



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Agriculture and Rural Development

2011/0263(COD)

21.3.2012

OPINION

of the Committee on Agriculture and Rural Development

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council implementing the bilateral safeguard clause and the stabilisation mechanism for bananas of the Agreement establishing an Association between the European Union and its Member States on the one hand, and Central America on the other
(COM(2011)0599 – C7-0306/2011 – 2011/0263(COD))

Rapporteur: Gabriel Mato Adrover

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SHORT JUSTIFICATION

On 22 March 2011, the Commission signed an Association Agreement with six Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama). The negotiation took place in parallel with that of the Trade Agreement with Colombia and Peru, the characteristics of which were very similar.

Both agreements consolidate specific concessions made to these countries within the framework of the Generalised System of Preferences Plus (GSP+) as well as totally or partially liberalising the trade in certain agricultural products between the contracting parties. In practice, this means that the EU market will become more open to imports mainly of bananas, sugar and beef, while at the same time the EU will be able to increase its capacity to export other products, such as dairy products, cereals, pork and spirits, to these countries. Both the agreement with Colombia and Peru and that signed with the Central American countries contain a chapter on mutual recognition of geographical indications, which will enable the EU to protect around 200 denominations of origin.

The agreements include a safeguard clause to prevent serious disruptions in the respective markets, and this provision has to be transposed into European law.

Out of all exports by these countries to the EU, bananas are the most important agricultural product, mainly from Colombia and Costa Rica, and to a much lesser extent from Panama, Honduras, Peru and Guatemala.

The agreements provide for further reductions in the tariff applied by the EU to banana imports, improving the terms for Latin American partner countries wishing to export to the European market.

Banana imports to the EU are subject to a 'single tariff' system which came into force in 2006, replacing the quota system which had been applied since creation of the common organisation of the market (COM) in bananas in 1993.

The constant trade disputes between the EU and third countries over banana imports did not, however, come to an end in 2006, as the latest disagreement was resolved before the World Trade Organisation (WTO) in December 2009. The negotiation resulted in a gradual reduction of the tariff over a seven-year period, from EUR 176 per tonne to EUR 114 per tonne to be reached by 2017. The WTO agreement included the possibility of freezing the tariff at EUR 132 per tonne in 2013 if no conclusion had been reached by then in the multilateral negotiations to liberalise international trade, which have been going on for years now within the framework of the international organisation.

Nevertheless, this agreement, thanks to which the EU had finally managed to settle all its numerous disputes with Latin American countries at the WTO, has now been substantially improved by the framework of the two bilateral agreements with the countries of Central America and with Peru and Colombia. The new tariff reductions agreed by the Commission with these countries has given rise to a lot of bad feeling among EU producers, who had nurtured the false hope that the conclusion of the WTO negotiations would halt the spiral of

concessions to the banana exporting countries. The two bilateral agreements provide for tariff reductions over a 10-year period up to 2020, reaching a final level of EUR 75 per tonne. It should be noted that this amount coincides with that applied pre-2006 to the former preferential quota for Latin American banana imports.

Since the Lisbon Treaty came into force, Parliament has the power of co-decision with regard to regulations transposing trade safeguard clauses negotiated with third countries into EU law.

However, regulations of this type reproduce almost word-for-word the terms already negotiated by the Commission with third countries, leaving Parliament with very little margin for altering the content of their provisions.

The rapporteur regrets that the powers available to Parliament are, in practical terms, very limited when it comes to amending the content of clauses, and calls for Parliament to become more closely involved in the actual negotiation of trade agreements.

In addition to the bilateral safety clause, which applies to all industrial and agricultural products covered by the trade agreements in question, a stabilisation mechanism for bananas is included. This involves suspension of the right to preferential customs treatment when Latin American exports to the Community market exceed certain thresholds. However, the thresholds established during the negotiations with these countries are too high for the mechanism to have any practical effectiveness.

