



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.03.1996
COM(96) 82 final

96/080 (CNS)

Proposal for a
COUNCIL REGULATION (EC)

amending Regulation (EEC) No 404/93 on the common organization of the market in
bananas

(presented by the Commission)

Explanatory memorandum

On 11th October 1995, the Commission adopted a report on the operation of the banana régime (Document SEC(95)1565), which contained in conclusion some suggestions for modification of the common market organisation in bananas, in order to create a sustainable equilibrium between the different interests involved, whilst maintaining the principal objectives of the régime.

This report was submitted to the Council and discussed in the Agriculture Council on 22nd January 1996, during which the Commission undertook to prepare formal proposals for modification of Council Regulation 404/93¹ based on the conclusions of the report. This proposal is the result of that undertaking.

It is hoped that by taking this new proposal in conjunction with the two proposals already presented to the Council (COM (95)114 and COM (95)115), an agreement can be reached on a package of modifications to the banana régime.

The three new Member States have a different historic pattern of banana imports to the EU12, taking all their supplies from the dollar zone. In order to achieve an equilibrium which maintains the same level of protection and advantage to ACP and EC suppliers, it is appropriate therefore to adjust the percentage of the tariff quota allocated to Category A and Category B operators, so as to keep the absolute quantity of Category B licences at a similar level to that prior to the accession of Austria, Finland and Sweden. This proposal includes a provision to adjust the distribution of licences to 70.5% for Category A and 26% for Category B, leaving the 3.5% for Category C unchanged.

Currently the 90,000 tonnes of non-traditional ACP bananas which are permitted duty-free entry to the EU are governed by the same rules as imports from third countries, including the requirement for operators to present a tariff-quota import licence from the allocation calculated in accordance with their reference quantity. The zero-duty concession is not sufficient to overcome the higher costs of these bananas and to make them competitive with lower-cost Latin American production. It is proposed therefore to allow the import of this quantity under the same licence requirements as for traditional ACP production. The distinction between traditional and non-traditional quantities would be respected because the latter would not generate rights to Category B licences.

Council Regulation 404/93 allocates 3.5% of the tariff quota to newcomers (Category C operators), however, it includes no provision for newcomers ever to become established operators, with a licence allocation based on past trade. This restricts the scope for the development of trade and marketing structures, and represents an unreasonable constraint upon those operators who started trading in bananas after 1.1.92. This proposal therefore includes the creation of a mechanism whereby those Category C operators who have traded for a minimum of three years, and who fulfil

¹ OJ L47 of 25.2.93 page 1

appropriate criteria, including having marketed a minimum volume of bananas, can transfer to Category A.

In certain cases, due to exceptional unforeseen circumstances beyond his control, an operator may have been subject to genuine difficulties in marketing bananas during part of the reference period, which result in a significant reduction in his reference quantity. It is considered appropriate to create a suitable mechanism to alleviate the hardship suffered as a consequence of such exceptional circumstances. This proposal contains a provision to permit the extension of an operator's reference period backwards by two years, if his reference quantity falls significantly below its habitual level, in order to take account of the hardship experienced.

Proposal for a
COUNCIL REGULATION No/96

amending Regulation (EEC) No 404/93 on the common organization of the market in
bananas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas Regulation (EEC) No 404/93 on the common organisation of the market in bananas⁴, as last amended by Regulation (EEC) No 3290/94⁵, provides for the opening of a tariff quota for the import of bananas;

Whereas Article 19 of Regulation (EEC) No 404/93 allocates the tariff quota opened each year for the import of third-country and non-traditional ACP bananas between three categories of operator, hereinafter referred to as Category A, Category B and Category C;

Whereas non-traditional ACP import face a relative economic disadvantage compared to third country production; whereas, therefore, in conformity with undertakings made by the European Union in the context of its relations with the ACP countries, provision should be made for non-traditional ACP imports to be managed separately from third country imports; whereas these provisions should respect the distinction between traditional and non-traditional ACP quantities;

Whereas following the enlargement of the Union through the accession of Austria, Finland and Sweden, the traditional pattern of supply to the Community market has altered and as a consequence the tariff quota should be increased; whereas as a result of this increase in the tariff quota, in order to maintain the equilibrium between the different categories of operator, the allocation of the tariff quota amongst the different categories of operator should be adjusted; whereas this adjustment maintains the advantages to suppliers of Community and traditional ACP bananas in conformity with the Community's obligations;

Whereas Article 19.1 (c) of Regulation No (EEC) 404/93 allocates a proportion of the tariff quota to new operators (Category C); whereas no provision exists for such Category C operators to establish themselves as operators defined by Article 19.1 (a) (Category A operators) through their activities as new operators; whereas this restricts the scope for the development of trade and marketing structures; whereas, therefore, Regulation No (EEC) 404/93 should be amended to allow new operators the opportunity to establish themselves as Category A operators;

¹ OJ No L

² OJ No L

³ OJ No L

⁴ OJ No L 47, 25.02.1993, p. 1.

⁵ OJ No L 349, 31.12.1994, p. 105.

Whereas, in certain circumstances, operators' access to the tariff quota is significantly lower than would have been expected due to circumstances beyond their control; whereas, therefore, in the light of the experience Regulation No (EEC) 404/93 should be amended to include provisions with a view to providing relief to operators who suffer such hardship;

HAS ADOPTED THIS REGULATION:

Article 1

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

1. *The first paragraph of Article 18 is replaced by the following:*

"1. A tariff quota shall be opened each year for imports of third-country bananas and non-traditional ACP bananas. A fixed quantity of 90,000 tonnes of this quota shall be reserved for non-traditional ACP bananas. The tariff quota shall be 2,553,000 tonnes (net weight).

