



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.03.1999

COM(1999) 98 final

98/0014 (SYN)

Re-examined proposal for a

COUNCIL REGULATION (EC)

establishing a special framework of assistance for traditional ACP suppliers

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

The proposed regulation establishes a special framework of assistance for traditional ACP suppliers of bananas in order to assist these suppliers in improving their level of competitiveness so that they can maintain a presence on the EU market and ensure the continued viability of traditional ACP banana production.

The initial proposal for a regulation was presented by the Commission on 17 February 1998.

On the basis of a report by Mr Peter Liese, Parliament adopted 34 amendments in its first reading on 19 June 1998.

On 6 October 1998, the Council adopted a common position. The Parliament acknowledged receipt of it on 5 November 1998.

On the basis of a report by Mr Peter Liese, Parliament adopted 15 amendments in its second reading on 28 January 1999.

Under Article 189 c (d) of the EC Treaty, the Commission is therefore obliged to re-examine its proposal and give an opinion on the amendments.

The Commission has accepted amendments 1, 2 and 3 that expand the recitals, defining more clearly the justification for the regulation.

The Commission has accepted the principle behind amendments 4, 5, 6, 10, 11, and 14 that all relate to fair trade, social and environmentally friendly production and diversification. However, it believes that the new wording included in the common position is sufficient to cover these issues.

The Commission has also accepted the principle behind amendment 20. It made some changes to the wording of the original proposal, which were adopted in the common position. The additional wording of the amendment is however superfluous and deemed unnecessary.

The Commission has rejected 5 amendments:

Amendment 12 because it is not necessary for specific wording to be included in the proposal requiring consultations with producer and farmers' organisations – these are a necessary consequence of the partnership approach to development policy with the ACP.

Amendment 13 because this is a proposal to assist ACP suppliers in improving the competitiveness of the banana sector, specifically social projects should not be funded from this budget line.

Amendment 16 because it considers that the wording of the common position - "the importance of banana production for the economy of the country concerned" reflects better the objectives of the regulation rather than references to the socio-economic impact of banana production. The other 2 new references (policy of regional integration and diversification of agricultural exports) are not easily measurable or verifiable.

Amendment 17 because the funds available are to be used to lead to improvements in competitiveness in the banana sector and their allocation should not be related to the size of enterprise involved. It believes that each project should be considered on its merits on the basis of a cost sharing approach principle where funding is directly granted to the private sector. Since each project should be assessed on a case by case basis, it would not be appropriate to ban multinational companies from the outset.

Amendment 18 because a transparent mechanism for implementing the package of assistance is an integral part of good working practice. Since the funds are not to be provided as direct compensatory aid to producers, the rest of this amendment falls.

The list of amendments rejected by the Commission is annexed.

Amendments rejected by the Commission

No	Common position of Council	Amendments by the Parliament
12	<p>Article 3(2) (a), indent 5</p> <p>- developing a production and/or marketing strategy to meet the requirements of the market in the Community in the light of the common organisation of the market in bananas</p>	<p>- developing and operating a production and/or marketing strategy, <u>in consultation with producer and farmers' organisations,</u> to meet the requirements of the market in the Community in the light of the common organisation of the market in bananas</p>
13	<p>Article 3(2)(a), indent 6</p> <p>assisting with training, market intelligence, the development of environment-friendly production methods, improving the distribution infrastructure and improving commercial and financial services to banana producers, in consultation with producer and farmers' organisations</p>	<p>assisting with training, market intelligence, the development of environment-friendly production methods, <u>implementing social projects relating to improvements in the working conditions and lives of workers,</u> improving the distribution infrastructure and improving commercial and financial services to banana producers, in consultation with producer and farmers' organisations,</p>
16	<p>Article 7</p> <p>Within the global amount available for a given year, the Commission shall fix the maximum amount available to each traditional ACP supplier for the financing of the programmes referred to in Article 3(2), on the basis of the competitiveness gap observed and taking into account the importance of banana production of the country concerned</p> <p>Where only programmes as defined in Article 3(2)(b) are implemented, the Commission will allocate an amount comparable to that given to the other traditional suppliers</p>	<p>I. Within the global amount available for a given year, the Commission shall fix the maximum amount available to each traditional ACP supplier for the financing of the programmes referred to in Article 3(2), on the basis of the competitiveness gap <u>vis-à-vis bananas from competing third countries</u> and taking into account the <u>socio-economic impact of banana production of the country concerned as well as the conditions relating to the policy of regional integration and diversification of agricultural exports</u></p> <p>Where only programmes as defined in Article 3(2)(b) are implemented, the Commission will allocate an amount comparable to that given to the other traditional suppliers</p>
17	<p>Article 7(1a) (new)</p>	<p>1a. <u>The funds available should primarily benefit small independent producers. Multinational firms, i.e. firms that operate banana plantations in more than one State, shall not be eligible for assistance under this Regulation</u></p>

