of this Agreement in view of a possible elimination of tariffs.

Article 12

Tariff elimination by South Africa

1. Customs duties applicable on import into South Africa of industrial products originating in the Community other than those listed in Annex III shall be abolished upon the entry into force of this Agreement.

2. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 2 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 67% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 33% of the basic duty;

five years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 90% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 80% of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 70% of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 60% of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 40% of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 30% of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 20% of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 10% of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

5. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 4 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty shall be reduced to 88% of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 63% of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 38% of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 13% of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

6. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 5 shall be progressively reduced according to the schedule included in that Annex.

7. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 6 shall be periodically reviewed in the course of the operation of the Agreement in view of the further liberalisation of trade.

South Africa will inform the Community about the outcome of the South African motor industry development programme review. It will present proposals for a further liberalisation of South African imports of automotive products from the Community mentioned in Annex III, lists 5 and 6. The Parties will jointly examine these proposals in the second six months of the year 2000.

SECTION C

AGRICULTURAL PRODUCTS

Article 13

Definition

The provisions of this section apply to products originating in the Community and South Africa covered by the WTO definition of agricultural products as well as fish and fisheries products (Chapter 3, 1604, 1605 and products 0511 91 10, 0511 91 90, 1902 20 10 and 2301 20 00).

Article 14

Tariff elimination by the Community

1. Customs duties applicable on import into the Community of agricultural products originating in South Africa other than those listed in Annex IV shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 2 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 91% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 82% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 73% of the basic duty;

three years after the date of entry into force of this Agreement each duty shall be reduced to 64% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 55% of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 45% of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 36% of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 27% of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 18% of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 9% of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 87% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 62% of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 37% of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 12% of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products referred to in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phase down for these products.

5. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 4 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty and charge shall be reduced to 83% of the basic duty;

six years after the date of entry into force of this Agreement each duty and charge shall be reduced to 67% of the basic duty;

seven years after the date of entry into force of this Agreement each duty and charge shall be reduced to 50% of the basic duty;

eight years after the date of entry into force of this Agreement each duty and charge shall be reduced to 33% of the basic duty;

nine years after the date of entry into force of this Agreement each duty and charge shall be reduced to 17% of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products referred to in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phase-down for these products.

6. Customs duties applicable to processed agricultural products imported into the Community and originating in South Africa are listed in Annex IV, list 5 and shall be applied in accordance with the conditions mentioned therein.

The Cooperation Council may decide on:

(a) the extension of the list of processed agricultural products under Annex IV, list 5, and

(b) the reduction of the duties applying to processed agricultural products. This reduction of duties may take place when in trade between the Community and South Africa the duties applying to basic products are reduced or, in response to reductions resulting from the mutual concessions relating to processed agricultural products.

7. Reduced customs duties applicable to certain agricultural products imported into the Community and originating in South Africa are listed in Annex IV, list 6, and shall be applied as from entry into force of this Agreement and in accordance with the conditions mentioned in this Annex.

8. Customs duties applicable on import into the European Community of products originating in the Republic of South Africa listed in Annex IV, list 7 shall be reviewed periodically in the course of the operation of the Agreement on the basis of future developments in the common agricultural policy.

9. Tariff concessions on products listed in Annex IV, list 8 are not applicable as these products are covered by protected EU denominations.

10. Tariff concessions applicable on import into the Community of products originating in South Africa listed in Annex V shall be applied in accordance with the conditions mentioned therein.

Article 15

Tariff elimination by South Africa

1. Customs duties applicable on import into South Africa of agricultural products originating in the Community other than those listed in Annex VI shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 2 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 67% of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 33% of the basic duty;

five years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 3 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty shall be reduced to 88% of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 75% of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 63% of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 50% of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 38% of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 25% of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 13% of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products indicated in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phase down for these products.

5. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 4 shall be reviewed periodically in the course of the operation of the Agreement.

6. Customs duties applicable on import into South Africa of fisheries products originating in the Community listed in Annex VII shall be progressively abolished in parallel with the elimination of customs duties of the corresponding tariff positions by the Community.

Article 16

Agricultural safeguard

Notwithstanding other provisions of this Agreement and in particular Article 24, if, given the particular sensitivity of the agricultural markets, imports of products originating in one Party cause or threaten to cause a serious disturbance to the markets in the other Party, the Cooperation Council shall immediately consider the matter to find an appropriate solution. Pending a decision by the Cooperation Council, and where exceptional circumstances require immediate action, the affected Party may take provisional measures necessary to limit or redress the disturbance. In taking such provisional measures, the affected Party shall take into account the interests of both Parties.

Article 17

Accelerated tariff elimination by South Africa

1. If requested by South Africa, the Community shall consider proposals relating to an accelerated timetable for tariff elimination for imports of agricultural products into South Africa, coupled with the elimination of all export refunds for exports to South Africa of the same products originating in the European Community.

2. If the Community replies positively to this request, the new timetables for tariff elimination and elimination of export refunds shall simultaneously apply as of a date to be agreed by the two Parties.

3. In case of a negative response from the Community, the provisions of this Agreement on tariff elimination shall continue to be applicable.

Article 18

Review clause

No later than five years after the entry into force of this Agreement, the Community and South Africa shall consider further steps in the process of liberalisation of their reciprocal trade. For this purpose, a review shall be undertaken of, in particular but not exclusively, the customs duties applicable to products listed in Annex II, list 5, Annex III, lists 5 and 6, Annex IV, lists 5, 6 and 7, Annex V, lists 1, 2, 3 and 4, Annex VI, lists 4 and 5 and Annex VII.

