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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2686/94

of 31 October 1994

establishing a special system of assistance to 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),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189c of the Treaty (3),

Whereas Protocol 5 on bananas to the fourth ACP-EEC Convention provides that, in respect of its banana exports to the Community markets, no ACP State shall be placed, as regards access to its traditional markets and its advantages on those markets, in a less favourable situation that in the past or at present;

Whereas national market organizations have hitherto granted traditional ACP suppliers of bananas an outlet for their production on their traditional markets and enabled them to obtain from these markets an adequate income;

Whereas the common organization of the market in bananas established by Regulation (EEC) No 404/93 (4) sets the framework for continuing, on the Community market, the advantages enjoyed by traditional ACP suppliers, in accordance with the Community's commitment set out above;

Whereas risks exist nevertheless that the introduction of a new market organization and the need to adapt to it could jeopardize the continuing viability of ACP suppliers;

Whereas particular efforts will be needed to adapt to the new market conditions in order to take advantage of the opportunities offered;

Whereas the structure and the nature of the new market and the marketing efforts necessary to maintain a presence on this market represent new elements some of which neither the traditional ACP suppliers nor the operators handling this produce could reasonably foresee;

Whereas technical and financial assistance, additional to that provided for in the fourth ACP-EEC Convention, should therefore be provided to carry out programmes designed to assist producers to adapt to new market conditions and in particular to improve quality, to improve marketing and to improve competitiveness;

Whereas the new conditions prevailing on the market may result in temporary market disturbances, particularly in the sectors of the Community market traditionally supplied by the ACP States;

Whereas such disturbances could seriously affect the income of the ACP States from the market and therefore the continued viability of the production in question;

Whereas financial assistance should therefore be provided to permit the ACP States to remain on the market, until such time as the market stabilizes and a satisfactory economic return from the market can be received;

Whereas income support should be complementary to transfers under the export earnings stabilization system (Stabex) triggered by the same set of circumstances;

Wheras it is therefore appropriate to align calculation of income support with the calculation of Stabex transfers;

Whereas income support is granted each year for the preceding year and therefore this Regulation should apply as from 1 July 1993, the date Regulation (EEC) No 404/93 takes effect,

(1) OJ No C 344, 29. 12. 1992, p. 9.
(2) OJ No C 108, 19. 4. 1993, p. 39.
(3) Opinion of the European Parliament of 12 March 1993 (OJ No C 115, 26. 4. 1993, p. 266), Council common position of 11 July 1994 (OJ No C 232, 20. 8. 1994) and Decision of the European Parliament of 28 September 1994 (OJ No C 305, 31. 10. 1994).
(4) OJ No L 47, 25. 2. 1993, p. 1. Regulation as amended by Commission Regulation (EC) No 3518/93 (OJ No L 320, 22. 12. 1993, p. 15).

HAS ADOPTED THIS REGULATION:

Article 1

A special system of assistance to traditional ACP suppliers of bananas is hereby established. This assistance may consist of technical and financial assistance and/or of income support.

Article 2

For the purposes of this Regulation:

— 'traditional ACP suppliers' means the ACP States listed in the Annex,

— 'bananas' means fresh or dried bananas covered by CN code 0803, excepting plantains.

TITLE I

Technical and financial assistance

Article 3

1. Technical and financial assistance shall be provided to traditional ACP suppliers with a view to helping them adapt to the new market conditions following the establishment of a common organization of the market in bananas.

2. This technical and financial assistance shall be provided to contribute to the carrying-out of programmes in the banana sector to achieve one or more of the following objectives:

— to improve quality,

— to adapt production, distribution or marketing methods to meet the quality standards provided for in Article 2 of Regulation (EEC) No 404/93,

— to establish producers' organizations which have as an objective the improvement of the marketing and competitiveness of their products,

— to develop a production and/or marketing strategy to meet the requirements of the market in the Community in the light of the common organization of the market in bananas,

— to assist with training, market intelligence, the development of environmentally sound production methods, improving the distribution infrastructure, improving trade and financial services to banana producers and/or improving competitiveness.

3. Assistance may be given to programmes having similar objectives which are currently financed under the fourth ACP-EEC Convention or by the public authorities of the Member States parties to that Convention where such assistance would result in more rapid completion of the programme.

