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**A5-0093/2000**

28 March 2000

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## **REPORT**

on the proposal for a Council regulation amending Regulation (EEC)  
No 404/93 on the common organisation of the market in bananas  
(COM(1999)582 – C5-0277/1999 – 1999/0235(CNS))

Committee on Agriculture and Rural Development

Rapporteur: Michel Dary

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Abbreviations for committees***

- I. AFET Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy
- II. BUDG Committee on Budgets
- III. CONT Committee on Budgetary Control
- IV. LIBE Committee on Citizens' Freedoms and Rights, Justice and Home Affairs
- V. ECON Committee on Economic and Monetary Affairs
- VI. JURI Committee on Legal Affairs and the Internal Market
- VII. INDU Committee on Industry, External Trade, Research and Energy
- VIII. EMPL Committee on Employment and Social Affairs
- IX. ENVI Committee on the Environment, Public Health and Consumer Policy
- X. AGRI Committee on Agriculture and Rural Development
- XI. PECH Committee on Fisheries
- XII. REGI Committee on Regional Policy, Transport and Tourism
- XIII. CULT Committee on Culture, Youth, Education, the Media and Sport
- XIV. DEVE Committee on Development and Cooperation
- XV. AFCO Committee on Constitutional Affairs
- XVI. FEMM Committee on Women's Rights and Equal Opportunities
- XVII. PETI Committee on Petitions

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## PROCEDURAL PAGE

By letter of 29 November 1999 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas (COM(1999)582 - 1999/0235 (CNS)).

At the sitting of 13 December 1999 the President of Parliament announced that she had referred this proposal to the Committee on Agriculture and Rural Development as the committee responsible and the Committee on Development and Cooperation and the Committee on Industry, External Trade, Research and Energy for their opinions (C-0277/1999).

The Committee on Agriculture and Rural Development had appointed Michel Dary rapporteur at its meeting of 19 October 1999.

The committee considered the Commission proposal and draft report at its meetings of 30 November 1999, 24 February 2000 and 27 March 2000.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Friedrich-Wilhelm Graefe zu Baringdorf, chairman; Joseph Daul, Vincenzo Lavarra and Encarnación Redondo Jiménez, vice-chairmen; Michel Dary, rapporteur; Gordon Adam, Danielle Auroi, Carlos Bautista Ojeda, António Campos, Alejandro Cercas Alonso (for María Izquierdo Rojo), Carlos Coelho (for Arlindo Cunha, pursuant to Rule 153(2)), Christel Fiebiger, Carmen Fraga Estévez (for Albert Jan Maat), Georges Garot, Lutz Goepel, Elisabeth Jeggle, Salvador Jové Peres, Hedwig Keppelhoff-Wiechert, Heinz Kindermann, Dimitrios Koulourianos, Miguel Angel Martínez Martínez (for Willi Görlach), Xaver Mayer, Neil Parish, Mikko Pesälä, Christa Prets (for María Rodríguez Ramos), Brian Simpson (for Bernard Poignant) and Ari Vatanen (for Robert William Sturdy).

The opinions of the Committee on Development and Cooperation and the Committee on Industry, External Trade, Research and Energy are attached.

The report was tabled on 28 March 2000.

The deadline for tabling amendments is 12 noon on Thursday, 6 April 2000.

## LEGISLATIVE PROPOSAL

### Proposal for a Council regulation amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas (COM(1999)582 – C5-0277/1999 – 1999/0235(CNS))

The proposal is amended as follows:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

(Amendment 1)  
Recital 1a (new)

- 1a. The COM in bananas is extremely important for the ACP producer countries and the outermost regions of the Union in terms of export revenues, employment, the development of infrastructures and environmental protection;

*Justification:*

*The common organisation of the market in bananas allows the operation, continuation and stability of an area of production which is essential for the sometimes fragile economies in the ACP countries and the most remote regions of the European Union.*

(Amendment 2)  
Recital 1b (new)

- 1b. Bearing in mind the fundamental principles which governed the establishment of the common organisation of the market in bananas designed to guarantee European consumers the variety and balance of the sources of supply for the market on the basis of respect for Community preference and the Community's various international obligations, contracted primarily towards its ACP partners, as set out in Protocol No 5 of the Lomé Convention;

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<sup>1</sup> Not yet published in the Official Journal.

*Justification:*

*The first COM for bananas which was established in 1993 replaced various national systems with a common organisation characterised by a common import system. Its aim was to deal at Community level with a certain number of different and often contradictory market requirements, while respecting the Union's commitment to the ACP countries, guaranteeing them preferential access to their traditional markets.*

*Since it was established the COM has ensured that the variety and balance of the sources of supply are guaranteed to European consumers.*

(Amendment 3)  
Recital 1c (new)

1c. When it was established, the COM in bananas was based on a compromise respecting the interests of the various sources of supply, while taking account of the Union's previous commitments, namely Community preference, preferential access for ACP countries and the GATT rules with regard to third countries;

*Justification:*

*(see justification for Amendment 2)*

(Amendment 4)  
Recital 1d (new)

1d. Bearing in mind the terms of the ACP/EU Partnership Agreement for Development replacing the Lomé Convention and providing for a transitional period so as to allow gradual conformity with the rules and standards of the World Trade Organisation;

*Justification:*

*The partnership agreement for development replacing the Lomé Convention when it expires on 29 February 2000 provides that the new trade arrangements will be negotiated between 2002 and 2008, to replace the current unilateral trade preferences scheme and that they should be compatible with WTO rules.*

(Amendment 5)  
Recital 1e (new)

(1e) It is now high time for a lasting and acceptable compromise to be found which will settle the arguments in the WTO and, at the same time, solve the problems inside the EU or at least minimise them.

*Justification:*

*Although it is painful for the Community to be pressurised by the WTO, the new situation should also be seized as an opportunity of finding a new and lasting compromise inside the EU as well.*

(Amendment 6)  
Recital 2

Analysis of all the options presented by the Commission suggests that establishment in the medium term of an import system founded on the application of a customs duty at an appropriate rate and application of a preferential tariff to imports from ACP countries provides the best guarantees, firstly of achieving the objectives of the common organisation of the market as regards Community production and consumer demand, secondly of complying with the rules on international trade, and thirdly of preventing further disputes.

Deleted

*Justification:*

*The option of establishing a 'tariff only' system in the short or medium-term is not in accordance with achievement of the objectives of the COM in bananas and at this stage could not guarantee the permanence and security of the market, in particular for the ACP and Community producers and operators.*

(Amendment 7)  
Recital 2a (new)

(2a) The import system based on a flat tariff would pose a serious risk of a collapse in banana prices on the Community markets owing to surplus supply of bananas imported at a low price, over and above what is currently being experienced, which makes it necessary to increase the compensatory aid granted to Community producers in the outermost regions to guarantee their level of income.

*Justification*

*The economic impact on Community producers must be offset in accordance with the rules of the game under the COM for the banana sector in order to prevent serious social harm being done to thousands of farming families.*

(Amendment 8)  
Recital 2b (new)

(2b) The financial perspective adopted in Agenda 2000 for the financing of the CAP is insufficient to cope with the additional expenditure which would result from a change to the COM for bananas and should therefore be revised before the relevant regulation is adopted.

*Justification:*

*The failure to include the financing of the measures necessary to deal with a change to the COM makes it necessary for the budget to be corrected in this case.*

(Amendment 9)  
Recital 2c (new)

(2c) Consideration should be given to the possibility of having recourse also to Article 299(2) of the EC Treaty, which provides for the adoption by the Council, on a proposal from the Commission and after consulting the European Parliament, of specific measures for the outermost regions, including in the field of the CAP, in the

event that the negative social, economic and environmental consequences arising from the new single tariff system act to the detriment of banana producers in those regions.

*Justification:*

*This amendment recognises that there is a legal basis for the differentiated application of Community provisions in the outermost regions. The outermost regions are included in Objective 1 of the Structural Funds and use should be made of that fact in connection with this reform of the COM.*

(Amendment 10)  
Recital 2d (new)

(2d) In order to offset the consequences of the reform of the COM for bananas, support should be given to restructuring measures financed under the Structural Funds.

