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COUNCIL REGULATION (EC) No 856/1999

of 22 April 1999

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

(OJ L 108, 27.4.1999, p. 2)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003	L 284	1	31.10.2003

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COUNCIL REGULATION (EC) No 856/1999

of 22 April 1999

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) Whereas the European Union is bound by the undertakings it made to the ACP countries under the Lomé Convention, and more particularly Protocol 5 thereof, 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;

(2) Whereas the common organisation of the market in bananas established by Regulation (EEC) No 404/93 [3] set the framework for continuing, on the Community market, the advantages enjoyed in the past by traditional ACP suppliers;

(3) Whereas, in particular, the trade arrangements with third countries established by Title IV of the said 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;

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

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

(6) 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;

(7) Whereas technical and financial assistance, additional to that provided for in the fourth ACP-EC Convention of Lomé, 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;

(8) 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;

(9) Whereas, in order to ensure the appropriateness of such assistance with regard to the objectives pursued, this assistance

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[1] OJ C 364, 25.11.1998, p. 14.

[2] Opinion of the European Parliament of 19 June 1998 (OJ C 210, 6.7.1998), Council Common Position of 5 October 1998 (OJ C 364, 25.11.1998) and Decision of the European Parliament of 28 January 1999 (not yet published in the Official Journal).

[3] OJ L 47, 25.2.1993, p. 1. Regulation as last amended by Regulation (EC) No 1637/98 (OJ L 210, 28.7.1998, p. 28).

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should be temporary and should be gradually and smoothly phased out;

(10) 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 of 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

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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 EUR 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.

Where the overrun referred to in the first paragraph is more than EUR 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 EUR 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 given 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.

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Article 6

1. The Commission shall be assisted by the geographically-determined committee competent for development.

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC [1] shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

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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 competitivity 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.

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Article 8

1. The Commission shall be assisted by the geographically-determined committee competent for development.

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

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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.

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[1] Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

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ANNEX

LIST REFERRED TO IN THE FIRST SUBPARAGRAPH 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