8.3.2 RSA-EC: Rules of Origin

PROTOCOL 1

concerning the definition of the concept of 'originating products' and methods of administrative cooperation

CONTENTS

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) 'manufacture' means any kind of working or processing including assembly or specific operations;

(b) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(c) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(d) 'goods' means both materials and products;

(e) 'customs value' means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) 'ex-works price' means the price paid for the product ex works to the manufacturer in the Community or South Africa in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

(g) 'value of materials' means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Community or South Africa;

(h) 'value of originating materials' means the value of such materials as defined in subparagraph g applied *mutatis mutandis*;

(i) 'added value' shall be taken to be the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries referred to in Article 3 or, where the customs value is not known or cannot be ascertained, the first price verifiably paid for the products in the Community or South Africa;

(j) 'chapters' and 'headings' mean the chapters and the headings (four-digit codes) used in the nomenclature which makes up the Harmonised Commodity Description and Coding System, referred to in this Protocol as 'the Harmonised System' or 'HS';

(k) 'classified' refers to the classification of a product or material under a particular heading;

(l) 'consignment' means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(m) 'territories' includes territorial waters;

(n) 'ACP States' refers to the African, Caribbean and Pacific States that are Contracting Parties to the Fourth ACP-EC Convention, signed at Lomé on 15 December 1989, as amended by the Agreement signed at Mauritius on 4 November 1995;

(o) 'SACU' refers to the Southern African Customs Union.

TITLE II

DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'

Article 2

General requirements

1. For the purpose of implementing this Agreement, the following products shall be considered as originating in the Community:

(a) products wholly obtained in the Community within the meaning of Article 4 of this Protocol;

(b) products obtained in the Community incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Community within the meaning of Article 5 of this Protocol.

2. For the purpose of implementing this Agreement, the following products shall be considered as originating in South Africa:

(a) products wholly obtained in South Africa within the meaning of Article 4 of this Protocol;

(b) products obtained in South Africa incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in South Africa within the meaning of Article 5 of this Protocol.

Article 3

Cumulation of origin

Bilateral cumulation

1. Materials originating in the Community shall be considered as materials originating in South Africa when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 of this Protocol.

2. Materials originating in South Africa shall be considered as materials originating in the Community when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 of this Protocol.

Cumulation with ACP States

3. Subject to the provisions of paragraphs 5 and 6, materials originating in an ACP State shall be considered as originating in the Community or South Africa when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing.

4. Any working or processing carried out within SACU shall be considered as having been carried out in South Africa, when further worked or processed there.

5. Products which have acquired originating status by virtue of paragraph 3 shall only continue to be considered as products originating in the Community or South Africa when the value added there exceeds the value of the materials used originating in any one of the ACP States. If this is not so, the products concerned shall be considered as originating in the ACP State which accounts for the highest value of originating materials used. In the allocation of origin, no account shall be taken of materials originating in the ACP States which have undergone sufficient working or processing in the Community or South Africa.

6. The cumulation provided for in paragraph 3 may only be applied where the ACP materials used have acquired the status of originating products by an application of the rules of origin contained in the Fourth ACP-EC Convention. The Community and South Africa shall provide each other, through the European Commission with details of agreements and their corresponding rules of origin which have been concluded with the ACP States.

7. Once the requirements laid down in paragraph 6 have been fulfilled, and a date for the entry into force of these provisions has been agreed, each party shall fulfil its own notification and information obligations.

Article 4

Wholly obtained products

1. The following shall be considered as wholly obtained in the Community or South Africa:

(a) mineral products extracted from their soil or from their seabed;

(b) vegetable products harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products obtained by hunting or fishing conducted there;

(f) products of sea fishing and other products taken from the sea outside the territorial waters of the Community or South Africa by their vessels;

(g) products made aboard their factory ships exclusively from products referred to in subparagraph f;

(h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;

(i) waste and scrap resulting from manufacturing operations conducted there;

(j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;

(k) goods produced there exclusively from the products specified in subparagraphs a to j.

2. The terms 'their vessels' and 'their factory ships' in paragraph 1(f) and (g) shall apply only to vessels and factory ships:

(a) which are registered or recorded in an EC Member State or in South Africa;

(b) which sail under the flag of an EC Member State or of South Africa;

(c) which are owned to an extent of at least 50% by nationals of EC Member States or of South Africa, or by a company

with its head office in one of these States, of which the manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of EC Member States or of South Africa and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;

(d) of which the master and officers are nationals of EC Member States or of South Africa; and

(e) of which at least 75% of the crew are nationals of EC Member States or of South Africa.

At the entry into force of tariff concessions for fishery products, paragraphs 2(d) and 2(e), will be replaced by:

'(d) of which at least 50% of the crew, masters and officers included, are nationals of EC Member States or of South Africa'.

Article 5

Sufficiently worked or processed products

1. For the purposes of Article 2, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II are fulfilled.

The conditions referred to above indicate, for all products covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if a product, which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list, should not be used in the manufacture of a product may nevertheless be used, provided that:

(a) their total value does not exceed 15% of the ex-works price of the product, except for products falling within Chapters 3 and 24 and HS Headings 1604, 1605, 2207 and 2208 where the total value of the non-originating materials does not exceed 10% of the ex-works price of the product;

(b) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

This paragraph shall not apply to products falling within Chapters 50 to 63 of the Harmonised System.

3. Paragraphs 1 and 2 shall apply except as provided in Article 6.

Article 6

Insufficient working or processing operations

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packaging and breaking up and assembly of packages;

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;

(d) affixing marks, labels and other like distinguishing signs on products or their packaging;

(e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating in the Community or South Africa;

(f) simple assembly of parts to constitute a complete product;

(g) a combination of two or more operations specified in subparagraphs a to f;

(h) slaughter of animals.

2. All the operations carried out in either the Community or South Africa on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 7

Unit of qualification

1. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

Accordingly, it follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;

(b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Protocol.

2. Where, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 8

Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 9

Sets

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.

Article 10

Neutral elements

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) goods which do not enter and which are not intended to enter into the final composition of the product.

TITLE III

TERRITORIAL REQUIREMENTS

Article 11

Principle of territoriality

1. The conditions set out in Title II relative to the acquisition of originating status must be fulfilled without interruption in the Community or South Africa, except as provided for in Article 3.