*Justification:*

*The outermost regions are included in Objective 1 of the Structural Funds and use should be made of that fact in connection with this reform of the COM.*

(Amendment 11)  
Recital 3

However, such a system must be introduced upon completion of negotiations with the Community's partners in accordance with WTO procedures, in particular Article XXVIII of the General Agreement on Tariffs and Trade (GATT).

However, a new system shall be introduced for a period which cannot be less than 10 years nor involve ipso facto transition to a tariff only scheme in parallel with a process of negotiations with the Community's partners in accordance with WTO procedures, in particular Article XXVIII of the General Agreement on Tariffs and Trade (GATT).

*Justification:*

*The introduction of a modified COM should enable it to operate for a sufficiently long period to prepare the producers and operators for a potential situation of increased competition; ten years seems essential as a period for its internal operation to be assessed but also as regards the multilateral trade negotiations.*

(Amendment 12)

Recital 3a (new)

3a. The failure of the last meeting of the World Trade Organisation showed that this organisation was not capable of responding to the expectations and demands of public opinion and consumers in areas such as product quality, environmental protection, training, social conditions and the protection of workers;

*Justification:*

*The meetings in Seattle last November and in Davos in January 2000 showed that the existing mechanisms of the World Trade Organisation are not capable of producing a credible response ensuring that the legitimate demands of citizens with regard to product safety, quality and respect for social and environmental standards are taken into account.*

(Amendment 13)

Recital 3b (new)

(3b) The European model of agriculture cannot comply with and yield to the idea of profit alone, to the detriment of respect for fundamental principles in the areas of social rights, environmental protection, product safety and quality and abuses of dominant positions;

*Justification:*

*The aim of the reformed common agricultural policy, following from Agenda 2000, is to defend a European model of agriculture geared towards sustainable methods of agricultural production and to ensure the placing on the market of safe and wholesome products; total liberalisation of trade without guarantees on these points could not be compatible with the European Union's approach.*

(Amendment 14)  
Recital 3c (new)

(3c) A study should be made of the operation of the present regulation over a minimum period of ten years to enable consideration to be given to the system to be applied after that period.

*Justification:*

*The new COM for bananas was established in 1993, and less than seven years have passed since it entered into force. Regulation 404/93 is now to be amended for the second time in recent years. It would be best to wait at least until 2010 to ascertain whether these changes permit markets to function adequately, since they would not operate properly with frequent changes.*

(Amendment 15)  
Recital 3d (new)

3d. The Commission noted during consultations with the interested parties that there is a considerable preference for a system of tariff quotas and that the reverse auction system was formally and unanimously rejected by all the importers and ACP producers.

*Justification:*

*This amendment is in line with updated results from the Commission's consultations with the interested parties.*

(Amendment 16)  
Recital 4

Until the entry into force of that regime, the Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in

The Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the WTO's dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes, not bound in the WTO, should be opened to cater for the increase in

consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota, the common customs tariff rate should be reduced in accordance with the most appropriate method, and the preferential tariff granted to the ACP countries must be applied.

consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota, the preferential tariff granted to the ACP countries must be applied.

*Justification:*

*The system of reverse auctions should be set aside as it is rejected by the majority of the interested parties. The additional quota of 353 000 tonnes has not been bound in the WTO. In view of the current oversupply on the European market, this quota should be readjusted in a much more realistic manner.*

*Furthermore, a reduction in the rate of customs duty on the C quota in accordance with a procedure involving the award of a contract would not guarantee the requisite protection for the Community market.*

(Amendment 17)

Recital 5

In view of the contractual obligations towards the ACP countries and the need to guarantee them proper conditions of competition, application to imports of bananas originating in those countries of a tariff preference of EUR 275 per tonne would allow the trade flows in question to be maintained. This will entail in particular the application to such imports of zero duty under the first two tariff quotas, and a cut of EUR 275 in the duty to be paid under the third tariff quota after application of the aforementioned reduction.

In view of the contractual obligations towards the ACP countries and the need to guarantee them proper conditions of competition, application to imports of bananas originating in those countries of a tariff preference of EUR 300 minimum per tonne would allow the trade flows in question to be maintained. This will entail in particular the application to such imports of zero duty under the first two tariff quotas, and a cut of EUR 300 in the duty to be paid under the third tariff quota after application of the aforementioned reduction.

*Justification:*

*In a system which is already largely open to free competition, a tariff preference of EUR 275 to the ACP supplier countries is not enough to guarantee them proper conditions of access and competition in the short and medium term. At this level the tariffs structure would also prove very inadequate in placing Community bananas on an equivalent competitive level with Latin American bananas and those of certain ACP countries and would not allow them satisfactory access on the European market.*

(Amendment 18)

Recital 6

The Commission should be authorised to open negotiations with supplier countries having a substantial interest in supplying the Community market to endeavour to achieve a negotiated allocation of the first two tariff quotas. The Commission should also be granted authority to lay down rules for the management of the tariff quotas established by this Regulation.

The Commission should be authorised to open negotiations with supplier countries with a substantial interest in supplying the Community market to endeavour to achieve a negotiated allocation of the first two tariff quotas. The Commission should also be granted authority to lay down rules for the management of the tariff quotas established by this Regulation, while at the same time the Commission is invited to make an in-depth study of all the possibilities with regard to calculating the reference periods.

*Justification:*

*Priority must be given to the supplier countries with a substantial interest in supplying the Community market. The calculation of the reference periods largely determines the volumes of bananas imported and the number and identity of importers. The Commission should take account of all the possibilities to prevent partial calculations from distorting the actual situation in the sector.*

(Amendment 19)

Recital 7

(7) Provision should be made for the additional tariff quota of 353 000 tonnes to be modified to take account of any increased Community demand found when a supply balance is drawn up. Provision should also be made for suitable specific action to be taken in response to exceptional circumstances liable to affect supply of the Community market.

(7) Provision should be made for the additional tariff quota of 353 000 tonnes to be modified to take account of any increased or reduced Community demand found when a supply balance is drawn up. Provision should also be made for suitable specific action to be taken in response to exceptional circumstances liable to affect supply of the Community market.

*Justification*

*In the original text, the Commission proposes a figure of 353 000 tonnes with a possible increase if demand rises. Given that this is not a consolidated quota, the amount should depend on actual demand and should therefore be reduced if demand falls. In any case it should be possible to adapt the additional tariff quota to Community demand, but this should apply to a decline as well as an increase in such demand.*

(Amendment 20)  
Recital 7a (new)

(7a) The objective of organic production methods, as defined in Regulation (EEC) No 2092/91 is to contribute to the utilisation of sustainable methods of production, with a minimal impact on the environment and on health; such methods should be encouraged in third countries, in particular in ACP partner countries, and should benefit from specific incentives within the corresponding regulatory frameworks and budget headings.

*Justification:*

*Bearing in mind the importance which the European Community attaches to preserving the environment both within and outside our territory, the new organisation of the market in bananas should provide a stimulus for production which is compatible with the preservation of the environment and human health.*

(Amendment 21)  
Recital 7b (new)

(7b) The Communication dated 29 November 1999 from the Commission to the Council and the European Parliament on Fair Trade shall establish the framework for the promotion of 'fair-trade' operators.

*Justification:*

*The principles of fair trade should also apply in the banana sector.*

(Amendment 22)

Recital 7c (new)

7c It is necessary for the Commission to assess the impact of this regulation on prices and the incomes of banana producers within the European Union and in the ACP countries and it must make provision to strengthen the measures established in favour of Community producers to alleviate the negative effects of new rules. In any case compensatory aid should be adjusted in line with the impact of this regulation, based on the principle of guaranteeing producers' incomes.

*Justification:*

*Particular attention should be paid to developments in the situation of ACP and Community producers who are vulnerable at present and will be even more vulnerable in the face of increased competition and possibly in time more open competition. Proper assessment should be made of the consequences of the application of this regulation, and the negative impact on prices and incomes should be duly compensated by increasing the corresponding flat-rate reference income.*

(Amendment 23)

Recital 8

(8) Accordingly, amendments should be made to Title IV of Regulation (EEC) No 404/93,

(8) Accordingly, amendments should be made to Titles III and IV of Regulation (EEC) No 404/93,

*Justification:*

*Several amendments adopted refer to certain articles in Title III of Regulation (EEC) No 404/93.*

(Amendment 24)

ARTICLE 1(1) (new)

Article 12(8a) (new) (Regulation (EEC) No 404/93)

-1. The following paragraph 8a is added to Article 12:

(8a) Every two years after the entry into

force of this regulation, the Commission shall present a report assessing the impact of this regulation on prices and the incomes of Community and ACP producers.