This is illustrated by simply examining the thresholds set for the two main banana-exporting countries in the group, Colombia and Costa Rica. The proposed threshold for Colombia in 2019 is 1.9 million tonnes, almost double the amount the country exported in 2010. For Costa Rica, the limit set for the end of the transitional period is around 1.5 million tonnes, compared with an export volume for 2010 of less than 800 000 tonnes. It should also be pointed out that the tariff suspension will apply for a limited period of three months maximum, which will increase the ineffectiveness of this safety instrument designed to protect the European market in bananas. What is more, the mechanism will only remain in force until 2020.

Moreover, the stabilisation mechanism will not be automatic, as the Commission will be free to decide whether or not to apply it. This could lead to situations where exceeding the threshold is not enough to activate the mechanism. The rapporteur is in favour of limiting the range of circumstances which could result in the EU failing to take to action.

The general safety clause included in the agreements will be difficult to apply, as is also the case with the stabilisation mechanism. This general provision could, in theory, lead to a suspension of the tariff reduction or an increase in customs duties when imports to the EU of a given product increase in absolute or relative terms (in relation to European production), such as to cause or threaten to cause serious damage to the economic sectors involved. The rapporteur considers, however, that the triggering factors will be hard to pinpoint and will become open to a wide range of interpretations.

In light of all of the above, the rapporteur calls on the Commission and the Member States not to exclude the possibility of activating, if necessary, the Globalisation Adjustment Fund to

assist European producers who may be forced to cease production due to the liberalisation of trade with the Latin American countries signatories to these agreements.

AMENDMENTS

The Committee on Agriculture and Rural Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) **and Article 349**,

Amendment 2

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) It is necessary to lay down the procedures **for applying** certain provisions of the Agreement which concern the bilateral safeguard clause and for applying the Stabilisation Mechanism for Bananas that has been agreed with Central America.

Amendment

(3) It is necessary to lay down the **most appropriate** procedures **to guarantee the effective application of** certain provisions of the Agreement which concern the bilateral safeguard clause and for applying the Stabilisation Mechanism for Bananas that has been agreed with Central America.

Amendment 3

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) It is necessary to create appropriate safeguard mechanisms to prevent serious harm to European banana growing, a sector which is of great importance to the end agricultural production of many of the outermost regions. The limited ability of these regions to diversify, owing to their natural characteristics, makes the banana sector particularly vulnerable. It is therefore essential to create effective mechanisms to address preferential imports from third countries, in order to guarantee that banana production is maintained under the best possible conditions.

Amendment 4

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) Safeguard measures should be considered only if the product in question is imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under such conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competitive products as laid down in Article 104 of the Agreement.

(5) Safeguard measures should be considered only if the product in question is imported into the Union in such increased quantities, in absolute terms or relative to Union production, and under such conditions as to cause, or threaten to cause, serious injury to Union producers of like or directly competitive products as laid down in Article 104 of the Agreement.
Pursuant to Article 349 of the Treaty on the Functioning of the European Union and with regard to the products and economic sectors of the outermost regions, safeguard measures should be introduced as soon as imports into the Union of the product in question cause or threaten to cause injury to producers of

like or directly competitive products in the outermost regions of the Union.

Amendment 5

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

Close monitoring of banana imports will facilitate any timely decision concerning activation of the stabilisation mechanism for bananas, the launch of an investigation or the imposition of safeguard measures. The Commission should, therefore, step up regular monitoring of imports in the banana sector from the date of application of the Agreement.

Amendment 6

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) Safeguard measures should take one of the forms referred to in Article 104(2) of the Agreement.

(6) Safeguard measures should take one of the forms referred to in Article 104(2) of the Agreement. *Specific safeguard measures should be provided for when there is a threat to the products or economic sectors of the outermost regions, pursuant to Article 349 of the Treaty on the Functioning of the European Union.*

Amendment 7

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) There should be detailed provisions on the initiation of proceedings. The Commission should receive **information** including available evidence from the Member States of any trends in imports which might call for the application of safeguard measures.

Amendment

(8) There should be detailed provisions on the initiation of proceedings. The Commission should receive from the Member States, **and request from the sectors involved, information** including available evidence of any trends in imports which might call for the application of safeguard measures.

Amendment 8

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) Safeguard measures should be applied only to the extent, and for such time, as may be necessary to prevent serious injury and to facilitate adjustment. The maximum duration of safeguard measures should be determined and specific provisions regarding extension and review of such measures should be laid down, as referred to in Article 105 of the Agreement.