2. If originating goods exported from the Community or South Africa to another country are returned, except in so far as provided for in Article 3, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the goods returned are the same goods as those exported, and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 12

Direct transport

1. The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Community and South Africa, or through the territories of the other countries referred to in Article 3. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, transhipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline across territory other than that of the Community or South Africa.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:

(a) a single transport document covering the passage from the exporting country through the country of transit; or

(b) a certificate issued by the customs authorities of the country of transit:

(i) giving an exact description of the products,

(ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and

(iii) certifying the conditions under which the products remained in the transit country, or

(c) failing these, any substantiating documents.

Article 13

Exhibitions

1. Originating products, sent for exhibition in a country other than those referred to in Article 3 and sold after the exhibition for importation in the Community or South Africa shall benefit on importation from the provisions of the Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from the Community or South Africa to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in the Community or South Africa;

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition, and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

TITLE IV

PROOF OF ORIGIN

Article 14

General requirements

1. Products originating in the Community shall, on importation into South Africa and products originating in South Africa shall, on importation into the Community benefit from this Agreement on submission of either:

(a) an EUR.1 movement certificate, a specimen of which appears at Annex III; or

(b) in the cases specified in Article 19(1), a declaration, the text of which appears at Annex IV, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the 'invoice declaration').

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 24, benefit from this Agreement without it being necessary to submit any of the documents referred to above.

Article 15

Procedure for the issue of an EUR.1 movement certificate

1. An EUR.1 movement certificate shall be issued by the customs authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the EUR.1 movement certificate and the application form, specimens of which appear at Annex III. These forms shall be completed in one of the languages in which this Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting country. If they are handwritten, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. The exporter applying for the issue of an EUR.1 movement certificate shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the EUR.1 movement certificate is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An EUR.1 movement certificate shall be issued by the customs authorities of an EC Member State or South Africa if the products concerned can be considered as products originating in the Community, South Africa or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol.

5. The issuing customs authorities shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Protocol. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. The issuing customs authorities shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the EUR.1 movement certificate shall be indicated in box 11 of the certificate.

7. An EUR.1 movement certificate shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

Article 16

EUR.1 movement certificates issued retrospectively

1. Notwithstanding Article 15(7), an EUR.1 movement certificate may exceptionally be issued after exportation of the products to which it relates if:

(a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or

(b) it is demonstrated to the satisfaction of the customs authorities that an EUR.1 movement certificate was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the EUR.1 movement certificate relates, and state the reasons for his request.

3. The customs authorities may issue an EUR.1 movement certificate retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. EUR.1 movement certificates issued retrospectively must be endorsed with one of the following phrases:

'NACHTRÄGLICH AUSGESTELLT', 'DÉLIVRÉ A POSTERIORI', 'RILASCIATO A POSTERIORI', 'AFGEGEVEN A POSTERIORI', 'ISSUED RETROSPECTIVELY', 'UDSTEDT EFTERFØLGENDE', 'ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ', 'EXPEDIDO A POSTERIORI', 'EMITIDO A POSTERIORI', 'ANNETTU JÄLKIKÄTEEN', 'UTFÄRDAT I EFTERHAND'.

5. The endorsement referred to in paragraph 4 shall be inserted in the 'Remarks' box of the EUR.1 movement certificate.

Article 17

Issue of a duplicate EUR.1 movement certificate

1. In the event of theft, loss or destruction of an EUR.1 movement certificate, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with one of the following:

'DUPLIKAT', 'DUPLICATA', 'DUPLICATO', 'DUPLICAAT', 'DUPLICATE', 'ΑΝΤΙΓΡΑΦΟ', 'DUPLICADO', 'SEGUNDA VIA', 'KAKSOISKAPPALE'.

3. The endorsement referred to in paragraph 2 shall be inserted in the 'Remarks' box of the EUR.1 movement certificate.

4. The duplicate, which must bear the date of issue of the original EUR.1 movement certificate, shall take effect as from that date.

Article 18

Issue of EUR.1 movement certificates on the basis of a proof of origin issued or made out previously

When originating products are placed under the control of a customs office in the Community or South Africa, it shall be possible to replace the original proof of origin by one or more EUR.1 movement certificates for the purpose of sending all or some of these products elsewhere within the Community or South Africa. The replacement EUR.1 movement certificate(s) shall be issued by the customs office under whose control the products are placed.

Article 19

Conditions for making out an invoice declaration

1. An invoice declaration as referred to in Article 14(1)(b) may be made out:

(a) by an approved exporter within the meaning of Article 20, or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000.

2. An invoice declaration may be made out if the products concerned can be considered as products originating in the Community, South Africa or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol.

3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting country, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears at Annex IV, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country. If the declaration is handwritten, it shall be written in ink in printed characters.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 20 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting country a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

Article 20

Approved exporter

1. The customs authorities of the exporting country may authorise any exporter who makes frequent shipments of products under this Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.

2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.

4. The customs authorities shall monitor the use of the authorisation by the approved exporter.

5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 21

Validity of proof of origin

1. A proof of origin shall be valid for four months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.

2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.

Article 22

Submission of proof of origin

Proofs of origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

Article 23

Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System falling within Sections XVI and XVII or heading Nos 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 24

Exemptions from proof of origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration C2/CP3 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage.

Article 25

Supplier's declaration

1. When a proof of origin is made out in South Africa for originating products, in the manufacture of which goods coming from SACU have been used and which have undergone working or processing there without having obtained preferential originating status, account shall be taken of suppliers' declarations given for these goods in accordance with this Article.

2. The supplier's declaration referred to in paragraph 1 shall serve as the evidence of the working or processing undergone in SACU by the goods concerned for the purpose of determining whether the products in the manufacture of which these goods are used, can be considered as originating in South Africa and fulfil the other requirements of this Protocol.