On the basis of the conclusions of the assessment report, where necessary or at the request of the European Parliament, the Commission shall submit a proposal for the adjustment of compensatory aid with the objective of guaranteeing the income of Community producers and the marketing of the product.

*Justification:*

*The Commission is to be instructed to draw up an assessment report on the basis of which changes might be made to compensatory aid with the aim of guaranteeing producers' income.*

(Amendment 25)

ARTICLE 1(-1a) (new)

Article 12a (new) (Regulation (EEC) No 404/93)

-1a. The following Article 12a is inserted after Article 12:

Article 12a

12a. Aid shall be granted for the marketing of bananas produced in the outermost regions and placed on European Union markets. Such aid shall be granted to the entities marketing those bananas, whether they are individual producers, producers' organisations, individual operators or groups of operators established in those regions.

*Justification:*

*Marketing aid is requested because banana producers in the outermost regions are insufficiently protected against low-price imports of bananas from third countries.*

(Amendment 26)

ARTICLE 1(1)

Article 16(1) (Regulation (EEC) No 404/93)

1. Articles 16 to 20 of this Title shall apply to imports of fresh products falling within CN code ex 0803 00 19 up to the entry into

1. Articles 16 to 20 of this Title shall apply to imports of fresh products falling within

force of the rate of the common customs tariff for those products, no later than 1 January 2006, established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade.

CN code ex 0803 00 19.

*Justification:*

*Given that the replacement of the current quota system by a tariff-only system is rejected, and the call is made for the current system to be maintained for a period of ten years, the second part of the Commission text from the phrase 'up to the entry into force' does not apply.*

*The tariff-only system proposed by the Commission would have a highly negative impact on Community producers and is not in accordance with the achievement of the objectives of the COM, since it does not guarantee subsistence and market access for ACP and Community producers and operators. For that reason, any reference to a transitional period for its application should be avoided.*

(Amendment 27)

ARTICLE 1(1)

Article 16(2) (Regulation (EEC) No 404/93)

2. Until the entry into force of the rate referred to in paragraph 1, imports of the fresh products referred to in paragraph 1 shall be under the tariff quotas opened by Article 18.

2. Imports of the fresh products referred to in paragraph 1 shall be under the tariff quotas opened by Article 18.

*Justification:*

*(See justification to Amendment 26)*

(Amendment 28)

ARTICLE 1(1)

Article 18(3) (Regulation (EEC) No 404/93)

3. By derogation from Article 15, imports under tariff quota "C" shall be subject to the duty referred to in that Article less a reduction which may be determined by tender.

Deleted

*Justification:*

*The system of reverse auctions is rejected by a majority of operators in the sector and, apart from the complexity of managing it and the uncertainties for the operators, it would penalise heavily the most vulnerable producers and operators who at this stage would be likely to disappear altogether if they were in open competition with the operators who are in a dominant position on the market.*

(Amendment 29)

ARTICLE 1(1)

Article 18(4) (Regulation (EEC) No 404/93)

4. A tariff preference of EUR 275 per tonne shall apply to imports originating in ACP countries both under and outside the tariff quotas.

4. A tariff preference of EUR 300 minimum per tonne shall apply to imports originating in ACP countries both under and outside the tariff quotas.

*Justification:*

*In a system which is already largely open to free competition, a tariff preference of EUR 275 to the ACP supplier countries is not enough to guarantee them proper conditions of access and competition in the short and medium term.*

(Amendment 30)

ARTICLE 1(1)

Article 18(6), first subparagraph (Regulation (EEC) No 404/93)

6. The additional tariff quota provided for in paragraph 1(b) may be increased if demand in the Community increases as indicated by a balance sheet of production, consumption, imports and exports.

6. The additional tariff quota provided for in paragraph 1(b) may be increased or reduced if demand in the Community increases or falls as indicated by a balance sheet of production, consumption, imports and exports.

*Justification:*

*In accordance with the views expressed in the amendment to recital 7, it should be possible to correct the non-consolidated quota of 353 000 tonnes downwards if demand falls as well as upwards where demand increases.*

*Account should be taken of the possibility that Community demand might fall and, consequently, provision should be made for a corresponding reduction in the volume of the additional tariff quota referred to in this subparagraph.*

(Amendment 31)  
ARTICLE 1(1)  
Article 19(1) (Regulation (EEC) No 404/93)

1. The tariff quotas may be managed in accordance with the method based on taking account of traditional trade flows ('traditional/newcomers') and/or other methods.

1. The tariff quotas shall be managed in accordance with the method based on taking account of traditional trade flows ('traditional/newcomers') and/or other methods, provided that the method of management and the reference periods used are not detrimental to the operators and producers already present on the market. The method adopted shall not discriminate against any of the currently existing classes of operators working in the market. If the method used is the 'traditional/newcomers' method, it must include the recent past.

*Justification:*

*While accepting the proposed changes to the management of tariff quotas, it is important that the reference periods and management method used do not harm the operators and producers already present on the market. Otherwise, they would give rise to destabilisations to the detriment of the proper functioning of markets which have already been affected by successive changes in the rules.*

(Amendment 32)  
ARTICLE 1(1)  
Article 19(2) (Regulation (EEC) No 404/93)

2. The method adopted shall take account as appropriate of the need to maintain the equilibrium of supply to the Community market.

2. The method adopted must take account of the need to maintain the equilibrium of supply to the Community market.

*Justification:*

*Maintaining the equilibrium of supply is one of the objectives of the COM and cannot be considered to be optional.*

*It underlies the obligation on the Commission to establish a seasonally organised regulation of market supply, such that it tallies as closely as possible with actual needs and to guarantee Community preference and avoid all marginalisation of Community production by growth in demand whether because of increased consumption or new accessions.*

(Amendment 33)

ARTICLE 1(1a) (new)  
Article 20a (new) (Regulation (EEC) No 404/93)

1a. The following Article 20a is inserted after Article 20:

Article 20a

Specific provisions shall be drawn up, according to the procedure laid down in Article 27, for bananas produced in accordance with Regulation (EEC) No 2092/91 on organic farming and certified by independent monitoring bodies in accordance with the standard EN45011. A strict system of equivalence with Regulation (EEC) No 2092/91 shall be applied to these bananas and the products derived therefrom coming from traditional ACP, ACP or third country quotas. The producers and operators of organically produced bananas, in conjunction with the monitoring bodies, shall be eligible for special support measures under the financial technical assistance for this type of production which seeks to achieve better protection of the environment and public health.

*Justification:*

*Compliance with the conditions of Regulation (EEC) No 2092/91 would enable producers to move towards sustainable methods of production, to guarantee that products which really comply with organic farming methods are placed on the market and thus to respond to growing consumer demand.*

(Amendment 34)  
ARTICLE 1(1b) (new)  
Article 20b (new) (Regulation (EEC) No 404/93)

1b. The following Article 20b is inserted  
after Article 20  
Article 20b

Measures shall be provided,  
according to the procedure set out in  
Article 27, for bananas produced in  
accordance with the conditions laid  
down by the Fair Trade Labelling  
Organisation (FLO).

These bananas shall be designated  
'fair trade' bananas. The conditions  
laid down by the FLO are annexed to  
this regulation and shall apply  
regardless of the developing country  
of origin.

The Member States shall be  
responsible for approving the 'fair  
trade' certification bodies. The bodies  
shall be responsible for granting 'fair  
trade' status to producers and  
operators satisfying the conditions  
described above.

They shall also be responsible for  
monitoring and checking to guarantee  
that the 'fair trade' conditions are  
fully respected. The approval of the  
Member State shall be granted to the  
'fair trade' certification bodies, which  
can demonstrate that they conform to  
standard EN45011 for certification  
bodies.

'Fair trade' banana producers and  
operators and the 'fair trade'  
certification bodies should be eligible  
for special support measures within  
the framework of technical and  
financial assistance.