Amendment

(14) Safeguard measures should be applied only to the extent, and for such time, as may be necessary to prevent serious injury and to facilitate adjustment. The maximum duration of safeguard measures should be determined and specific provisions regarding extension and review of such measures should be laid down, as referred to in Article 105 of the Agreement.
Specific provisions should apply in regard to safeguard measures triggered to protect produce and economic sectors in the outermost regions, in accordance with Article 349 of the Treaty on the Functioning of the European Union.

Amendment 9

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) The importance of adhering to the international labour standards drawn up and supervised by the International Labour Organization needs to be stressed. Defending decent work for all should be an absolute priority and bananas imported from Central America should be produced under decent social and environmental conditions and for a fair wage to ensure Union producers are not the victims of dumping, something they would not be in a position to compensate for and which would permanently damage their competitiveness in the global banana market.

Amendment 10

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16 a) The Commission should submit a report once a year on the implementation of the Agreement and the application of the safeguard measures and the banana stabilisation mechanism, which should include up-to-date statistics on imports of bananas from Central America and an assessment of their impact on market prices, employment and the development of the Union's banana production sector.

Amendment 11

Proposal for a regulation Recital 17 a (new)

(17 a) For the purposes of implementing the Stabilisation Mechanism for Bananas, it is essential to make continuing provision to enable action to be taken should disruption occur on the market after January 2020, given that safeguard measures are manifestly insufficient to guarantee the income of banana producers – especially those in the outermost regions – when the market is seriously disrupted. In addition, as regards the bilateral safeguard clause, the entire process should be speeded up, given that it will continue to be extremely complex and time consuming, posing a real risk that safeguard measures will prove ineffective where Union producers are concerned, because they will be enforced too late and producers will already have suffered serious injury.

Amendment 12

Proposal for a regulation Article 4 – paragraph 5

5. In the investigation the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Union industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment. This list is not exhaustive and other relevant factors may also be taken into consideration by the Commission for its determination of the existence of serious injury or threat of serious injury, such as

5. In the investigation the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Union industry, in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports and changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment. This list is not exhaustive and other relevant factors may also be taken into consideration by the Commission for its determination of the existence of serious injury or threat of serious injury, such as

stocks, prices, return on capital employed, cash flow, and other factors which are causing or may have caused serious injury, or threaten to cause serious injury to the Union industry.

stocks, prices, return on capital employed, cash flow, and other factors which are causing or may have caused serious injury, or threaten to cause serious injury to the Union industry, ***such as meeting the trigger volumes described within the framework of the stabilisation mechanism for bananas included in Chapter II of the current Regulation.***

Justification

The trigger volumes for the stabilisation mechanism are very high in relation to current import flows. European production could be severely affected by increases in these imports, well before the trigger volumes are reached. The mere fact of these volumes being reached should be seen as another alarm signal to be added to the various factors to be considered by the Commission with a view to activating the bilateral safeguard clause specifically for bananas.

Amendment 13

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

As soon as the Agreement enters into force, substantial additional funds are planned to ensure the produce, industries and economic sectors potentially at risk in the outermost regions remain competitive.

Amendment 14

Proposal for a regulation

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The application of the stabilisation mechanism for bananas shall under no circumstances prevent the activation of measures included in the bilateral

safeguard clause.

Justification

It should be made clear in the legislative text that the bilateral safeguard clause can be applied to the banana sector irrespective of the agreement on the stabilisation mechanism, the impact of which will be very limited and in practical terms could prove insufficient to avoid serious disruptions to European producers.

Amendment 15

Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

2. A separate annual trigger import volume is set for imports from Central American country for products mentioned in paragraph 1 as indicated in the table in the Annex to this Regulation. The importation of the products mentioned in paragraph 1 at the preferential customs duty rate shall, in addition to the proof of origin established under Annex III (Definition of the concept of "originating products" and methods of administrative co-operation) of the Agreement with Central America, be subject to the presentation of an export certificate issued by the competent authority of the Republic of the Central American country from which the products are exported. Once the trigger volume is met during the corresponding calendar year, the Commission *may*, in accordance with the *examination* procedure referred to in *Article 12(3)*, temporarily suspend the preferential customs duty during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year.