3. A separate supplier's declaration shall be made out by the supplier for each consignment of goods in the form prescribed in Annex V on a sheet of paper annexed to the invoice, the delivery note or any other commercial document describing the goods concerned in sufficient detail to enable them to be identified. The declaration shall be drawn up in accordance with the provisions of the domestic law of the country where it is made out and shall bear the original signature of the supplier in manuscript.

4. South Africa shall request the competent authorities in SACU to carry out verifications of supplier's declarations at random or whenever the customs authorities have reasonable doubts as to the authenticity or accuracy of the information given.

5. South Africa shall make the necessary administrative arrangements with the competent authorities in SACU to ensure that the provisions of paragraph 4 are fully implemented.

Article 26

Supporting documents

The documents referred to in Articles 15(3) and 19(3) used for the purpose of proving that products covered by an EUR.1 movement certificate or an invoice declaration can be considered as products originating in the Community, in South Africa, or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol may consist, *inter alia*, of the following:

(a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;

(b) documents proving the originating status of materials used, issued or made out in the Community, South Africa or in one of the other countries referred to in Article 3, where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in the Community or South Africa, issued or made out in the Community or South Africa, where these documents are used in accordance with domestic law;

(d) EUR.1 movement certificates or invoice declarations proving the originating status of materials used, issued or made out in the Community or South Africa in accordance with this Protocol, or in one of the other countries referred to in Article 3, in accordance with that Article;

(e) suppliers' declarations proving the working or processing undergone in SACU of materials used, in accordance with Article 3.

Article 27

Preservation of proof of origin, suppliers' declarations and supporting documents

1. The exporter applying for the issue of an EUR.1 movement certificate shall keep for at least three years the documents referred to in Article 15(3).

2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Article 19(3).

3. The supplier making out a supplier's declaration shall keep for at least three years copies of the declaration and of the invoice, delivery note or other commercial document to which this declaration is annexed as well as all appropriate documents proving that the information given on this declaration is correct.

4. The customs authorities of the exporting country issuing an EUR.1 movement certificate shall keep for at least three years the application form referred to in Article 15(2).

5. The customs authorities of the importing country shall keep for at least three years the EUR.1 movement certificates and the invoice declarations submitted to them.

Article 28

Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not, *ipso facto*, render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 29

Amounts expressed in euro

1. Amounts in the national currency of the exporting country equivalent to the amounts expressed in euro shall be fixed by the exporting country and communicated to the importing countries through the European Commission.

2. When the amounts exceed the corresponding amounts fixed by the importing country, the latter shall accept them if the products are invoiced in the currency of the exporting country. When the products are invoiced in the currency of another EC Member State, the importing country shall recognise the amount notified by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that national currency of the amounts expressed in euro as at the first working day in October 1999.

4. The amounts expressed in euro and their equivalents in the national currencies of the EC Member States and South Africa shall be reviewed by the Cooperation Council at the request of the Community or South Africa. When carrying out this review, the Cooperation Council shall ensure that there will be no decrease in the amounts to be used in any national currency and shall furthermore consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

TITLE V

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Article 30

Mutual assistance

1. The customs authorities of the EC Member States and of South Africa shall provide each other, through the European Commission, with specimen impressions of stamps used in their customs offices for the issue of EUR.1 movement certificates and with the addresses of the customs authorities responsible for verifying those certificates and invoice declarations.

2. In order to ensure the proper application of this Protocol, the Community and South Africa shall assist each other, through the competent customs administrations, in checking the authenticity of the EUR.1 movement certificates or the invoice declarations and the correctness of the information given in these documents.

Article 31

Verification of proofs of origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the

authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the EUR.1 movement certificate and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof or origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The customs authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the Community or in South Africa and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within 10 months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

Article 32

Dispute settlement

1. Where disputes arise in relation to the verification procedures of Article 31 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Cooperation Council.

2. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall be under the legislation of the said country.

Article 33

Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 34

Free zones

1. The Community and South Africa shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone situated in their territory, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in the Community or South Africa are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the authorities concerned shall issue a new EUR.1 certificate at the exporter's request, if the treatment or processing undergone is in conformity with the provisions of this Protocol.

TITLE VI

CEUTA AND MELILLA

Article 35

Application of the Protocol

1. The term 'Community' used in Article 2 does not cover Ceuta and Melilla.

2. Products originating in South Africa, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the Community under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities. South Africa shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the Community.

3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply, *mutatis mutandis*, subject to the special conditions set out in Article 36.

Article 36

Special conditions

1. Providing they have been transported directly in accordance with the provisions of Article 12, the following shall be considered as:

1. products originating in Ceuta and Melilla:

   (a) products wholly obtained in Ceuta and Melilla;

   (b) products obtained in Ceuta and Melilla in the manufacture of which product other than those referred to in (a) are used, provided that:

      (i) the said products have undergone sufficient working or processing within the meaning of Article 5 of this Protocol; or that

      (ii) those products originate in South Africa or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6(1);

2. products originating in South Africa:

   (a) products wholly obtained in South Africa;

   (b) products obtained in South Africa, in the manufacture of which products other than those referred to in (a) are used, provided that:

      (i) the said products have undergone sufficient working or processing within the meaning of Article 5 of this Protocol; or that

      (ii) those products originate in Ceuta and Melilla or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6(1).

2. Ceuta and Melilla shall be considered as a single territory.

3. The exporter or his authorised representative shall enter 'South Africa' and 'Ceuta and Melilla' in Box 2 of EUR.1 movement certificates or on invoice declarations. In addition, in the case of products originating in Ceuta and Melilla, this shall be indicated in Box 4 of EUR.1 movement certificates or on invoice declarations.

4. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

TITLE VII

FINAL PROVISIONS

Article 37

Amendments to the Protocol

The Cooperation Council may decide to amend the provisions of this Protocol.

Article 38

Implementation of the Protocol

The Community and South Africa shall each take the steps necessary to implement this Protocol.