*Justification:*

*The multiplication of labelling systems gives rise to confusion which harms the credibility of 'fair trade' products for which there is a growing consumer demand; it is thus necessary to guarantee a transparent and secure system.*

(Amendment 35)  
ARTICLE 1(3)

Article 32 is deleted.

Deleted

*Justification:*

*A mid-term assessment (at the latest by 31 December 2004) is not superfluous.*

(Amendment 36)  
ARTICLE 1a (new)

1a. By 30 April 2009 at the latest the Commission shall submit to the European Parliament and the Council a report on the operation of the common organisation of the market in bananas together with any proposals for modification.

*Justification:*

*A ten year minimum operational period should enable an assessment to be made of the internal and external impact of the COM on producers and operators and any proposals for adjustment of this COM to be prepared.*

## DRAFT LEGISLATIVE PROPOSAL

### European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas (COM(1999)582 – C5-0277/1999 – 1999/0235(CNS))

#### (Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(1999)582<sup>2</sup>),
  - having been consulted by the Council pursuant to Article 37 of the EC Treaty (C5-0277/1999),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Agriculture and Rural Development and the opinions of the Committee on Development and Cooperation and the Committee on Industry, External Trade, Research and Energy, (A5-0000/1999),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>2</sup> Not yet published in the Official Journal.

## EXPLANATORY STATEMENT

### 1. The Community system for bananas: definition

Each year the European Union consumes some 4 million tonnes of bananas from the following sources:

- about 20% are supplied by Community producers: Madeira, the Canary Islands and the French overseas departments, Martinique and Guadeloupe;
- traditional imports from ACP countries represent 21% of the total and non-traditional imports from ACP countries account for 3% ;
- the majority, 76%, comes from imports from third countries, in particular Ecuador, Colombia, Costa Rica and Honduras. It is useful to bear in mind that in these countries American companies operate large plantations where the production process takes little account of social or environmental considerations. In the traditional ACP states and in the Union itself, banana production is carried out on a smaller scale and the producers can cope with competition from American bananas only through subsidies and priority treatment with regard to access to the market.

#### a. Objectives of the common organisation of the market in bananas:

The first COM in bananas established in July 1993 replaced various national systems with a common organisation characterised by a common import system. Its aim was to deal at Community level with a certain number of different and often contradictory market requirements, namely:

- to ensure the free movement of bananas in the single market while maintaining reasonable prices for consumers;
- to respect the European Union's undertaking to the ACP countries according to which '... no ACP State shall be placed, as regards access to its traditional markets and its advantages on those markets, in a less favourable situation than in the past or at present';
- to maintain Community preference for EU producers in the most remote regions such as Martinique, Guadeloupe, the Canaries, Madeira and Crete;
- to respect GATT obligations.

## b. Mechanisms:

With a view to meeting these objectives, the COM in bananas has a certain number of instruments: customs duties, the establishment of import quotas with safeguards in the event of disturbance of the market, licences and income aid. The system also contains provisions to ensure that the ACP producers with low costs do not use all the allocation available, to the detriment of producers who are exposed to higher costs. For this reason the ACP allocation was divided by country.

Since 1998, after adjustment of the COM following a final ruling by the World Trade Organisation (see below), the banana regime has operated as follows:

- Community bananas naturally have free access on the Community market;
- traditional ACP bananas enter without customs duties, up to a total quota limit of 857 700 tonnes;
- non-traditional ACP bananas (outside the 857 700 tonnes quota) and third country bananas - dollar bananas - have a quota of 2.2 million tonnes and a separate tariff quota of 353 000 tonnes justified by the accession of Austria, Finland and Sweden.

In addition to these quotas, traditional ACP bananas benefit from a zero tariff while dollar bananas are subject to customs duty of EUR 75 per tonne.

If the quota is exceeded, non traditional ACP imports are subject to duty of EUR 750 per tonne and dollar bananas to duty of EUR 850.

The quota is divided between three categories of operators through a system of import licences.

The import licence system contains provisions (category B licences) which should encourage dealers to give priority to ACP and EU bananas which would not otherwise be economically viable. Lastly, income support in the form of compensatory payments is paid to European Union producers.

## **2. COM in bananas : the background**

Since being adopted the Community banana system has been under attack constantly, both by several Member States, in particular Germany which had enjoyed a zero rate quota prior to 1993, and by numerous third countries and international operators accusing the system of protectionism and wanting to see a liberal system established where the only possible protection would be a common customs tariff applied to imports of bananas.

As a result actions were therefore brought both in the Court of Justice of the European Communities by Member States and operators and in GATT bodies, then in World Trade Organisation bodies from 1994 onwards by third countries and in particular by the United States.

Colombia, Costa Rica, Nicaragua, Venezuela and Guatemala protested to GATT about the system. The GATT working party concluded that the category B licences were incompatible with GATT rules, as were also the tariff preferences for the ACP countries. A framework agreement on bananas was then proposed which made certain adjustments to the scheme, but Guatemala refused to sign it and joined the United States, Ecuador, Honduras and Mexico in pursuing the case in the WTO. In May 1997 the WTO's dispute settlement panel ruled against the category B licence scheme, the obligation for an export certificate provided for under the framework agreement on bananas and the granting of quotas by country for supplier countries which did not have a substantial interest, such as Venezuela and Nicaragua, and the distribution of the quota for the traditional ACP suppliers.

Other aspects of the COM were, however, approved on this occasion: these were the size of the tariff quota and the rates of customs duty inside and outside the quota, the preference for traditional imports and the preferential tariff treatment for non traditional imports from ACP countries and the system of aid for European Union producers.

The Union then tried to comply with the WTO recommendations and the Commission proposed an amendment of the European regulations, obtaining in Geneva a compliance period of 18 months until 31 December 1998.

The new Community regime was immediately contested by the complainants and in particular by the United States and Ecuador. The new action was based on a categorical rejection of the system of historical references for the allocation of the tariff quota licences but also on a criticism of the arrangements for the differential treatment given to ACP countries.

The United States then unilaterally imposed retaliatory trade measures worth USD 520 million, without even waiting for a decision or opinion from the WTO.

On 7 April 1999 the WTO panel ruled that the new Community banana import scheme was discriminatory and found in favour of the United States, although considering that it could take retaliatory trade measures only up to a value of USD 191.4 million. The European Union was required to bring its new regulations into line with the new recommendations of the panel by 1 January 2000 at the latest. This is now the fifth time since 1993 and the establishment of the first COM in bananas that the World Trade Organisation has contested the legality of the Community regulations in relation to international trade rules.

### **3. The new Commission proposal**

The stakes are considerable for the Commission as a proposal must be submitted that is in line with the divergent interests of the 15 Member States, ensures the economically viable sale of Community and ACP production, conforms to the rules of the World Trade Organisation and, lastly, maintains reasonable prices for European consumers.

#### **a) Presentation**

The new proposal provides for a system of three tariff quotas to be maintained for a limited transitional period (six years), until the establishment of a flat rate tariff systems 'tariff only', in 2006, which will be negotiated in the next multilateral trade round.

#### **\* first phase**

The first phase thus provides for a transitional system until 1 January 2006 at the latest. The system proposed for this period provides for the continuation, at the rate of EUR 75, of the two existing tariff quotas of 2.2 million tonnes and 353 000 tonnes (following the last enlargement). ACP preference would allow ACP bananas to be imported at zero tariffs. As regards the quota allocation, the Commission this time rejects the system of certificates based on a historical reference and proposes the 'first come first served', system which it considers would have the advantage of being compatible with WTO requirements and also completely transparent.

In such a system the right to import is established purely on the basis of the order in which the customs declarations are presented.

In addition to continuing the two existing quotas, the Commission proposes opening a third quota of 850 000 tonnes, open to all the supplier countries, with a tariff preference of EUR 275 per tonne for ACP bananas.

The purpose of this transitional regime is to facilitate the adjustment to a flat rate tariff system and to enable the necessary adjustments to be made in the ACP countries and regions of the Union concerned.