Within the framework of the tariff quota, imports of third-country bananas shall be subject to a levy of 75 ECU per tonne and imports of non-traditional ACP bananas shall be subject to a zero duty.

Where Community demand determined on the basis of the supply balance referred to in Article 16 increases, the volume of the tariff quota shall be increased in consequence, in accordance with the procedure laid down in Article 27.

The portion of the tariff quota reserved for imports of non-traditional bananas shall be allocated according to appropriate conditions which take into account the circumstances of ACP production and may be defined in accordance with the procedure laid down in Article 27.

2. *Article 19 is replaced by the following:*

"Article 19

1. The volume of the tariff quota attributed to third countries shall be allocated as follows:

- (a) 70.5% to the category of operators who imported third country bananas (referred to as Category A operators);
- (b) 26% to the category of operators who marketed Community bananas and/or imported traditional ACP bananas (referred to as Category B operators);
- (c) 3.5% to the category of operators established in the Community who started importing third country bananas on or after 1.1.1992 (referred to as Category C operators).

The import opportunities pursuant to (a) and (b) shall be available to operators established in the Community who imported or marketed in the Community on their own account a minimum quantity of bananas of the above origins, to be determined.

Supplementary criteria to be met by operators shall be laid down in accordance with the procedure provided for in Article 27. The Member States shall draw up the list of operators and the reference quantity per operator referred to in paragraph 2.

2. On the basis of separate calculations for Category A and Category B operators, each

operator shall obtain import licences (referred to as Category A or Category B import licences) on the basis of the average quantity of bananas that he has imported or, for Community production, placed on the market on his own account in the last two years for which figures are available, this quantity being referred to as the operator's reference quantity.

For Category A operators, the quantities to be taken into consideration shall be the imports of bananas using Category A import licences, so that the initial allocation of licences between the different categories of operator is unchanged.

In the case of Category B operators, account must be taken of the imports of traditional ACP bananas and/or quantities of Community bananas placed on the market.

3. If the volume of applications from Category C operators exceeds the quantity fixed pursuant to paragraph 1 (c), a reduction coefficient shall be calculated and applied to each application.

If the volume of applications pursuant to paragraph 1 (c) is less than the quantity available, any surplus volume shall be re-allocated to Category A and Category B operators under conditions laid down by the procedures referred to in Article 27.

4. If the tariff quota is increased, the additional available quantity shall be allocated to importers in the categories referred to in paragraph 1 in accordance with the preceding paragraphs.
5. Category C operators who, for a period of at least three years, have imported annually on their own account a minimum volume of third country bananas, to be determined, may transfer to Category A. This minimum volume, and other necessary conditions, shall be defined in accordance with the procedure referred to in paragraph 27.
6. If, due to exceptional circumstances beyond the control of a diligent operator, the reference quantity used to determine the allocation of licences to a Category A or Category B operator for a particular year in accordance with paragraph 2, is significantly below his average reference quantity for the previous two years, the reference period used to calculate the reference quantity for the year in question shall be extended backwards by two years. The operator must submit sufficient documentary evidence in support of his claim to satisfy the national competent authorities.

Supplementary criteria, such as the definition of exceptional circumstances, the minimum percentage reduction in reference quantity required to qualify for such treatment, and the maximum additional reference quantity which can be granted, may be laid down in accordance with Article 27."

Article 2

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

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

Done at Brussels,

For the Council

FINANCIAL STATEMENT

VI/3380/96F ADD
(PCUL\EN\0094.wpd)

Date: 12 February 1996

1. BUDGET HEADING: 1000

APPROPRIATIONS:
ECU 864 million

2. TITLE:

Proposal for a Council Regulation amending Regulation (EEC) No 404/93 on the common organization of the market in bananas

3. LEGAL BASIS: Article 43 of the Treaty

4. AIMS:

To increase the annual tariff quota for banana imports into the EU as a result of the accession of the three new Member States and suitable breakdown of tariff quotas between the various categories of operators

5. FINANCIAL IMPLICATIONS:

PERIOD OF 12
MONTHS

CURRENT
FINANCIAL
YEAR
(96)

FOLLOWING
FINANCIAL
YEAR
(97)

(ECU million)

(ECU million)

(ECU million)

5.0. EXPENDITURE
- CHARGED TO THE EC BUDGET
(REFUNDS/INTERVENTION)
- NATIONAL AUTHORITIES
- OTHER

-

-

-

5.1. REVENUE
- OWN RESOURCES OF THE EC
(LEVIES/CUSTOMS DUTIES)
- NATIONAL

+ 26.5

+ 26.5

+ 26.5

5.0.1. ESTIMATED EXPENDITURE
5.1.1. ESTIMATED REVENUE

1998

1999

2000

2001

ECU 26.5 m

ECU 26.5 m

ECU 26.5 m

ECU 26.5 m

5.2. METHOD OF CALCULATION:

353 000 t x ECU 75/t = ECU 26.5 million

6.0. CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?

YES/NO

6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?

YES/NO

6.2. WILL A SUPPLEMENTARY BUDGET BE NECESSARY?

YES/NO

6.3. WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY?

YES/NO

OBSERVATIONS Increase of 353 000 tonnes in tariff quota.

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DOCUMENTS

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