Article 39

Goods in transit or storage

The provisions of the Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of the Agreement are either in transit or are in the Community or in South Africa or, in temporary storage in bonded warehouses or in free zones, subject to the submission to the customs authorities of the importing state, within four months of that date, of an EUR.1 certificate endorsed retrospectively by the competent authorities of the exporting state together with the documents showing that the goods have been transported directly.

8.3.3 RSA-EC: Property Rights

Article 46

Intellectual property

1. The Parties shall ensure adequate and effective protection of intellectual property rights in conformity with the highest international standards. The Parties apply the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) from 1 January 1996 and undertake to improve, where appropriate, the protection provided for under that Agreement.

2. If problems in the area of intellectual property protection affecting trading conditions were to occur, urgent consultations shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

3. The Community and its Member States confirm the importance they attach to the obligations arising from the:

(a) Protocol to the Madrid Agreement concerning the International Registration of Marks (Madrid 1989);

(b) International Convention for the Protection of Performers, Producers of Phonogram and Broadcasting Organisations (Rome 1961);

(c) Patent Cooperation Treaty (Washington 1979 as amended and modified in 1984).

4. Without prejudice to the obligations arising from the WTO Agreement on TRIPs, South Africa could favourably consider accession to the multilateral conventions referred to in paragraph 3.

5. The Parties confirm the importance they attach to the following instruments:

(a) the provisions of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Geneva 1977 and amended in 1979);

(b) Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);

(c) International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1978);

(d) Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977 modified in 1980);

(e) Paris Convention for the Protection of Industrial Property (Stockholm Act, and amended in 1979) WIPO;

(f) WIPO Copyright Treaty (WCT), 1996.

6. In order to facilitate the implementation of this Article, the Community may provide, on request and on mutually agreed terms and conditions, technical assistance to South Africa in, among other things, the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights, the establishment and reinforcement of domestic offices and other agencies involved in enforcement and protection, including the training of personnel.

7. The Parties agree that for the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes and neighbouring rights, utility models, patents, including biotechnical inventions, industrial designs, geographical indications, including appellations of origin, trade marks and service marks, topographies of integrated circuits, as well as the legal protection of databases and the protection against unfair competition as referred to in Article 10 *bis* of the Paris Convention for the Protection of Industrial Property and protection of undisclosed information on know-how.

8.3.4 Mexico-EC: Rules of Origin

TITLE IV

INTELLECTUAL PROPERTY

Article 36

Multilateral Conventions on Intellectual Property

1. The Community and its Member States, on the one hand, and Mexico on the other hand, confirm their obligations arising from the following multilateral conventions:

(a) Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs Agreement, 1994);

(b) Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967);

(c) Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);

(d) International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 1961); and

(e) Patent Cooperation Treaty (Washington, 1970, amended in 1979 and modified in 1984).

2. The Parties confirm the importance they attach to the obligations arising from the International Convention for the Protection of New Varieties of Plants, 1978 (1978 UPOV Convention), or the International Convention for the Protection of New Varieties of Plants, 1991 (1991 UPOV Convention).

3. At the entry into force of this Decision, the Member States of the Community and Mexico will have acceded to the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva, 1977 and amended in 1979).

4. Within 3 years of the entry into force of this Decision the Members States of the Community and Mexico will have acceded to the Budapest Treaty of the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977, modified in 1980).

5. The Parties shall make every effort to complete the necessary procedures for their accession to the following multilateral conventions at the earliest possible opportunity:

(a) the WIPO Copyright Treaty (Geneva, 1996); and

(b) the WIPO Performances and Phonogram Treaty (Geneva, 1996).

8.3.5 Mexico-EC: SPS

ARTICLE 20

Sanitary and phytosanitary measures

1. The Parties shall cooperate in the area of sanitary and phytosanitary measures with the objective of facilitating trade. The Parties reaffirm their rights and obligations set out in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

8.3.6 ACP-EC: Protocols

PROTOCOL 3

CONTAINING THE TEXT OF PROTOCOL 3 ON ACP SUGAR

appearing in the ACP-EEC Convention of Lomé
signed on 28 February 1975 and the corresponding declarations
annexed to that Convention

PROTOCOL 3

on ACP sugar

ARTICLE 1

1. The Community undertakes for an indefinite period to purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, which originate in the ACP States and which these States undertake to deliver to it.

2. The safeguard clause in Article 10 of the Convention shall not apply. The implementation of this Protocol is carried out within the framework of the management of the common organization of the sugar market which, however, shall in no way prejudice the commitment of the Community under paragraph 1.

ARTICLE 2

1. Without prejudice to Article 7, no change in this Protocol may enter into force until a period of five years has elapsed from the date on which the Convention enters into force. Thereafter, such changes as may be agreed upon will come into force at a time to be agreed.

2. The conditions for implementing the guarantee referred to in Article 1 shall be re-examined before the end of the seventh year of their application.

ARTICLE 3

1. Quantities of cane sugar referred to in Article 1, expressed in metric tons of white sugar, hereinafter referred to as "agreed quantities", for delivery in each 12-month period referred to in Article 4 (1), shall be as follows:

Barbados	49 300
Fiji	163 600
Guyana	157 700
Jamaica	118 300
Kenya	5 000
Madagascar	10 000
Malawi	20 000
Mauritius	487 200
Swaziland	116 400
Tanzania	10 000
Trinidad and Tobago	69 000
Uganda	5 000
People's Republic of Congo	10 000.

2. Subject to Article 7, these quantities may not be reduced without the consent of the individual States concerned.

3. Nevertheless, in respect of the period up to 30 June 1975, the agreed quantities, expressed in metric tons of white sugar, shall be as follows:

Barbados	29 600
Fiji	25 600
Guyana	29 600
Jamaica	83 800
Madagascar	2 000
Mauritius	65 300
Swaziland	19 700
Trinidad and Tobago	54 200.