Amendment

2. A separate annual trigger import volume is set for imports from Central American country for products mentioned in paragraph 1 as indicated in the table in the Annex to this Regulation. The importation of the products mentioned in paragraph 1 at the preferential customs duty rate shall, in addition to the proof of origin established under Annex III (Definition of the concept of "originating products" and methods of administrative co-operation) of the Agreement with Central America, be subject to the presentation of an export certificate issued by the competent authority of the Republic of the Central American country from which the products are exported. Once the trigger volume is met during the corresponding calendar year, the Commission *shall*, in accordance with the *advisory* procedure referred to in *Article 12(2)*, temporarily suspend the preferential customs duty during that same year for a period of time not exceeding three months, and not going beyond the end of the calendar year. *Only reasons of force majeure shall prevent the suspension from being imposed.*

Amendment 16

Proposal for a regulation

Article 13 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The Commission shall closely monitor the evolution of statistics for banana imports from Central America. For this purpose, it shall cooperate and exchange information on a regular basis with the Member States and the Union industry.

Amendment 17

Proposal for a regulation

Article 13 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5 b. Upon a duly reasoned request from a Member State, the Union industry or on its own initiative, the Commission shall pay particular attention to any noticeable increase in banana imports from Central America and, if appropriate under the terms of Article 5, shall take prior surveillance measures.

Justification

It should be made clear in the legislative text that the bilateral safeguard clause can be applied to the banana sector irrespective of the stabilisation mechanism, the impact of which will be very limited and in practical terms could prove insufficient to avoid serious disruptions.

Amendment 18

Proposal for a regulation

Article 13 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5 c. Prior surveillance measures shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 12(2) when the trigger volume for the mechanism is reached during the corresponding calendar year.

Justification

Amendment 19

Proposal for a regulation

Article 13 – paragraph 5 d (new)

Text proposed by the Commission

Amendment

5 d. The Commission shall present an annual follow-up report to the European Parliament and the Council, based on up-to-date statistics on banana imports from Central America and their direct and indirect impact on the development of and employment in the European productive sector.

Amendment 20

Proposal for a regulation

Article 13 – paragraph 5 e (new)

Text proposed by the Commission

Amendment

5 e. The European Parliament may invite the Commission, within one month of the publication of the latter's report, to an ad hoc meeting of Parliament's responsible committee to present and explain any

*issues related to implementation of the
Agreement which affect the banana
sector.*

PROCEDURE

Title	Implementation of the bilateral safeguard clause and the stabilisation mechanism for bananas of the EU-Central America Association Agreement
Reference(s)	COM(2011)0599 – C7-0306/2011 – 2011/0263(COD)
Committee responsible Date announced in plenary	INTA 12.10.2011
Committee(s) asked for opinion(s) Date announced in plenary	AGRI 12.10.2011
Rapporteur(s) Date appointed	Gabriel Mato Adrover 23.11.2011
Discussed in committee	29.2.2012
Date adopted	20.3.2012
Result of final vote	+: 27 –: 9 0: 0
Members present for the final vote	John Stuart Agnew, Liam Aylward, José Bové, Vasilica Viorica Dăncilă, Michel Dantin, Paolo De Castro, Albert Deß, Herbert Dorfmann, Iratxe García Pérez, Julie Girling, Béla Glattfelder, Martin Häusling, Esther Herranz García, Peter Jahr, Elisabeth Jeggle, George Lyon, Gabriel Mato Adrover, Mairead McGuinness, Mariya Nedelcheva, James Nicholson, Georgios Papastamkos, Marit Paulsen, Britta Reimers, Ulrike Rodust, Alfreds Rubiks, Giancarlo Scottà, Czesław Adam Siekierski, Sergio Paolo Francesco Silvestris, Alyn Smith, Csaba Sándor Tabajdi, Marc Tarabella, Janusz Wojciechowski
Substitute(s) present for the final vote	Richard Ashworth, Pilar Ayuso, Esther de Lange, Giovanni La Via, Astrid Lulling, Robert Sturdy