No	Common position of Council	Amendments by the Parliament
18	Article 7a (new)	<u>The Commission shall undertake to implement a transparent technical and financial assistance mechanism enabling producers or producer organisations to pass aid on or to benefit from it as directly as possible</u>

Re-examined proposal for a
COUNCIL REGULATION (EC) No /98
of

establishing a special framework of assistance
for traditional ACP suppliers of bananas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular
Article 130w thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽²⁾,

⁽¹⁾ OJ C

⁽²⁾ Opinion of the European Parliament of
Journal), Council Common Position of
Journal) and Decision of the European Parliament of
Official Journal).

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Whereas the European Union is bound by the undertakings it made to the ACP countries under the Lomé Convention, and more particularly its Protocol No 5, which seeks to guarantee maintenance for the ACP States of their advantages on the European market, access to that market in conditions that may not be less favourable than those that they have previously enjoyed, and improvement of production and marketing conditions for ACP bananas;

Whereas the Community banana regime and the trade preferences it involves are real instruments of development for a good many ACP countries;

Whereas the common organisation of the market in bananas established by Regulation (EEC) No 404/93 ⁽¹⁾ set the framework for continuing, on the Community market, the advantages enjoyed in the past by traditional ACP suppliers;

Whereas, in particular, the trade arrangements with third countries established by Title IV of that Regulation were designed to allow bananas produced by the ACP States which are traditional suppliers to the Community to be disposed of on the Community market providing an adequate income for the producers, in accordance with the Community's commitment set out above;

Whereas these trade arrangements have been amended by Regulation (EC) No 1637/98;

Whereas these modifications have substantially altered the market conditions for traditional ACP suppliers and might, in particular, harm the most disadvantaged suppliers;

Whereas particular efforts will thus be needed by traditional ACP suppliers to adapt to these new market conditions in order to maintain a presence on the Community market and to allow for the continuing viability of traditional ACP supplies;

⁽¹⁾ OJ L 47, 25.2.1993, p. 1. Regulation as last amended by Regulation (EC) No /98.

Whereas technical and financial assistance, additional to that provided for in the Fourth ACP-EC Convention, should therefore be granted to traditional ACP suppliers to enable them to adapt to new market conditions and in particular to improve competitiveness; whereas at the same time environment-friendly production and marketing methods which also respect social standards should be encouraged;

Whereas, as this assistance should relate to the special efforts required as a consequence of the new market conditions, objective criteria should be fixed to determine the extent of such assistance;

Whereas, in order to ensure the appropriateness of such assistance with regard to the objectives pursued, this assistance should be temporary and gradually and smoothly phased out;

Whereas, to facilitate implementation of these provisions, a procedure involving close cooperation between the Member States and the Commission should be established,

HAS ADOPTED THIS REGULATION:

Article 1

1. A special framework for technical and financial assistance is hereby established to assist traditional ACP suppliers of bananas to adapt to the new market conditions following the amendments made to the common organisation of the market in bananas by Regulation (EC) No 1637/98.

2. This special framework shall be implemented for a period not exceeding ten years starting on 1 January 1999.

Article 2

For the purposes of this Regulation:

- "traditional ACP suppliers" means the ACP countries listed in the Annex,
- "bananas" means fresh or dried bananas covered by CN code 0803, except for plantains.