ARTICLE 4

1. In each 12-month period from 1 July to 30 June inclusive, hereinafter referred to as the "delivery period", the sugar-exporting ACP States undertake to deliver the quantities referred to in Article 3 (1), subject to any adjustments resulting from the application of Article 7. A similar undertaking shall apply equally to the quantities referred to in Article 3 (3) in respect of the period up to 30 June 1975, which shall also be regarded as a delivery period.

2. The quantities to be delivered up to 30 June 1975, referred to in Article 3 (3), shall include supply en route from port of shipment or, in the case of landlocked States, across frontiers.

3. Deliveries of ACP cane sugar in the period up to 30 June 1975 shall benefit from the guaranteed prices applicable in the delivery period beginning 1 July 1975. Identical arrangements may be made for subsequent delivery periods.

ARTICLE 5

1. White or raw sugar shall be marketed on the Community market at prices freely negotiated between buyers and sellers.

2. The Community shall not intervene if and when a Member State allows selling prices within its borders to exceed the Community's threshold price.

3. The Community undertakes to purchase, at the guaranteed price, quantities of white or raw sugar, within agreed quantities, which cannot be marketed in the Community at a price equivalent to or in excess of the guaranteed price.

4. The guaranteed price, expressed in units of account, shall refer to unpacked sugar, cif European ports of the Community, and shall be fixed in respect of standard quality sugar. It shall be negotiated annually, within the price range obtaining in the Community, taking into account all relevant economic factors, and shall be decided at the latest by 1 May immediately preceding the delivery period to which it will apply.

ARTICLE 6

Purchase at the guaranteed price, referred to in Article 5 (3), shall be assured through the medium of the intervention agencies or of other agents appointed by the Community.

ARTICLE 7

1. If, during any delivery period, a sugar-exporting ACP State fails to deliver its agreed quantity in full for reasons of force majeure the Commission shall, at the request of the State concerned, allow the necessary additional period for delivery.

2. If a sugar-exporting ACP State informs the Commission during the course of a delivery period that it will be unable to deliver its agreed quantity in full and that it does not wish to have the additional period referred to in paragraph 1, the shortfall shall be reallocated by the Commission for delivery during the delivery period in question. Such reallocation shall be made by the Commission after consultation with the States concerned.

3. If, during any delivery period, a sugar-exporting ACP State fails to deliver its agreed quantity in full for reasons other than force majeure, that quantity shall be reduced in respect of each subsequent delivery period by the undelivered quantity.

4. It may be decided by the Commission that, in respect of subsequent delivery periods, the undelivered quantity shall be reallocated between the other States, which are referred to in Article 3. Such reallocation shall be made in consultation with the States concerned.

ARTICLE 8

1. At the request of one or more of the States supplying sugar under the terms of this Protocol, or of the Community, consultations relating to all measures necessary for the application of this Protocol shall take place within an appropriate institutional framework to be adopted by the Contracting Parties. For this purpose the institutions established by the Convention may be used during the period of application of the Convention.

2. In the event of the Convention ceasing to be operative, the sugar-supplying States referred to in paragraph 1 and the Community shall adopt the appropriate institutional provisions to ensure the continued application of the provisions of this Protocol.

3. The periodical reviews provided for under this Protocol shall take place within the agreed institutional framework.

ARTICLE 9

Special types of sugar traditionally delivered to Member States by certain sugar-exporting ACP States shall be included in, and treated on the same basis as, the quantities referred to in Article 3.

ARTICLE 10

The provisions of this Protocol shall remain in force after the date specified in Article 91 of the Convention. After that date the Protocol may be denounced by the Community with respect to each ACP State and by each ACP State with respect to the Community, subject to two years' notice.

ANNEX to Protocol 3

Declarations on Protocol 3

1. Joint declaration concerning possible requests for participation in the provisions of Protocol 3.

Any request from an ACP State Contracting Party to the Convention not specifically referred to in Protocol 3 to participate in the provisions of that Protocol shall be examined [1].

2. Declaration by the Community concerning sugar originating in Belize, St-Kitts-Nevis-Anguilla and Suriname

(a) The Community undertakes to adopt the necessary measures to ensure the same treatment as provided for in Protocol 3, for the following quantities of cane sugar, raw or white, originating in:

Belize	39 400 tons
St-Kitts-Nevis-Anguilla	14 800 tons
Suriname	4 000 tons

(b) Nevertheless, in respect of the period up to 30 June 1975, the quantities shall be as follows:

Belize	14 800 tons
St-Kitts-Nevis-Anguilla	7 900 tons [2].

3. Declaration by the Community on Article 10 of Protocol 3.

The Community declares that Article 10 of Protocol 3 providing for the possibility of denunciation in that Protocol, under the conditions set out in that Article, is for the purposes of juridical security and does not represent for the Community any qualification or limitation of the principles enunciated in Article 1 of that Protocol [1].

PROTOCOL 4

on beef and veal

The Community and the ACP States agree to take the special measures set out below to enable ACP States which are traditional exporters of beef and veal to maintain their position on the Community market, thus guaranteeing a certain level of income for their producers.

ARTICLE 1

Within the limits referred to in Article 2, customs duties other than ad valorem duties applicable to beef and veal originating in the ACP States shall be reduced by 92 %.

ARTICLE 2

Without prejudice to Article 4, the reduction in customs duties provided for in Article 1 shall apply to the following quantities expressed in boneless meat per calendar year and per country:

Botswana:	18916 tons
Kenya:	142 tons
Madagascar:	7 579 tons
Swaziland:	3 363 tons
Zimbabwe:	9 100 tons
Namibia:	13000 tons.

ARTICLE 3

In the event of an actual or foreseeable recession in these exports due to disasters such as drought, cyclones or animal diseases, the Community is willing to consider appropriate measures to ensure that quantities affected for these reasons in any year can be delivered in the following year.

ARTICLE 4

If, in the course of a given year, one of the ACP States referred to in Article 2 is not in a position to supply the total quantity fixed and does not wish to benefit from the measures referred to in Article 3, the Commission may share out the amount to be made up among the other ACP States concerned. In such a case, the ACP States concerned shall put forward a proposal to the Commission, not later than 1 September of that year, naming the ACP State or States which will be in a position to supply the new additional quantity, at the same time indicating to it the ACP State which is not in a position to supply the full amount allocated to it, on the understanding that this new temporary allocation will not affect the initial quantities.

