

WORLD TRADE ORGANIZATION

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MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

EUROPEAN COMMUNITIES – THE ACP-EC PARTNERSHIP AGREEMENT

Decision of 14 November 2001

The Ministerial Conference,

Having regard to paragraphs 1 and 3 of Article IX of the Marrakech Agreement Establishing the World Trade Organisation (the "WTO Agreement"), the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956 (BISD 5S/25), the Understanding

Noting the assurances given by the Parties to the Agreement that they will, upon request, promptly enter into consultations with any interested member with respect to any difficulty or matter that may arise as a result of the implementation of the preferential tariff treatment for products originating in ACP States as required by Article 36.3, Annex V and its Protocols of the Agreement;

Noting that the tariff applied to bananas imported in the "A" and "B" quotas shall not exceed

- 3bis With respect to bananas, the additional provisions in the Annex shall apply.
4. Any member which considers that the preferential tariff treatment for products originating in ACP States as required by Article 36.3, Annex V and its Protocols of the Agreement is being applied inconsistently with this waiver or that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the implementation of the preferential tariff treatment for products originating in ACP States as required by Article 36.3, Annex V and its Protocols of the Agreement and that consultations have proved unsatisfactory, may bring the matter before the General Council, which will examine it

ANNEX

The waiver would apply for ACP products under the Cotonou Agreement until 31 December 2007. In the case of bananas, the waiver will also apply until 31 December 2007, subject to the following, which is without prejudice to rights and obligations under Article XXVIII.

- The parties to the Cotonou Agreement will initiate consultations with Members exporting to the EU on a MFN basis (interested parties) early enough to finalize the process of consultations under the procedures hereby established at least three months before the entry into force of the new EC tariff only regime.
 - No later than 10 days after the conclusion of Article XXVIII negotiations, interested parties will be informed of the EC intentions concerning the rebinding of the EC tariff on bananas. In the course of such consultations, the EC will provide information on the methodology used for such rebinding. In this regard, all EC WTO market-access commitments relating to bananas should be taken into account.
 - Within 60 days of such an announcement, any such interested party may request arbitration.
 - The arbitrator shall be appointed within 10 days, following the request subject to agreement between the two parties, failing which the arbitrator shall be appointed by the Director-General of the WTO, following consultations with the parties, within 30 days of the arbitration request. The mandate of the arbitrator shall be to determine, within 90 days of his appointment, whether the envisaged rebinding of the EC tariff on bananas would result in at least maintaining total market access for MFN banana suppliers, taking into account the above-mentioned EC commitments.
 - If the arbitrator determines that the rebinding would not result in at least maintaining total market access for MFN suppliers, the EC shall rectify the matter. Within 10 days of the notification of the arbitration award to the General Council, the EC will enter into consultations with those interested parties that requested the arbitration. In the absence of a mutually satisfactory solution, the same arbitrator will be asked to determine, within 30 days of the new arbitration request, whether the EC has rectified the matter. The second arbitration award will be notified to the General Council. If the EC has failed to rectify the matter, this waiver shall cease to apply to bananas upon entry into force of the new EC tariff regime. The Article XXVIII negotiations and the arbitration procedures shall be concluded before the entry into force of the new EC tariff only regime on 1 January 2006.
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