Article 3

1. Traditional ACP suppliers shall be eligible for technical and financial assistance.
2. Technical and financial assistance shall be granted at the request of the ACP to contribute to the implementation of programmes aiming
 - (a) to improve competitiveness in the banana sector, in particular through:
 - increasing productivity, without causing damage to the environment,

improving quality, including phytosanitary measures,

- adapting production, distribution or marketing methods to meet the quality standards provided for in Article 2 of Regulation (EEC) No 404/93,
 - establishing producers' organisations which have as their objective the improvement of the marketing and competitiveness of their products and the development of systems for certifying environment-friendly production methods, including fair trade bananas,
 - developing a production and/or marketing strategy to meet the requirements of the market in the light of the Community's common organisation of the market in bananas,
 - assisting with training, market intelligence, the development of environment-friendly production methods including fair trade bananas, improving the distribution infrastructure and improving commercial and financial services to banana producers;
- (b) to support diversification where improvement in the competitiveness of the banana sector is not sustainable.

Article 4

The Commission shall decide on the eligibility of the programmes referred to in Article 3 after consultation with the traditional ACP suppliers concerned in accordance with the procedures laid down in Article 6. Special account will be taken of the individual circumstances of each ACP supplier, with particular regard to the need for specific solutions for Somalia. It shall also take into account the consistency of the envisaged programme with the general development objectives of the ACP State concerned and its coherence with regional cooperation with other banana producers, in particular the Community producers.

Article 5

1. The Commission shall be responsible for appraising, taking decisions on and managing operations conducted under this Regulation, in accordance with the budgetary and other procedures in force, notably those laid down in the Financial Regulation applicable to the general budget of the European Communities.
2. Decisions concerning any operation financed under this Regulation at a cost of over ECU 2 million, or any adjustment of such an operation involving an increase of more than 20% in the amount initially agreed, and proposals for fundamental amendments to be made as a result of difficulties which emerged in implementing projects which have already started, shall be adopted by means of the procedure laid down in Article 6.

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Where the overrun referred to in the first paragraph is more than ECU 4 million but less than 20% of the original commitment, the opinion of the Committee, as defined in Article 6, shall be sought by simplified and accelerated procedures.

The Commission shall inform the Committee succinctly of financing decisions it intends to take concerning projects and programmes of a value of under ECU 2 million. Such information shall be given at least one week before the decision is taken.

3. All financing agreements or contracts concluded under this Regulation shall provide for on-the-spot checks by the Commission and the Court of Auditors in accordance with the usual arrangements established by the Commission pursuant to the rules in force, in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

4. Where operations give rise to financing agreements between the Community and the recipient country, such agreements shall stipulate that taxes, duties and charges shall not be borne by the Community.

5. Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons in the Member States, the recipient country and the ACP States. Participation may be extended to include other developing countries in duly substantiated cases and in order to ensure the best cost-effectiveness ratio.

6. Supplies shall originate in the Member States or the ACP States. In duly substantiated exceptional cases, they may originate in other developing countries.

7. Particular attention will be given to:

- the pursuit of cost effectiveness and sustainable impact in project design;
- the clear definition and monitoring of objectives and indicators of achievement for all projects.

8. The assistance provided for under this Regulation shall complement and reinforce assistance provided under other instruments of development cooperation.

Article 6

1. The Commission shall be assisted by the geographically determined committee competent for development, consisting of representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.
- (b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 7

1. Within the global amount available for a given year, the Commission shall fix the maximum amount available to each traditional ACP supplier for the financing of the programmes referred to in Article 3(2), on the basis of the competitiveness gap observed and taking into account the importance of banana production of the country concerned. Where only programmes as defined in Article 3(2)(b) are implemented, the Commission will allocate an amount comparable to that given to the other traditional suppliers.
2. From the year 2004 and for each subsequent year thereafter, a maximum reduction coefficient of 15% shall be applied to the level of assistance made available to individual traditional ACP suppliers. Where programmes defined under Article 3(2)(a) are implemented, this reduction coefficient shall be reduced to the same extent that an increase in competitiveness has been observed compared to the previous year.

3. Detailed rules will be established by the Commission in accordance with the procedure laid down in Article 8.

Article 8

1. Detailed rules for the application of this Regulation shall be laid down by the Commission.

2. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission.

3. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 9

By 31 December 2000, and every two years thereafter, the Commission shall present a report, accompanied if appropriate by proposals, on the operation of this Regulation to the European Parliament and the Council.

Article 10

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

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

Done at Brussels,

For the Council
The President

16

List referred to in Article 2(1)

Traditional ACP suppliers of bananas

Belize
Cameroon
Cape Verde
Côte d'Ivoire
Dominica
Grenada
Jamaica
Madagascar
Saint Lucia
Saint Vincent and the Grenadines
Somalia
Suriname



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