

# COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(94) 1922 final

Brussels, 23.11.1994

Recommendation for a

COUNCIL DECISION

AUTHORIZING THE COMMISSION TO NEGOTIATE  
ADJUSTMENTS TO THE EUROPE AGREEMENTS AND INTERIM AGREEMENTS  
WITH THE COUNTRIES OF CENTRAL EUROPE

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. INTRODUCTION

1. (a) On 27 July 1994, the Commission sent the Council a communication (COM(94) 361 final) on the preparation of the countries of central Europe for accession. Part (v) "Agriculture" of Section D (Macroeconomic change and structural change and other forms of cooperation) stated "in the short term, agricultural trade relationships have to be reviewed for the following reasons:

- (i) first, in order to adapt the Europe Agreements to the new situation created for the European Union and for the associated countries by the conclusion of the Uruguay Round. This should go beyond a technical adaptation and provide the opportunity to reassess the balance of the agricultural part of these Agreements in the light of recent developments;
- (ii) the second challenge is to adapt the Europe Agreements to the enlarged Union, in particular to include the arrangements made by the future Member States in their bilateral agreements with the associated countries. At the same time, a thorough examination has to be made of the reasons why only a few of the tariff quotas which the European Union has opened so far are fully utilized. The causes have to be analysed, together with the associated countries and remedies have to be urgently sought;
- (iii) finally, a similar review of developments regarding Union agricultural exports to the associated countries should be undertaken in order to evaluate the reasons for the marked expansion of these exports, with a view to addressing any serious imbalances."

(b) In order to facilitate trade in animal, crop and fisheries products while maintaining health and safety protection for people and livestock and plant-health protection, framework agreements should be negotiated with each of the associated countries in order to establish a better basis of equivalence, cooperation and communication.

2. As regards enlargement:

(a) The Act of Accession requires the applicant countries to apply agreements concluded by the Union (Articles 76(1), 102(1), 59(1) and 128(1) of the Act of Accession applying respectively to Austria, Finland, Norway and Sweden).

Paragraph 2 of those Articles states that any adjustments shall be the subject of protocols concluded with the associated countries and annexed to the Europe Agreements or the Interim Agreements, hereinafter referred to as 'the Agreements.' Paragraph 3 of those Articles states that the Community shall take the necessary measures if those protocols have not been concluded by 1 January 1995.

- (b) Each of the Agreements contains a provision (Article 27(2) in the cases of Poland and Hungary, Article 21 in the cases of the Czech and Slovak Republics and Article 22 in the cases of Bulgaria and Romania) for mutual consultation, in particular in the event of a third country acceding to the Union, to ensure that account can be taken of the mutual interests of the Community and the associated country as stated in the Agreement.
- (c) Implementation of the Commission proposal, which provides for integration of the arrangements made by the future Member States under their bilateral agreements concluded with the associated countries should lay down certain principles and precise technical criteria for such integration.
- (d) The continuation of trade flows between the new Member States and the associated countries after 1 January 1995 will require autonomous transitional measures. However, these measures depend on a corresponding gesture by the associated countries offering temporary retention of the bilateral preferences which those countries have granted to the new Member States and which are of economic importance for exports.

3. As regards the Uruguay Round

- (a) The Agreements (Article 20(5) in the cases of Poland and Hungary, Article 14 in the cases of the Czech and Slovak Republics and Article 51 in the cases of Bulgaria and Romania) provide that, taking account of the consequences of the multilateral trade negotiations under the GATT, the Community and the associated countries will examine, product by product and on an orderly and reciprocal basis, the possibilities of granting each other further concessions.
- (b) The commitments given by the Union and the associated countries in the context of the Uruguay Round include:
  - a substantial change in the import protection system, and
  - the reduction or complete elimination of preferences granted by each side as the result of changes in the level of global tariff protection.
- (c) This means that the Agreements require technical adjustments to take account of the new situation.

4. As regards improvements going beyond technical adjustments:

- (a) The Commission has proposed that the review of trade relations in the agriculture sector should go beyond a mere technical adjustment to provide the opportunity to reassess the balance of the agricultural part of these Agreements. This should also include remedying the reasons why the associated countries have not been able to make full use of some of the tariff quotas opened by the Union.
- (b) Some guidelines and some general criteria to govern achievement of this objective should be laid down.

5. With regard to the correction, where necessary, of any serious imbalances caused by exports of agricultural produce from the Union to the associated countries:

One of the reasons for the growing negative trade balance from which the associated countries are suffering in the agriculture sector is the rapid expansion of exports of certain products from the Union.

The reasons for this expansion should be examined and measures taken, where appropriate, to bring the situation back into balance.