#### **\* second phase**

At the end of this period the Commission proposes a flat rate tariff system with a flat tariff for all imports of bananas. The level of the tariff system will have to be negotiated in accordance with Article XXVIII of GATT (see the negotiating instructions attached to the proposal for a regulation). However, by virtue of the current WTO derogation, the Commission makes provision to grant an appropriate tariff preference to the ACP countries.

#### **b) Assessment**

Firstly, it should be noted that since 1993 the situation of Community producers has been constantly affected by the ongoing changes to the COM in bananas.

Since 1993 and the first COM in bananas, the Commission has had to manage this system in the face of constant challenges, either by certain Member States or third countries which contest the legality of a quota system. The Commission has thus had to juggle the conflicting interests of the parties concerned.

As a result it had to make concessions on certain aspects of the regulations, concessions which led to a gradual reduction in the level of protection of the common organisation of the market, thus markedly affecting Community production.

In 1999 there were considerable difficulties in marketing Community bananas. The general price level collapsed throughout the Union.

The 'tariff only' option, which motivated the opening of negotiations in Geneva is no longer supported by its traditional advocates.

Paradoxically, the greatest advocates of the tariff quota are among those who had made it their main target until 1998. The opening of successive panels over the last six years thus

turns out to be less justified now than was asserted by the complainants. The large multinationals are admitting that they want to keep their 'quota income', valued at a total of EUR 500 million.

The new system proposed maintains the reality of an increase in supply of 350 000 tonnes by comparison with 1998, an increase which cannot benefit traditional Community operators as was shown in the past. Furthermore, given the abolition of the incentive to purchase Community bananas, which occurred in 1999, the cumulative effect will be the inescapable disappearance in time of very vulnerable Community production.

Given this situation, the move to the second phase and the 'tariff only' system would probably occur without the participation of Community producers and, in any case, any banana production that still remained after a transitional period, which will enable the multinationals to strengthen their positions on the market, would be considerably weakened at the end of this period. Under such conditions it seems difficult for the Commission to claim to defend a European model of agricultural production while at the same time respecting the Union's obligations to its ACP partners.

#### **4. Rapporteur's conclusions: limited scope for manoeuvre**

Nevertheless, it must be understood that in procedural terms if no acceptable solution is found to modification of the COM before the multilateral trade negotiations are started, the Commission risks not being able to maintain its proposal for a transitional system. The Council should adopt the negotiating instructions attached to the proposal for a regulation, seeking to instruct the Commission to start negotiations forthwith pursuant to Article XXVIII of GATT and to replace the current system with a tariff only system.

However, the consultation process started by the Commission on the reform of the COM has shown that the operators have a considerable preference for the tariff quota system, as the Commission acknowledges in the explanatory memorandum to its proposal. It thus seems somewhat paradoxical that the Commission is attempting to take the tariff only option as the only viable one in the end.

Even if this proved to be the case at the end of the future negotiations, the rapporteur considers that it is essential to defend as a matter of priority the principles on which the establishment of the COM in bananas was based, for fear of it actually being dismantled.

For this reason, in the absence of objective reasons for choosing the 'tariff only' option as the inevitable solution, it is proposed that the first option in the Commission proposal should be chosen, namely the transitional one and that it should be implemented for a longer period of ten years with a requirement that it should be revised at the end of that period with the possibility, then, of moving to the tariff only solution if that still proves to be relevant.

In any event, given that the market is in surplus, an increase in the import quotas should be rejected, lest the current situation persists.

It is also essential to consider and make adequate proposals for additional compensatory measures for the ACP countries and the most vulnerable Community regions, with a view to preparing them for a totally open market situation. The rapporteur therefore proposes:

- extending the first 'transitional' phase until 1 January 2010 and excluding an automatic move to a tariff only system, but providing for a possible adjustment of the COM in the light of its operation during this first phase, with a requirement to report to Parliament,
- ensuring that the level of quotas will not increase the oversupply already noted,
- that the preferential rate for the ACP in the second quota is sufficient, and higher than the EUR 275 proposed by the Commission.

Alongside the reform of the common organisation of the market, the Commission must propose measures to accompany the reforms such as:

- \* regionalisation of aid, so as to correct the discrepancies observed between the various areas of Community production in terms, in particular, of costs of access to the market,
- \* the establishment of a cyclone compensation measure, in the form, for example, of a guarantee fund fed by a tax on imports from all sources on the Community market,
- \* a marketing aid as such, so as to re-establish the balance with the distribution network for dollar bananas,
- \* establishment of a grubbing up premium for producer regions that wish to avail themselves of it,
- \* special support measures for producers and importers of bananas from sectors of production certified as organic and satisfying the fair trade criteria.

In the event of the tariff solution being imposed in the framework of multilateral trade negotiations, the tariff should not be less than EUR 300/tonne in addition to the measures outlined above. The Commission should in any case during the multilateral negotiations on this matter ensure that the Community system for bananas and the associated Community preference are real development instruments for ACP countries and the most remote regions concerned.

22 February 2000

# OPINION

of the Committee on Development and Cooperation

for the Committee on Agriculture and Rural Development

on the proposal for a Council regulation amending Regulation (EEC)  
No 404/93 on the common organisation on the market in bananas  
(COM(1999) 582 – C5-0277/1999 – 1999/0235(CNS))

Draftsman: Fernando Fernández Martín

## PROCEDURE

The Committee on Development and Cooperation appointed Fernando Fernández Martín draftsman at its meeting of 11 January 2000.

It considered the draft opinion at its meeting of 27 January 2000.

At its meeting of 22 February 2000 it adopted the draft opinion by 21 votes in favour, with 3 abstentions.

The following were present for the vote: Joaquim Miranda, chairman; Lone Dybkjær, vice-chairman; Max van den Berg, vice-chairman; Fernando Fernández Martín, vice-chairman and draftsman; John Bowis (for Pier Ferdinando Casini), John Alexander Corrie, Niranjan Deva, Jean-Claude Fruteau, Michael Gahler (for Jürgen Zimmerling), Renzo Imbeni, Bashir Khanbhai, Glenys E. Kinnock, Wolfgang Kreissl-Dörfler, Arlette Laguiller (for Yasmine Boudjenah), Nelly Maes (for Paul Lannoye), Miguel Angel Martínez Martínez, Hans Modrow, Didier Rod, Ulla Margrethe Sandbæk, Francisca Sauquillo Pérez del Arco, Karin Scheele (for Marie-Arlette Carlotti), Bob van den Bos, Phillip Whitehead (for Richard Howitt) and Christos Zacharakis.

## INTRODUCTION AND GENERAL OBSERVATIONS

Once again, as a result of WTO decisions, the EU is reviewing its banana import regime. Given that the Committee on Development and Cooperation has maintained a consistent position on this issue for several years, your draftsman feels that the committee should take note of a whole series of previous pronouncements, namely its 1996 and 1998 opinions on the import regime and its 1998 report on assistance for traditional ACP banana suppliers. Nor should we forget that the arguments about bananas are merely part of a much wider debate on the future of trade with developing countries in general, and specifically on the new Lomé agreements and the trade protocols with the ACP countries. The cornerstone of the committee's previous opinions was, and should continue to be the need to maintain and protect EU market access for bananas from ACP countries, combined with genuine efforts to strengthen and diversify those countries' economies.

It should be stressed that the current common organisation of the market in bananas, as established by Regulation 404/93 and the amendments thereto over the last few years, has successfully guaranteed adequate supplies for the European market, with a price policy which has proved beneficial both to European consumers and to producers within the Community and in the traditional ACP banana-producing countries. It should also be highlighted that producer countries like Ecuador and other dollar zone countries have been able to maintain their production levels and European market access quotas, which have not fallen against the pre-1993 figures. This is not the place to discuss the quite different arguments, which underpin the complaint taken to the WTO by Ecuador and other dollar-zone countries.

In order to implement the resolution adopted by the WTO the Commission has put forward a proposal for a two-stage process. In the first phase, the customs quotas would be maintained, with a clear commitment to adopting a 'tariff only' system before 2006.

