COUNCIL REGULATION (EC) No 2286/2002

of 10 December 2002

on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Pending ratification by the Member States of the European Community and the ACP States of the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000, hereinafter referred to as the 'Cotonou Agreement' ([1]), early application of this Agreement is provided for by Decision No 1/2000 of the ACP-EC Council of Ministers of 27 July 2000 regarding transitional measures valid from 2 August 2000 until the entry into force of the ACP-EC Partnership Agreement ([2]).

(2) In order to facilitate the transition to the new trading arrangements, and in particular the Economic Partnership Agreements, the non-reciprocal trade preferences applied under the Fourth ACP-EC Convention should be maintained during the preparatory period until 31 December 2007 for all ACP States, under the conditions defined in Annex V to the Cotonou Agreement.

(3) For agricultural products originating in the ACP States and listed in Annex I to the Treaty or subject to specific rules as a result of the implementation of the common agricultural policy, Article 1(a) of Annex V to the Cotonou Agreement provides for a more favourable treatment than that granted to third countries benefiting from the most-favoured-nation clause for the same products.

(4) In Declaration XXII to the Cotonou Agreement concerning agricultural products referred to in Article 1(a) of Annex V, the Community declared that it will take all the measures required to ensure that the corresponding agricultural regulations are adopted in good time.

(5) It should be specified that the advantages resulting from Annex V to the Cotonou Agreement are granted only to originating products within the meaning of its Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation.

(6) For reasons of simplification and transparency, a complete list of the products concerned and the specific import provisions applicable to them should be contained in an Annex, with references to tariff quotas, tariff ceilings or reference quantities contained in a separate Annex.

(7) There have traditionally been trade flows from the ACP States to the French overseas departments and measures should therefore be maintained to encourage the import of certain products originating in the ACP States into the French overseas departments to cover local consumption requirements, including consumption following processing. Provisions should also be made for altering the arrangements governing access to the markets for products originating in the ACP States referred to in Annex V to the Cotonou Agreement, particularly in the light of the said departments' economic development requirements.

(8) Although the tariff advantages resulting from Annex V to the Cotonou Agreement are calculated on the basis of rates laid down in the Common Customs Tariff, and in accordance with the rules governing it, they should be calculated on the basis of the autonomous duty where, for the products concerned, that duty is lower than the conventional duty.

(9) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([3]).

(10) It should be stipulated that the rules on safeguard measures provided for in Council Regulation (EC) No 2285/2002 on the safeguard measures provided for in the ACP-EU Partnership Agreement and repealing Regulation (EEC) No 3705/90 ([4]) apply to the products covered by this Regulation.

(11) Since this Regulation is to replace Council Regulation (EC) No 1706/98 of 20 July 1998 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 715/90 ([5]), that Regulation should be repealed.

([1]) OJ L 317, 15.12.2000, p. 3.
([2]) OJ L 195, 1.8.2000, p. 46.
([3]) OJ L 184, 17.7.1999, p. 23.
([4]) See page 3 of this Official Journal.
([5]) OJ L 215, 1.8.1998, p. 12.

(12) As this Regulation implements international commitments, which the Community has already made, the Regulation enters into force on the day following that of its publication in the *Official Journal of the European Communities*,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. This Regulation shall apply to the import of products originating in the ACP States, parties to the Cotonou Agreement.

2. The rules of origin applicable to the products referred to in paragraph 1 shall be those in Protocol 1 of Annex V to the Cotonou Agreement.

3. Agricultural products originating in the ACP States shall be imported under the arrangements of Annex I to this Regulation, subject to the specific arrangements contained in Annex II.

Article 2

Specific provisions regarding certain products in Annex I

1. For the purposes of the tariff ceilings and reference quantities referred to in Annex II the provisions of Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [1] shall apply.

2. If in the course of the calendar year the tariff ceiling, as provided for in Annex II, has been reached, the Commission may in accordance with the procedure in Article 7(2) adopt a Regulation re-establishing, until the end of the calendar year, the customs duties applicable to third countries in respect of imports of the products concerned. The duties applicable shall be reduced by 50 %.

3. If in the course of a calendar year imports of a product exceed the reference quantity, as referred to in Annex II, a decision may be taken by the Commission in accordance with the procedure in Article 7(2) to make the imports subject to a tariff ceiling equal to the reference quantity, having regard to the annual balance of trade in the product.

4. When reference is made to this Article, the duty reduction referred to in Annex I shall not be applied when the Community, in accordance with its Uruguay Round commitments, applies additional duties.

5. If an ACP State is not able to supply its annual allocation within quota 18, as provided for in Annex II, as a result of an actual or foreseeable decline of its exports due to a disaster such as drought, or cyclone or due to animal diseases and it does not wish to benefit from the possibility of delivery in the current or following calendar year, it may request, by 1 September of each calendar year at the latest, to reallocate the relevant quantities among the other States concerned, up to the limit of 52 100 tonnes, expressed in boneless meat.

A decision on this request for reallocation shall be taken in accordance with the procedure referred to in Article 6(2).

6. The tariff quotas Q9, Q10, Q13a, Q13b, Q14, Q15, Q16 and Q17 referred to in Annexes I and II shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

7. Where, in the course of a year, imports into the Community of products falling within CN codes 0201, 0202, 0206 10 95, 0206 29 91, 1602 50 10 or 1602 90 61, originating in an ACP State exceed, during a year, a quantity equivalent to the quantity of imports into the Community during whichever year between 1969 and 1974 Community imports of products of that origin were highest, plus an annual growth rate of 7 %, exemption from customs duties on the products of that origin shall be partially or totally suspended.