B. CONCLUSION

The Commission recommends that the Council authorize it to negotiate amendments to the Europe Agreements and/or Interim Agreements with Hungary, Poland, the Czech Republic, the Slovak Republic, Bulgaria and Romania in line with the attached draft directives and in consultation with the Special Committee set up by the Council to assist it.

## Draft negotiating Directive

### A. ENLARGEMENT

Implementation of the Commission's proposal, which provides for the integration of the arrangements made by the future Member States under their bilateral agreements with the associated countries, should lay down certain principles and precise technical criteria for such integration.

1. Integration of the arrangements referred to above into the Europe Agreements or Interim Agreements, hereinafter referred to as 'the Agreements,' will be carried out in respect of those products for which the associated countries or the new Member States so request.
2. These preferences will be included in the Agreements in the form of tariff quotas corresponding at least either to the tariff quotas resulting from the bilateral agreements or, if the preferences have been granted for unlimited quantities, to trade in 1993.
3. However, the inclusion of preferences granted for products of very limited economic importance (e.g. very small tariff quotas or a very low or non-existent level of trade) should be avoided since management of minuscule tariff quotas in the Union of 16 will be very difficult, if not impossible.
4. The bilateral agreements which the new Member States have concluded with the associated countries differ in terms of the nature of the preferences and the products covered. Preferences will have to be harmonized at Union level. Accordingly, the following criteria should be used for the integration of these preferences into the Agreements:
  - (a) in the case of products for which preferences have been granted under the Agreements:
    - (i) where quantities are unlimited, there is no problem. Preference will be granted without quantitative limit for the Union of 16;
    - (ii) where there is a tariff quota, the tariff quotas granted by the new Member States to the associated countries under bilateral agreements or, where preference was granted without quantitative limit, the trade carried out in 1993 by the associated countries concerned will be added to the tariff quotas in the Agreements;

(iii) preference will in general be as it results from the Agreements. However, if the existing tariff quotas have not been used or are likely not to have been used by the associated countries because of an excessively high customs duty applied within the tariff quota as a result of inadequate preference, preference must be fixed at a level which allows the quota to be fully utilized.

(b) In the case of products for which the Union has not granted preference under the Agreements, the preferences granted by the new Member States will be incorporated subject to tariff quotas corresponding to the quotas laid down in the bilateral agreements, or in the case of preferences without a quantitative limit, to trade in 1993 by the associated countries concerned.

Preference within a tariff quota shall be that corresponding to the weighted average of the preferences granted by the new Member States to the various associated countries.

(c) In the case of preferences granted by the associated countries to the new applicant countries, the Agreements will be adjusted on the basis of similar principles and criteria.

#### B. URUGUAY ROUND

1. The commitments given by the Union and the associated countries in the context of the Uruguay Round include:

- a substantial change in the import protection system, and
- the reduction or complete elimination of preferences granted by each side as the result of changes in the level of global tariff protection.

2. This means that the Agreements require technical adjustments to take account of the new situation. Depending on the nature of the changes in protection at the frontier, the following technical adjustments may prove necessary:

3. In the case of the preferences granted by the Union to the associated countries, the amendments may be divided according to their nature into the following categories:

(a) the first category concerns no more than a change in the titles of instruments at the frontier which no longer exist and have been replaced by others as a result of tariffication. This is the case with variable levies, which have been replaced by specific customs duties.

For this category, an adjustment which is neutral in terms of the existing situation entails retaining the preferential margin (expressed in percentage terms) and applying it to specific customs duties under tariff quotas.

However, it should be noted that, in the case of certain products (particularly the eggs and poultrymeat and pigmeat sectors, where protection under the CAP is based on cereals prices), an apparently neutral adjustment would not be neutral in its effects since the level of specific duties (arising from the tariffication of variable levies) will be higher than the level of the levies over the last two years.

- (b) The second category includes headings for which preference has been reduced or eliminated but where the remaining "erga omnes" customs duty permits the initial preferential margin to be restored, either in relative terms or, in certain cases, in absolute terms.

The technical adjustment will involve maintaining the initial preference by transforming the existing preferential customs duties into a preferential margin corresponding to the relationship between the initial "erga omnes" and preferential customs duties, while eliminating customs duties below 3% except, where necessary, for certain sensitive products.

- (c) Apart from these two general categories, there are five specific cases:

(i) Sheepmeat and goatmeat

As regards tariff quotas, the Agreements provide for a reduction of 60% in customs levies on live sheep and goats and their meat.

At the same time, there were voluntary restraint agreements between the Union and the associated countries under which customs duties were reduced to zero and regional and seasonal restrictions were imposed. The conditions laid down in the voluntary restraint agreements (zero customs duties, regional and seasonal restrictions) applied to the (higher) quantities mentioned in the Agreements.