This first stage rests on the following principles:

- A quota of 2.2 million tonnes (quota 'A') and a second tariff quota of 353 000 t (quota 'B') at the same tariff level, on a first come first served basis, also known as a 'ship race', with an in-quota tariff of EUR 75/t.
- A third quota (quota 'C') of 850 000 t would continue to be distributed via a system of import licences. These, however, would now be granted on the basis of a bidding procedure.
- A tariff preference for ACP countries of EUR 275/t, on the basis of a concession from the WTO. ACP bananas would thus, under quotas A and B, enter the EU at a zero tariff rating, and, under quota C at the tariff rate fixed under the subsidy procedure being proposed, less EUR 275.

The second phase - from 2006 - would see a single tariff rate for all EU banana imports.

Your draftsman believes that, as currently formulated, the Commission proposal is unacceptable. It takes no account of the needs of the most fragile producers, a deeply disturbing omission which poses a real threat to the survival of thousands of small producers in the ACP countries affected.

With the regard to quota C, your draftsman is quite convinced that the proposed subsidy system should be rejected. Firstly, the majority of banana operators require at least minimum forecasting. This is only natural for trade in large quantities of perishable goods such as bananas, and particularly so for producers who do not own their own ships, warehouses, ripening facilities, etc. These considerations may be unimportant for certain major operators such as the US multinationals, operating worldwide and untouched by fluctuations within an 850 000 tonne quota, but for others, the uncertainty inherent in a subsidy system could have far more serious consequences. Secondly, such a system could create a system in which the major operators bid for the vast majority of the licences, even taking losses on board, in order to get rid of surplus merchandise which they were unable to sell under quotas A and B. Thirdly, it is conceivable that they would carry out the same manoeuvre to prevent their smaller competitors having any access to the market. Your draftsman notes that almost all the producers do in fact agree that the quota administration system needs to be changed. Quota C will, if we are honest about it, cover virtually the whole of ACP trade, and it should be administered on the basis of historical trade patterns. In any negotiated solution, it should be possible to agree that the granting of licences must be carried out on the basis of the 1995-1997 reference period for quota C. In the negotiations, the EU's goal must be the establishment of the preferential tariff of EUR 275 which is currently being proposed for the subsidy procedure.

With regard to quotas A and B (which, to all intents and purposes, can be considered as a single quota, since they are administered in the same way), the situation is more complicated. Most operators prefer a system based on historical trade figures, but hitherto it has proved impossible to reach agreement on the reference period to be used as a basis for distributing licences. There is a feeling that there would be difficulties with the WTO if the most recent trading years were to form the basis for the reference period; and such a period could not be established if one or more of the parties in dispute were to be opposed, since the system would yet again come under attack within the WTO. A distribution system based solely on a per-1993 reference period is unacceptable to various parties. Moreover, it would both penalise all the new operators who have gained access to the market in the last few years, and cause the Commission severe administrative problems. Your draftsman is convinced that serious consideration needs to be given to the possibility of administering A and B on the basis of historical trade figures, and to this end, urges the Commission to look harder for a solution based on a reference period which would include 1993 and the years following. The various parties could well find common ground with regard to a more extensive reference period. Should this option prove impossible, your draftsman believes that consideration might be given to the Commission's proposal to administer these quotas on a first-come, first-served basis, although the 'ship race' would undoubtedly favour the largest operators and could be susceptible to irregular practices. For that reason, there need to be compensatory mechanisms which will both ensure a level playing field for fair competition and prevent the emergence of the irregular practices in question.

In any case, any system proposed should ensure that no class of operator active in this market hitherto will be excluded in the future.

Furthermore, it is curious that with regard to quotas A and B, the Commission no longer agrees with its own stance of two years ago, whereby a tariff of over EUR 70/t should be introduced, at least for the smaller quota B. It will be recalled that when the previous B

licences system was removed two years ago, the Commission proposed a tariff of ECU 300/t for the autonomous quota B, on the basis that the abolition of the licences easily exceeded the loss in profits to Latin American trade as a result of the ECU 300/t tariff, and that this rate was really necessary if a reasonable balance between suppliers was to be maintained. Although the Council finally came out against this option, and chose a EUR 75 tariff for both quotas, your draftsman thinks that the Commission should submit a clearer analysis or even a simulation of the impact which the proposed tariff levels would have on ACP and European production.

The issue of whether the tariff quotas system should be merely transitional, as the Commission proposes, is perhaps the most delicate point of all. The changeover to a tariff only system, with an unknown preferential tariff to be negotiated within the WTO could, quite conceivably, drive large numbers of ACP and Community producers out of business. Your draftsman believes that the automatic 2006 transition to a solution based on a tariff only system is simply impossible, despite the Commission's claim that 'it offers the most predictable and stable environment for both producers and operators'. The only thing that certain producers and operators will be able to predict in such an environment is their own bankruptcy. Your draftsman wishes to see a tariff quota system maintained, and if in the course of the negotiations with their WTO partners and in Council, this should prove impossible, the transition period must be extended. As author of the 1999 general report on the ACP-EU Joint Assembly, and in keeping with the conclusions of the working party on the future of ACP-EU relations, your draftsman insists on a transition period of no less than 10 years, as stated in both of these documents.

## CONCLUSIONS

The Committee on Development and Cooperation calls on the Committee on Agriculture and Rural Development to include the following amendments in its report.

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Text proposed by the Commission

Amendments

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(Amendment 1)  
Recital 1a (new)

The COM in bananas is of crucial importance for economic and social equilibrium, both in the ACP producer countries and in the most remote regions of the European Union itself.

(Amendment 2)

Recital 2

Analysis of all the options presented by the Commission suggests that establishment in the medium term of an import system founded on the application of a customs duty at an appropriate rate and application of a preferential tariff to imports from ACP countries provides the best guarantees, firstly of achieving the objectives of the common organisation of the market as regards Community production and consumer demand, secondly of complying with the rules on international trade, and thirdly of preventing further disputes.

The existing COM has succeeded in meeting its objectives of supplying the Community market at reasonable prices to the consumer, ensuring the survival and improvement of Community production, and fulfilling our commitments to the ACP countries. The present system should therefore be modified only in those points where its compatibility with the WTO has to be ensured.

(Amendment 3)

Recital 2a (new)

The initial transition period should be prolonged up to at least 1 January 2010, to enable those Community and ACP producers who so wish to consider conversion options. At the end of this period, an impact study to assess the consequences of a possible transition to an exclusively tariff-based system should be carried out and submitted to the European Parliament.

(Amendment 4)

Recital 3

However, such a system must be introduced upon completion of negotiations with the Community's partners in accordance with WTO procedures, in particular Article XXVIII of the General Agreement on Tariffs and Trade (GATT).

The operation of this Regulation should be examined at the end of a provisional implementation period, with a view to examining what type of system should be applied after that period.

(Amendment 5)

Recital 4

Until the entry into force of that regime, the Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota, the common customs tariff rate should be reduced in accordance with the most appropriate method, and the preferential tariff granted to the ACP countries must be applied.

During this initial phase, which should last at least ten years, and in line with the founding principles of the COM in bananas, the Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the WTO's dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota (16 words deleted), the preferential tariff granted to the ACP countries must be applied.

(Amendment 6)

Recital 5

In view of the contractual obligations towards the ACP countries and the need to guarantee them proper conditions of competition, application to imports of bananas originating in those countries of a tariff preference of EUR 275 per tonne would allow the trade flows in question to be maintained. This will entail in particular the application to such imports of zero duty under the first two tariff quotas, and a cut of EUR 275 in the duty to be paid under the third tariff quota after application of the aforementioned reduction.

Delete

(Amendment 7)

Recital 6

The Commission should be authorised to open negotiations with supplier countries having a substantial interest in supplying the Community market to endeavour to achieve a negotiated allocation of the first two tariff quotas. The Commission should also be granted authority to lay down rules for the management of the tariff quotas established by this Regulation.

The Commission should be authorised to open negotiations with supplier countries with a substantial interest in supplying the Community market to endeavour to achieve a negotiated allocation of the first two tariff quotas. The Commission should also be granted authority to lay down rules for the management of the tariff quotas established by this Regulation.

(Amendment 8)

Article 16(1)

Articles 16 to 20 of this Title shall apply to imports of fresh products falling with CN code ex 0803 00 19 up to the entry into force of the rate of the common customs tariff for those products, no later than 1 January 2006, established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade.