The Commission shall ensure that a decision is taken by 15 November at the latest.

ARTICLE 5

This Protocol shall be implemented in accordance with the common market organization in the beef and veal sector, which, however, shall not affect the obligations entered into by the Community under this Protocol.

ARTICLE 6

Should the safeguard clause in Article 8(1) of the Annex be applied in the beef and veal sector, the Community will take the necessary measures to maintain the volume of exports from the ACP States to the Community at a level compatible with its obligations under this Protocol.

PROTOCOL 5

The Second Banana Protocol

ARTICLE 1

The Parties recognise the overwhelming economic importance to the ACP banana suppliers of their exports to the Community market. The Community agrees to examine and where necessary take measures aimed at ensuring the continued viability of their banana export industries and the continuing outlet for their bananas on the Community market.

ARTICLE 2

Each of the ACP States concerned and the Community shall confer in order to determine the measures to be implemented so as to improve the conditions for the production and marketing of bananas. This aim shall be pursued through all the means available under the arrangements of the Convention for financial,, technical, agricultural, industrial and regional co-operation. The measures in question shall be designed to enable the ACP States, particularly Somalia, account being taken of their individual circumstance, to become more competitive. Measures will be implemented at all stages from production to consumption and will cover the following fields in particular:

- Improvement of conditions of production and enhancement of quality through action in the areas of research, harvesting, packaging and handling,

- Transport and storage,

- Marketing and trade promotion.

ARTICLE 3

For the purposes of attaining these objectives, the two Parties hereby agree to confer in a permanent joint group, assisted by a group of experts, whose task shall be to keep under continuous review any specific problems brought to its attention.

ARTICLE 4

Should the banana-producing ACP States decide to set up a joint organisation for the purpose of attaining the objectives, the Community shall support such an organisation and shall give consideration to any requests it may receive for support for the organisation's activities which fall within the scope of regional schemes under the heading of development finance co-operation.

8.3.7 ACP-EC: Rules of Origin

PROTOCOL 1

CONCERNING THE DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS" AND METHODS OF ADMINISTRATIVE COOPERATION

INDEX

8.3.8 ACP-EC: SPS

ARTICLE 48

Sanitary and Phytosanitary Measures

1. The Parties recognise the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally. To this end, they reaffirm their commitments under the Agreement on the Application of Sanitary and Phytosanitary Measures, annexed to the WTO Agreement (SPS-Agreement), taking account of their respective level of development.

2. They further undertake to reinforce coordination, consultation and information as regards notification and application of proposed sanitary and phytosanitary measures, in accordance with the SPS-Agreement whenever these measures might affect the interests of either Party. They also agree on prior consultation and coordination within the CODEX ALIMENTARIUS, the International Office of Epizootics and the International Plant Protection Convention, with a view to furthering their common interests.

3. The Parties agree to strengthen their cooperation with a view to reinforcing the capacity of the public and the private sector of the ACP countries in this field.

8.3.9 ACP-EC: Property Rights

ARTICLE 46

Protection of Intellectual Property Rights

1. Without prejudice to the positions of the Parties in multilateral negotiations, the Parties recognise the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial property rights, and other rights covered by TRIPS including protection of geographical indications, in line with the international standards with a view to reducing distortions and impediments to bilateral trade.

2. They underline the importance, in this context, of adherence to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to the WTO Agreement and the Convention on Biological Diversity (CBD).

3. They also agree on the need to accede to all relevant international conventions on intellectual, industrial and commercial property as referred to in Part I of the TRIPS Agreement, in line with their level of development.

4. The Community, its Member States and the ACP States may consider the conclusion of agreements aimed at protecting trademarks and geographical indications for products of particular interest of either Party.

5. For the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes, and neighbouring rights, including artistic designs, and industrial property which includes utility models, patents including patents for bio-technological inventions and plant varieties or other effective sui generis systems, industrial designs, geographical indications including appellations of origin, trademarks for goods or services, topographies of integrated circuits as well as the legal protection of data bases and the protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and protection of undisclosed confidential information on know how.

6. The Parties further agree to strengthen their cooperation in this field. Upon request and on mutually agreed terms and conditions cooperation shall inter alia extend to the following areas: the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by rightholders and the infringement of such rights by competitors, the establishment and reinforcement of domestic and regional offices and other agencies including support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

8.3.10 ACP-EC: EC Policy Coherence

ARTICLE 12

Coherence of Community policies and their impact on the implementation of this Agreement

Without prejudice to Article 96, where the Community intends, in the exercise of its powers, to take a measure which might affect the interests of the ACP States, as far as this Agreement's objectives are concerned, it shall inform in good time the said States of its intentions. Towards this end, the Commission shall communicate simultaneously to the Secretariat of the ACP States its proposal for such measures. Where necessary, a request for information may also take place on the initiative of the ACP States.

At their request, consultations shall be held promptly so that account may be taken of their concerns as to the impact of those measures before any final decision is made.

After such consultations have taken place, the ACP States may, in addition, transmit their concerns in writing to the Community as soon as possible and submit suggestions for amendments indicating the way their concerns should be met.

If the Community does not accede to the ACP States' submissions, it shall advise them as soon as possible giving its reasons.

The ACP States shall also be provided with adequate information on the entry into force of such decisions, in advance whenever possible.

8.3.11 GSP: Preferences

TITLE II

TARIFF PREFERENCES

Section 1

General arrangements

Article 7

1. Common Customs Tariff duties on products listed in Annex IV as non-sensitive products shall be entirely suspended, except for agricultural components.

2. Common Customs Tariff *ad valorem* duties on products listed in Annex IV as sensitive products shall be reduced by 3,5 percentage points. For products of Chapters 50 to 63, this reduction shall be 20 %.