Under the current access commitments of the GATT, the Union bound, subject to tariff quotas, the 10% customs duty on live animals and the zero duty on meat, without geographical or seasonal restriction.

Accordingly, and with the aim in particular of maintaining the same tariff level which the associated countries have enjoyed in the past, tariff protection under the tariff quotas should be set at zero for both live sheep and goats and sheepmeat and goatmeat.

(ii) Live cattle

Under the Agreements, a preference (75% reduction in the levy) was granted under a global quota for Hungary, Poland and the Czech and Slovak Republics; Lithuania, Latvia and Estonia were later added with no increase in the quantity.

For each marketing year, the global tariff quota for live cattle for fattening or slaughter with a live weight of between 160 kg and 300 kg was set at another level (corresponding to the difference between a global reference quantity laid down under the Agreements and the number of animals laid down in the supply estimate). However, a safeguard clause applied where overall imports into the Community were likely to exceed 425 000 head. This safeguard clause will have to be dropped when the Uruguay Round comes into force.

Under the GATT commitments on current access, a quota of 169 000 head, subject to 16% customs duty plus ECU 582 per tonne, was opened for young bovine animals for fattening with a weight not exceeding 300 kg.

In view of the sensitivity of the beef/veal sector, it is in the Community's interest to see that total imports do not exceed a certain level. A solution must therefore be sought which will achieve this objective while also taking account of the interests of the associated countries.

This could be done:

1. by extending access to the quotas to Bulgaria and Romania in order to harmonize treatment of the associated countries;
2. by increasing the total quantity of 425 000 head by 75 000 head to 500 000 head to take account of the inclusion of Romania and Bulgaria and of Latvia, Lithuania and Estonia;
3. by establishing the following global tariff quotas in addition to the 169 000 head under the GATT current access provisions:
  - for bovine animals with a live weight of between 160 kg and 300 kg: 153 000 head;
  - for calves with a live weight of less than 80 kg: 178 000 head.

The customs duty under the tariff quotas will be reduced by about 80%.

4. A report will be made on these arrangements after three years and, if necessary, they will be revised on the basis of experience and the market situation.

(iii) Soft fruit

The concessions on certain soft fruit were conditional on respect for minimum import prices.

In the past, since certain countries did not respect these minimum prices, the Union imposed a countervailing charge, which virtually prohibited imports for as long as it was applied. The Union did not restrict this charge to customs duties bound in GATT for these products. The associated countries considered this procedure incompatible with the GATT and demanded abolition of the minimum price system.

Furthermore, preference has been considerably reduced or even eliminated by the reduction in customs duties under the Uruguay Round. This means that the preferential conditions have become less advantageous to the associated countries than the GATT concession.

In any case, the soft fruit sector is very sensitive. The production and export potential of the associated countries is very large and substantially exceeds the needs of the domestic and Community markets.

Market balance and orderly trade are therefore in the interests of both the Union and the associated countries. To achieve this objective, preference should be made more attractive, that is customs duties should be reduced to zero and the penalty provisions changed or replaced by a cooperation agreement and "early warning" system (of the type agreed with Poland for use on a trial basis).

(iv) Fruit and vegetables currently subject to the reference price system

Under tariffication, the reference prices for certain fruit and vegetables were transformed into specific customs duties which may, for certain products originating in certain associated countries, have a prohibitive effect. To make this effect less rigorous, or even eliminate it altogether, the specific customs duty was abolished or reduced where a certain entry price was respected. For certain products, specific duties were imposed during periods when no reference price applied.

The associated countries currently enjoy preference only on this *ad valorem* customs duty. Like all the other non-member countries, they have had to comply with the reference prices. There is not therefore necessarily any need to apply a preferential margin on specific customs duties resulting from tariffication.

If the associated countries raise a specific problem in this regard, a solution which enables trade flows to be maintained will have to be sought.

(v) Processed agricultural products (Protocols 3)

Each Agreement contains specific provisions (Protocol 3) concerning trade in processed agricultural products not covered by Annex II to the EEC Treaty.

Under these Protocols, such goods enjoy a substantial reduction in, or the elimination of, the *ad valorem* part (industrial protection) of the levy on imports. Base quantities for which a reduction in levy has been granted also enjoy a 60% reduction in the agricultural (variable) components of the levy and other basic products enjoy a 30% reduction.

Under tariffication, the import levy retains the differential between the *ad valorem* part and an amount, applied per tonne of goods, which becomes fixed and still constitutes agricultural protection. In the case of "composite agrigoods" as defined in Annex I of the Community offer to the GATT, there is also an additional amount on sugar and/or flour.

An adjustment of the Protocols 3 which was neutral in terms of the present situation would involve retaining the preferential margin in percentage terms of the reduction in the agricultural component of the levy (flat-rate amount or *ad valorem*) since, for most of the associated countries, industrial protection has already been abolished under the tariff quotas, where there is provision for such quotas.