Articles 16 to 20 of this Title shall apply to imports of fresh products falling with CN code ex 0803 00 19 for a period of at least ten years.

(Amendment 9)

Article 16(2)

Until the entry into force of the rate referred to in paragraph 1, imports of the fresh products referred to in paragraph 1 shall be under the tariff quotas opened by Article 18.

Imports of the fresh products referred to in paragraph 1 shall be under the tariff quotas opened by Article 18.

(Amendment 10)

Article 18(2)

Imports under tariff quotas 'A' and 'B' shall be subject to customs duty of EUR 75 per tonne.

Imports under tariff quotas 'A' and 'B' shall be subject to customs duty of EUR 75 per tonne for quota 'A' and EUR 275 per tonne for quota 'B'.

(Amendment 11)

Article 18(3)

By derogation from Article 15, imports under tariff quota 'C' shall be subject to the duty referred to in that Article less a reduction which may be determined by tender.

Delete

(Amendment 12)

Article 18(4)

A tariff preference of EUR 275 per tonne shall apply to imports originating in ACP countries both under and outside the tariff quotas.

A tariff preference of EUR 275 per tonne shall apply to imports originating in ACP countries outside the tariff quotas.

(Amendment 13)

Article 18(6)

The additional tariff quota provided for in paragraph 1(b) may be increased if demand in the Community increases as indicated by a balance sheet of production, consumption, imports and exports.

The additional tariff quota provided for in paragraph 1(b) may be increased or reduced if demand in the Community increases or decreases as indicated by a balance sheet of production, consumption, imports and exports.

(Amendment 14)

Article 19(1)

The tariff quotas may be managed in accordance with the method based on taking account of traditional trade flows ('traditionals/newcomers') and/or other methods.

The tariff quotas shall be managed in accordance with the method based on taking account of traditional trade flows ('traditionals/newcomers') and/or other methods. The method adopted shall not discriminate against any of the currently existing classes of operators working in the market. If the method used is the 'traditionals/newcomers' method, it must include the recent past.

(Amendment 15)  
Article 20(3)

Article 32 is deleted.

(Article 32 now reads)

No later than 31 December 2009, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Regulation, in tandem with appropriate proposals, if necessary, on the new regime to apply after 31 December 2010 including an analysis of the relevance and desirability of adopting an exclusively tariff-based system.

23 March 2000

# OPINION

of the Committee on Industry, External Trade, Research and Energy  
for the Committee on Agriculture and Rural Development

on the proposal for a Council regulation amending Regulation (EEC)  
No 404/93 on the common organisation of the market in bananas  
(COM(1999) 582 – C5-0277/1999 – 1999/0235(CNS))

Draftsman: Carlos Westendorp y Cabeza

## PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Carlos Westendorp y Cabeza draftsman at its meeting of 27 January 2000.

It considered the draft opinion at its meetings of 1 February 2000, 24 February 2000 and 22 March 2000.

At the last meeting it adopted the conclusions below by 31 votes to 24.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman and draftsman; Nuala Ahern and Peter Michael Mombaur, vice-chairmen; Gordon Adam (for Glyn Ford), Konstantinos Alyssandrakis, Maria del Pilar Ayuso González (for Concepció Ferrer I Casals), Alexandros Baltas, Pervenche Berès (for François Zimeray pursuant to Rule 153(2)), Eduard Beysen (for Astrid Thors), Guido Bodrato, Massimo Carraro, Gérard Caudron, Nicholas Clegg, Willy C.E.H. De Clercq, Charles de Gaulle (for Jean-Marie Le Pen), Claude J.-M.J. Desama, Harlem Désir, Colette Flesch, Michael Gahler (for W.G. van Velzen pursuant to Rule 153(2)), Norbert Glante, Alfred Gomolka (for Godelieve Quisthoudt-Rowohl), Malcolm Harbour, Dieter-Lebrecht Koch (for Giles Bryan Chichester pursuant to Rule 153(2)), Wolfgang Kreissl-Dörfler (for Nelly Maes), Werner Langen, Rolf Linkohr, Linda McAvan, Eryl Margaret McNally, Marjo Matikainen-Kallström, Angelika Niebler, Giuseppe Nisticò (for Umberto Scapagnini), Reino Kalervo Paasilinna, Yves Piétrasanta, Elly Plooij-van Gorsel, John Purvis, Imelda Mary Read, Christian Foldberg Røvsing, José Ignacio Salafranca Sánchez-Neyra (for Valdivielso de Cué pursuant to Rule 153(2)), Gilles Savary (for Mechtild Rothe), Ilka Schröder, Konrad K. Schwaiger, Esko Olavi Seppänen, Renate Sommer (for Renato Brunetta pursuant to Rule 153(2)), Claude Turmes (for Caroline Lucas), Anna Terrón i Cusí (for Erika Mann), Elena Valenciano Martínez-Orozco, Ari Vatanen (for Christos Folias pursuant to Rule 153(2)), Alejo Vidal-Quadras Roca, Dominique Vlasto and Teresa Zabell Lucas (for Paul Rübig pursuant to Rule 153(2)).

## INTRODUCTION

1. While working towards the completion of the single market, the European Union also had to harmonise its market in bananas. Before 1993, the sector was divided into national markets with very different trade regimes:
  - imports without any quantitative restriction or tariff protection (FRG) or else subject to a customs duty of 20% (Belgium, Denmark, Luxembourg and the Netherlands);
  - preferential access for exports from ACP States (France, Italy and the United Kingdom);
  - domestic market reserved for domestic production (France, Greece, Portugal and Spain).
2. The initial version of the common organisation of the market (COM) in bananas, which entered into force in 1993, provided for the free movement of bananas inside the single market, a system of aid to compensate Community producers for loss of revenue and a common regime for trade with third countries. In that regime, preferential access at zero duty for a quantity up to 857 700 tonnes was granted in respect of traditional imports from ACP States. A second tariff quota of 2.2 million tonnes at ECU 75 per tonne was opened for imports from third countries and for non-traditional imports from ACP States. That quota was increased by 353 000 tonnes in order to take account of the enlargement of the Union to include Austria, Finland and Sweden. Additional imports were subject to a customs duty of ECU 850 per tonne.
3. In March 1994, during the multilateral trade negotiations at the Uruguay Round, the EU concluded a framework agreement on trade in bananas with certain Latin American countries (Colombia, Costa Rica, Venezuela and Nicaragua). That agreement, which entered into force on 1 January 1995, provided for imports from those four countries to be subject to the preferential rate of ECU 75 per tonne; furthermore, in line with the tariff concessions agreed during the Uruguay Round, the out-of-quota bound tariff rate would be gradually reduced. For the current year, it is fixed at EUR 680 per tonne.
4. Ever since its introduction, the COM in bananas has been attacked in the World Trade Organisation (WTO) by third countries, especially by a number of producer countries in Latin America (Colombia, Costa Rica, Venezuela, Nicaragua, Ecuador, Honduras, Guatemala and Mexico) as well as by the United States as a trading country. In May 1997, a panel set up as part of the WTO's dispute settlement body found that some provisions of the trade regime in the COM in bananas contravened GATT rules, especially Article XIII thereof which prohibits discriminatory administration of quantitative restrictions. Conversely, other aspects were found to be in conformity with GATT, especially the quantities laid down in the quotas and the customs duty rates.