3. Where preferential duty rates, calculated in accordance with Article 2 of Regulation (EC) No 2820/98 on Common Customs Tariff *ad valorem* duties applicable on 31 December 2001, provide a tariff reduction, for the products referred to in paragraph 2 of this Article, of more than 3,5 percentage points, these preferential duty rates shall apply as long as the reduction is higher than 3,5 percentage points.

4. Common Customs Tariff specific duties other than minimum or maximum duties on products listed in Annex IV as sensitive products shall be reduced by 30 %. For products of CN code 2207, the reduction shall be 15 %.

5. Where Common Customs Tariff duties on products listed in Annex IV as sensitive products include *ad valorem* duties and specific duties, the specific duties shall not be reduced.

6. Where duties reduced in accordance with paragraphs 2 and 4 specify a maximum duty, that maximum duty shall not be reduced. Where such duties specify a minimum duty, that minimum duty shall not apply.

7. The tariff preferences referred to in paragraphs 1 to 4 shall not apply to products of sectors which according to column C of Annex I are not included in the general arrangements for the country of origin concerned.

8. The tariff preferences referred to in paragraphs 1 to 4 shall not apply to products of sectors in respect of which those tariff preferences have been removed, for the country of origin concerned, according to column D of Annex I or a decision taken subsequently in accordance with Article 12.

8.3.12 EBA-EC: Preferences

Section 3

Special arrangements for least developed countries

Article 9

1. Without prejudice to paragraphs 2 to 4, Common Customs Tariff duties on all products of Chapters 1 to 97, except those of Chapter 93 thereof, originating in a country that according to Annex I benefits from the special arrangements for least developed countries, shall be entirely suspended.

2. Common Customs Tariff duties on the products of CN code 0803 00 19 shall be reduced by 20 % annually starting on 1 January 2002. They shall be entirely suspended as from 1 January 2006.

3. Common Customs Tariff duties on the products of tariff heading 1006 shall be reduced by 20 % on 1 September 2006, by 50 % on 1 September 2007 and by 80 % on 1 September 2008. They shall be entirely suspended as from 1 September 2009.

4. Common Customs Tariff duties on the products of tariff heading 1701 shall be reduced by 20 % on 1 July 2006, by 50 % on 1 July 2007 and by 80 % on 1 July 2008. They shall be entirely suspended as from 1 July 2009.

5. Until Common Customs Tariff duties are entirely suspended in accordance with paragraphs 3 and 4, a global tariff quota at zero duty shall be opened for every marketing year for products of tariff heading 1006 and subheading 1701 11 10 respectively, originating in the countries benefiting from these special arrangements. The initial tariff quotas for the marketing year 2001/2002 shall be equal to 2 517 tonnes, husked rice equivalent, for products of tariff heading 1006, and 74 185 tonnes, white sugar equivalent, for products of subheading 1701 11 10. For each of the following marketing years, the quotas shall be increased by 15 % over the quotas of the previous marketing year.

> 6. The Commission shall adopt detailed rules governing the opening and administration of the quotas referred to in paragraph 5, in accordance with the procedure referred to in Article 38. In opening and administrating these quotas, the Commission shall be assisted by the management committees for the relevant common market organisations.

2. The Joint Council hereby establishes a Special Committee on Sanitary and Phytosanitary Measures. The Special Committee shall be comprised of representatives of both Parties. The Special Committee shall meet once a year, on a date and with an agenda agreed in advance by the Parties. The office of chairman of the Special Committee shall be held alternatively by a representative of each Party. The Special Committee shall report annually to the Joint Committee.

3. The functions of the Special Committee shall include:

(a) monitoring the application of the provisions of this Article;

(b) to provide a forum to identify and address problems that may arise from the application of specific sanitary or phytosanitary measures, with a view to reaching mutually acceptable solutions;

(c) to consider, as necessary, the development of specific provisions for the application of regionalisation, or for the assessment of equivalence; and

(d) to consider the development of specific arrangements for information exchange.

4. The Special Committee may establish contact points.

5. Each Party shall contribute to the work of the Special Committee, and consider the outcome of its work in accordance with its own internal procedures.

ABOUT ENARPRI

ENARPRI is a network of European agricultural and rural policy research institutes formed for the purpose of assessing the impact of regional, bilateral and multilateral trade agreements concluded by the European Union or currently under negotiation, including agreements under the WTO, EU accession, Everything But Arms (EBA), EuroMed and Mercosur. It also addresses the wider issues of the multifunctional model of European agriculture and sustainable development of rural areas. Participants in the project include leading national institutes and research teams from 13 countries (11 EU member states and 2 accession countries).

AIMS

- Creation of an institutional structure linking key research institutes with major benefits for improved exchange of information and policy analysis both in the short and long run,
- Development of improved tools for impact assessment,
- More effective impact assessment of trade agreements on a variety of important social, economic, and environmental indicators and an assessment of multi-functionality, and
- Clearer analysis of the need for EU policy adjustments.

PARTNER INSTITUTES

- **CEPS**, Centre for European Policy Studies (Belgium)
- **FAL**, Federal Agricultural Research Centre (Germany)
- **FOI**, Danish Research Institute of Food Economics (Denmark)
- **IEEP**, Institute for European Environmental Policies (UK)
- **INEA**, Istituto Nazionale di Economia Agraria (Italy)
- **INRA**, Institut National de la Recherche Agronomique (France)
- **IRWIR PAN**, Institute of Rural and Agricultural Development/Polish Academy of Sciences (Poland)
- **LEI**, Landbouweconomisch Instituut (The Netherlands)
- **MTT**, Agrifood Research (Finland)
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ENARPRI Coordination: CEPS, Place du Congrès 1 ▪ B-1000 Brussels
Tel: (32.2) 229.39.85 ▪ Fax: (32.2) 219.41.51
e-mail: eleni.kaditi@ceps.be ▪ website: http://www.enarpri.org