Article 3

French overseas departments

1. Subject to paragraphs 3 and 4, customs duties to products with CN codes 0102, 0102 90, 0102 90 05, 0102 90 21, 0102 90 29, 0102 90 41, 0102 90 49, 0102 90 51, 0102 90 59, 0102 90 61, 0102 90 69, 0102 90 71, 0102 90 79, 0201, 0202, 0206 10 95, 0206 29 91, 0709 90 60, 0712 90 19, 0714 10 91, 0714 90 11 and 1005 90 00 shall not be applied to imports into the French overseas departments of products originating in the ACP States or in the overseas countries and territories which are intended for use in the overseas departments and are released on the market there.

2. Customs duty shall not be applied to direct imports into the overseas department of Réunion of rice falling within CN code 1006, excluding rice for sowing falling within CN code 1006 10 10.

3. If imports into the French overseas departments of maize originating in the ACP States or in the overseas countries and territories exceed 25 000 tonnes in a calendar year and are causing or are likely to cause serious disturbances on those markets, the Commission shall, at the request of a Member State or on its own initiative, take the necessary measures.

Any Member State may, within three working days of notification of the measure taken by the Commission, refer that measure to the Council.

The Council, acting by a qualified majority, may take a different decision within one month.

[1] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

4. The exemption from customs duty for products from the French overseas departments falling within CN codes 0714 10 91 and 0714 90 11 shall apply within the limits of an annual quota of 2 000 tonnes.

5. Within the limits of an annual quantity of 8 000 tonnes, the customs duty fixed pursuant to Article 10(1) of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ([1]), shall not be applied to imports into the overseas department of Réunion of wheat bran falling within CN code 2302 30, originating in the ACP States.

Article 4

Tariff preferences

The tariff preferences provided for by this Regulation shall be calculated on the basis of the rates of the autonomous duty where, for the products concerned that duty is lower than the conventional duty as laid down in the Common Customs Tariff.

Article 5

Implementation

The measures necessary for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 6(2) or where appropriate in accordance with the procedure referred to in Article 7(2).

Article 6

Committee procedure

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 22 of Regulation (EEC) No 1766/92, or by the management committees instituted by the other Regulations on the common organisation of the market for the products concerned.

In the case of agricultural products covered by Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organisation of the market in certain products listed in Annex II to the Treaty ([2]) and products not covered by a common organisation of the markets, the Commission shall be assisted by the Management Committee for Hops instituted by Article 20 of Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organisation of the markets in hops ([3]).

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committees shall adopt their rules of procedure respectively.

Article 7

Customs Code Committee

1. The Commission shall be assisted, where necessary, by the Customs Code Committee instituted by Article 248a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([4]).

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 8

Safeguard measures

Council Regulation (EC) No 2285/2002 shall be applicable to the products covered by this Regulation.

Article 9

Repeal

Regulation (EC) No 1706/98 is hereby repealed.

Article 10

Entry into force

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

([1]) OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).
([2]) OJ L 151, 30.6.1968, p. 16. Regulation as last amended by Commission Regulation (EC) No 1272/2002 (OJ L 184, 13.7.2002, p. 7).
([3]) OJ L 175, 4.8.1971, p. 1. Regulation as last amended by Regulation (EC) No 1514/2001 (OJ L 201, 26.7.2001, p. 8).
([4]) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

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

Done at Brussels, 10 December 2002.

For the Council
The President
P. S. MØLLER

ANNEX I

List of products included in the arrangement referred to in Article 1(3)

CN Code: For reasons of simplification the products are listed in table form.

Description: Notwithstanding the rules for the interpretation of the Combined Nomenclature, the description of the products is considered as indicative, the tariff preferences scheme being determined by the coverage of the CN code. Where ex CN codes are indicated, the tariff preferences are determined by application of the CN code and description taken together.

Column C: Products for which the customs duties shall be entirely suspended.

Column D: Products for which the customs duties duty shall be reduced by 16%.

Column E: Products for which the "ad valorem"duty shall be reduced by 100%.

Column F: Products subject to the tariff quotas, tariff ceilings or reference quantities and provisions specified in Annex II.

Column G: The letters in this column refer as follows:
— a indicates that the products are subject to the provisions in Article 2(2),
— b indicates that the products are subject to the provisions in Article 2(3),
— c indicates that the products are subject to the provisions in Article 2(4),
— d indicates that the products are subject to the provisions in Article 2(5),
— e indicates that the products are subject to the provisions in Article 2(6).

Column H: The MFN duty shall be reduced by the amount in EUR/t or by the percentage number indicated.

CN code 2002	Description	C	D	E	F	G	H
0101	**Live horses, asses, mules and hinnies**	x					
0102	**Live bovine animals**						
0102 90 05	**Other than pure-bred breeding animals**			x	Q18	d	
0102 90 21				x	Q18	d	
0102 90 29				x	Q18	d	
0102 90 41				x	Q18	d	
0102 90 49				x	Q18	d	
0102 90 51				x	Q18	d	
0102 90 59				x	Q18	d	
0102 90 61				x	Q18	d	
0102 90 69				x	Q18	d	
0102 90 71				x	Q18	d	
0102 90 79				x	Q18	d	
0103	**Live swine**						
0103 91 10	Domestic swine, weighing		x				
0103 92 11	Sows, having farrowed at least once, weighing >= 160 kg		x				
0103 92 19	Other domestic swine		x				
0104	**Live sheep and goats**						
0104 10 30	Lambs 'sheep up to a year old'				Q1		
0104 10 80	Other sheep				Q1		