5. The EU was given 18 months in which to amend its trade regime. The revised COM in bananas which entered into force on 1 January 1999 amended the procedure for the distribution of import licences within the tariff quotas in order to take greater account of the interests of non-ACP third countries, whilst retaining preferential access for traditional imports from ACP States and without changing the quantities of the tariff quotas. The United States and Ecuador renewed their attack on the revised COM, since they deemed the changes made by the EU to the COM to be inadequate. Without waiting for WTO confirmation, the United States adopted retaliatory measures and imposed a customs duty of 100% on certain Community products for a value of USD 520 million. On 7 April 1999, a new WTO panel found that the new Community regime for banana imports was still not in conformity with GATT rules. At the same time, it estimated that the damage to US trade amounted to USD 191.4 million, the maximum amount the US could recover through its retaliatory measures. The European Union was once more required to amend its trade regime, the new deadline being 1 January 2000.
6. In its new proposal for the amendment of the COM in bananas, the Commission proposes the introduction, after a transitional period not exceeding six years, of a 'tariff-only' system for the protection of the Community market based exclusively on customs duty. During the transitional period, the EU would open three tariff quotas for imports from third countries at a rate of EUR 75 per tonne (an A quota of 2.2 million tonnes and a B quota of 353 000 tonnes) and at the bound rate of EUR 680 per tonne reduced by an abatement determined by means of the award of a contract (a C quota of 850 000 tonnes). ACP imports would be granted a tariff preference of EUR 75 per tonne (A and B quotas) and of EUR 275 per tonne (C quota). In the absence of any agreement between the principal producer countries, the Commission proposes a quota administration system based on traditional trade flows or on other unspecified methods. The rate of customs duty to be applied after the transitional period remains to be negotiated with our trading partners within the WTO, in accordance with the procedure laid down in Article XXVIII of the GATT.
7. If it is to attain the following objectives, the amendment of the COM in bananas must:
  - guarantee the marketing of Community production in the EU's single market. The 'tariff-only' system implies the establishment of a fairly high rate which the countries of Latin America would find hard to accept. Furthermore, in the near future, such a rate would be subject to the usual tariff reduction procedure. Only the system of tariff quotas can guarantee the competitiveness of Community producers and of those of most of the ACP States in the long term;
  - comply with the EU's international commitments and be in line with its development aid policy. In Protocol 5 annexed to the Convention of Lomé, the EU undertook to grant preferential access to ACP bananas. Here, too, only a system of tariff quotas with specific preferences for ACP States may enable that objective to be attained;
  - guarantee a reasonable consumer price. The total of the three tariff quotas taken together – about 4 million tonnes – will cover Community consumption. The impact on prices will therefore be limited. On the other hand, the

- introduction of a single, high rate of customs duty will result in a sharp increase in consumer prices within the EU;
- guarantee the income of Community farmers and minimise the budgetary impact of the reform. In the current system of tariff quotas, it is possible to finance from the Community budget the compensatory payments made to stabilise incomes of Community producers. The introduction of a 'tariff-only' system might result in a sharp increase in such payments, and that would cause serious budgetary problems;
  - introduce the new, revised system as soon as possible. An immediate revision of the COM in bananas, bringing it into line with the decisions of the various WTO panels, will result in the early abolition of the retaliatory measures taken by the United States.
8. Several banana-exporting countries which are members of the WTO recently came out in favour of the maintenance of a tariff quota system, on condition that the distribution of export licences was administered in accordance with a procedure accepted by the principal exporting countries.
9. All those considerations have prompted us to propose the following conclusions:

## **CONCLUSIONS**

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Agriculture and Rural Development, as the committee responsible, to take the following conclusions into account in its draft report:

- (a) The meeting in Seattle demonstrated the need for the World Trade Organisation to be reformed in such a way as to make it capable of meeting public requirements in the fields of the environment, security of supplies, social rights and sustainable development. The EU's position is, therefore, well-founded in law when it invokes the need to retain the original nature of its cooperation with the ACP States and the ultraperipheral regions in the organisation of the trade in bananas so as not to imperil their economies;
- (b) On the basis of the foregoing considerations, the Committee on Industry, External Trade, Research and Energy supports Amendments 1, 2, 8, 10, 12, 14, 15, 16, 17, 18 and 22 tabled by the rapporteur for the Committee on Agriculture and Rural Development;
- (c) However, it opposes Amendments 5, 6 and 7 tabled by the rapporteur for the Committee on Agriculture and Rural Development;
- (d) It supports the thinking behind Amendments 11, 20 and 21 tabled by the rapporteur for the Committee on Agriculture and Rural Development. However, in so doing, it emphasises the budgetary implications which might result from the adoption thereof;

- (e) It calls on the committee responsible, the Committee on Agriculture and Rural Development, to incorporate the following amendments in its report:

Text proposed by the Commission

Amendments by Parliament

(Amendment 1)  
Recital 1a (new)

(1a) When first established, the COM in bananas was based on a compromise which took due account of the interests of the various sources of supply while honouring the Union's earlier commitments, i.e. Community preference, preferential access for ACP States, and the GATT and GATS rules vis-à-vis third countries;

*Justification:*

*The aim of the COM in bananas was to deal at Community level with a number of different, and frequently contradictory, market requirements, whilst honouring the Union's commitments to the ACP States, which guaranteed them preferential access to their traditional markets, as well as its commitments under GATT and GATS within the WTO.*

(Amendment 2)  
Second recital

(2) Analysis of all the options presented by the Commission suggests that establishment in the medium term of an import system founded on the application of a customs duty at an appropriate rate and application of a preferential tariff to imports from ACP countries provides the best guarantees, firstly of achieving the objectives of the common organisation of the market as regards Community production and consumer demand, secondly of complying with the rules on international trade, and thirdly of preventing further disputes.

(2) Analysis of all the options presented by the Commission suggests that establishment of an import system founded on tariff quotas and the application of a customs duty at an appropriate rate and application of a preferential tariff to imports from ACP countries provides the best guarantees, firstly of achieving the objectives of the common organisation of the market as regards Community production and consumer demand, secondly of complying with the rules on international trade, and thirdly of preventing further disputes.

*Justification:*

*Since the 'tariff-only' system does not meet Community requirements, a transitional period will not be necessary. The tariff quota system must therefore be established without any limit in time.*

(Amendment 3)  
Fourth recital

(4) Until the entry into force of that regime, the Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota, the common customs tariff rate should be reduced in accordance with the most appropriate method, and the preferential tariff granted to the ACP countries must be applied.

(4) The Community should be supplied under several tariff quotas open to imports from all origins and managed in line with the recommendations made by the WTO's dispute settlement body. The first tariff quota of 2 200 000 tonnes at a rate of EUR 75 should be bound in the WTO. A second, additional tariff quota of 353 000 tonnes should be opened to cater for the increase in consumption resulting from enlargement of the Community in 1995, with the same rate applying. To ensure satisfactory supply to the Community, a third, autonomous tariff quota of 850 000 tonnes should be opened, also for all origins. Under this latter tariff quota, the preferential tariff granted to the ACP countries must be applied.

*Justification:*

*See the justification to Amendment 2. Furthermore, a reduction in the rate of customs duty on the C quota in accordance with a procedure involving the award of a contract would not guarantee the requisite protection for the Community market.*

(Amendment 4)  
Recital 7a (new)

(7a) The Communication dated 29 November 1999 from the Commission to the Council and the European Parliament on Fair Trade shall establish the framework for the promotion of 'fair-trade' operators.

(Amendment 5)  
Article 1(1)  
Article 16(1) (Regulation (EEC) No 404/93)

1. Articles 16 to 20 of this Title shall apply to imports of fresh products falling within CN code ex 0803 00 19 up to the entry into force of the rate of the common customs tariff for those products, no later than 1 January 2006, established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade.

1. Articles 16 to 20 of this Title shall apply to imports of fresh products falling within CN code ex 0803 00 19.

*Justification:*

*See justification to Amendment 2.*

(Amendment 6)  
Article 1(1a) (new)  
Article 20a (new) (Regulation (EEC) No 404/93)

1a. The following new article shall be inserted after Article 20a:

‘Article 20a

Special provisions shall be laid down in accordance with the procedure set out in Article 27 for bananas produced by organic farming methods pursuant to Regulation (EEC) No 2092/91 and certified as such by independent control bodies in accordance with EN 45011.

A strict system of compliance with Regulation (EEC) No 2092/91 shall be applied in the case of bananas and products manufactured therefrom which come from traditional ACP quotas, ACP States or third countries.’

*Justification*

*Compliance with the provisions of Regulation (EEC) No 2092/91 provides producers with an opportunity to convert to sustainable production methods, to guarantee the marketing of products which are genuinely grown organically and to react to growing consumer demand for such products.*

(Amendment 7)  
Article 1(3)  
Article 32(1) (Regulation (EEC) No 404/93)

Article 32 is deleted.

1. No later than 31 December 2006, the Commission shall submit to the European Parliament and to the Council a report on the operation of this Regulation.

*Justification:*

*An assessment after a certain length of time (no later than 31 December 2006) would be desirable.*