Article 4

The Commission shall decide on the eligibility of the programme and the level of assistance after consultation with the traditional ACP supplier concerned. It shall also take into account the consistency of the envisaged programme with the general development objectives of the ACP State concerned and its impact on regional cooperation with other banana producers, in particular the Community producers.

TITLE II

Income support

Article 5

1. Within the limits indicated in Article 15 (1) of Regulation (EEC) No 404/93, traditional ACP suppliers shall be eligible for income support.

2. Income support shall be paid where the reduction in income derived from exportation to the Community of bananas complying with the common standards is directly related to conditions prevailing on the market subsequent to the establishment of the common organization of the market in bananas.

Article 6

1. Income support shall be individually calculated for each traditional ACP supplier on the basis of the quantities exported to the Community during the year of application and the difference between the reference price and the actual price.

2. The reference price shall be the average price per tonne of bananas produced in the ACP State concerned and exported to the Community during the six calendar years preceding the entry into force of this Regulation, less the two years with the highest and the lowest figures.

The actual price shall be the average price per tonne of bananas produced in the ACP State concerned and exported to the Community during the envisaged year of application.

3. The statistics needed for the calculation of income support shall be those drawn up and published on Community imports by the Statistical Office of the European Communities.

4. Before 1 July of each year, the Commission shall determine the income support for the previous year after consultation with the ACP State concerned.

5. Exceptionally, and in particular during the first year of application of this Regulation, advances may be paid where there is a significant reduction in production income compared to that of the previous year or for any given year.

The need for and the level of such advances shall be determined by the Commission after consultation with the ACP State concerned.

TITLE III

General provisions

Article 7

1. Financial commitments made under Title I shall be in addition to any funds available for ACP States pursuant to the provisions of the fourth ACP-EEC Convention.

2. Financial commitments made under Title II shall be complementary to funds available under the system guaranteeing the stabilization of export earnings provided for in Articles 186 *et seq.* of the fourth ACP-EEC Convention. Title II therefore only entitles to payments of income support as far as transfers, made for identical quantities in accordance with Articles 186 *et seq.* of the fourth ACP-EEC Convention, do not entirely offset the effects of price decreases on the income of traditional ACP suppliers.

3. Payments of income support shall be used, in accordance with a framework of mutual obligations to be agreed between the traditional ACP supplier concerned and the Commission in each case, for the benefit of producers adversely affected by the loss of income and be used to enhance the economic viability of production.

4. (a) Where application of Title II gives rise to a transfer basis, the ACP State concerned shall, in the month following receipt of the notification referred to in Article 6 (4), send the Commission a substantial analysis of the sector recording the loss of earnings, the causes of the loss, the policies pursued by the authorities and the projects, programmes or operations to which the resources are to be allocated in accordance with the objectives set out in paragraph 3 hereof.

(b) Projects, programmes or operations to which the recipient ACP States undertake to allocate the transferred resources shall be examined jointly by the Commission and the ACP State concerned.

(c) Resources shall be used to support immediate operations to sustain the economic viability of production, or adjustment operations designed to restructure production and export activities, within the framework of any consistent reform policy in the banana sector.

Article 8

1. The granting of assistance as defined in Article 1 shall be subject to the designation by the ACP State concerned of a representative organization entitled to act and to receive payments on its behalf within the framework of this Regulation.

2. The representative organizations shall present the following characteristics :

(a) be composed entirely or mainly of producers of bananas in one or more traditional ACP suppliers ;

(b) pursue at least two of the following objectives :
- — improvement of the quality of the produce,
- — improvement of the quality of the distribution and marketing network,
- — improvement of the returns to producers,
- — improvement of the role of producers in the organization of the banana market.

3. The representative organization designated in accordance with paragraph 2 must be notified to the Commission.

Article 9

As far as necessary, detailed rules for the application of this Regulation shall be determined by the Commission in accordance with the procedure laid down in Article 10.

Article 10

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

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, if necessary by taking a vote.

The opinion shall be recorded in the minutes ; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 11

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

It shall apply with effect from 1 July 1993. It shall expire on 28 February 1996.

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

Done at Luxembourg, 31 October 1994.

For the Council
The President
K. KINKEL

ANNEX

LIST PROVIDED FOR IN THE FIRST INDENT OF ARTICLE 2

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