Furthermore, in order to facilitate market access, the Protocols 3 should be simplified and harmonized as far as possible in terms of the products covered and the tariff reductions.

(d) Preferences granted by countries associated with the European Union:

The associated countries are required to comply with Articles 25(1) or 20(1) of the Agreements, which state that "No new customs duties on imports or exports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in trade between the Community and ... from the date of entry into force of this Agreement."

They are also required to comply with the particular provisions of Protocol 3, under which, even in the case of the derogation provided for in Article 25(3) or 20(3), the Joint Committee has to be consulted as part of the procedure for increasing the duties in force on processed agricultural products.

The customs duties "erga omnes" in force in the associated countries at the time when the Agreements came into force were comparatively low. The preference granted to the Union was expressed as a reduction either in terms of a percentage or in terms of points. In general, these preferences cover only a limited number of products and the preferential reductions in tariffs are fairly slight.

Under the tariffication of non-tariff measures in the GATT negotiations, all the associated countries made "ceiling bindings" by increasing customs duties on all agricultural products to a very high or prohibitive level. These tariffs will also apply to imports from the Union. It should be noted that certain associated countries have recently introduced, or are intending to introduce, variable levies or customs duties as a result of the GATT tariffication on a number of basic and processed agricultural products. These will also apply to the Union. In doing so, the associated countries rely on the derogation offered by Article 25(3) or 20(3) of the Agreements, which state that the standstill provisions shall not restrict in any way the pursuance of agricultural policies or the taking of any measures under such policies.

It is clear that in negotiations with the associated countries, the Union must insist that:

1. for products for which preferences have been granted under the Agreements, these preferences must be maintained at the original level;
2. for other products, the customs duties applied to the Union may not exceed the level which existed at the time when the Agreements came into force.

Furthermore, to avoid any abuse of the derogation in Article 25(3) or 20(3) of the Agreements, a restrictive interpretation should be considered. Such an interpretation is the only way to avoid the derogation being used to bypass or even nullify the concessions contained in the Agreement.

## C. IMPROVEMENTS IN TRADING RELATIONS

### C.I. Technical adaptations to the Europe Agreements

1. The Commission has proposed that the review of trade relations in the agricultural sector should go beyond a mere technical adjustment and open the way to a reassessment of the balance in the agricultural section of these Agreements. This will entail finding a remedy for the reasons why the associated countries have not been able to make full use of the tariff quotas opened by the Union.

2. Certain guidelines and certain general criteria to govern achievement of this objective should be laid down. These are as follows:

- (a) remedying the imbalance in agricultural trade between the Union and each of the associated countries by:
  - (i) adjusting to 80% the preferential reduction for all products for which preference is granted under a tariff quota. In the case of processed agricultural products, this reduction applies only where it also applies to imports of unprocessed basic products;
  - (ii) applying from 1 July 1995 all the concessions granted under the Agreements to come into force at a later date;
  - (iii) introducing flexibility into the tariff quotas by regrouping the current individual tariff quotas provided for in the Agreements for a single type of product into a single global quota;
  - (iv) making preferences dynamic by applying for five years an annual growth rate of 10% to all tariff quotas other than those concerning certain sensitive sectors;
- (b) ensuring the maintenance of traditional trade between the associated countries and the new Member States by:
  - (i) increasing the Union's tariff quotas for imports in 1993 by the new Member States from the associated countries, while taking account of the sensitivity of certain processed agricultural products, even if no concession for those products has been granted by the new Member States to the associated countries under bilateral agreements;
  - (ii) introducing a tariff quota of 5 000 head subject to 6% customs duty for heifers and cows other than those intended for slaughter of the following highland breeds: grey, brown, yellow, spotted Simmental and Pinzgau.
- (c) In order to facilitate trade in animals and animal products, fish and fishery products, bivalve molluscs and plants and crop products, while ensuring health and safety protection for people and livestock and plant-health protection, framework agreements should be negotiated with each of the associated countries. These framework agreements should be based on the principles set out in the WTO Agreement on health and plant health measures and should encourage reciprocal acceptance of inspection and control systems, application of the principle of equivalence, ensure transparency and cooperation procedures and permit adjustment to take account of regional conditions.

C.II. Possible adaptations of Community mechanisms

One of the reasons for the growing negative trade balance being experienced by the associated countries in the agriculture sector is the rapid expansion of exports of certain products from the Union. In some cases, these exports enjoy export refunds.

The refund is determined from the difference between prices within the Union and those on the world market. The prices of certain products on the domestic markets of the associated countries may be higher than world market prices, particularly as a result of the agricultural support which those countries provide, including support provided at the frontier.

In this case, the Commission will take this situation into account in fixing export refunds.