COUNCIL REGULATION (EC) No 416/2001

of 28 February 2001

amending Regulation (EC) No 2820/98 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 so as to extend duty-free access without any quantitative restrictions to products originating in the least developed countries

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) Article 6 of Council Regulation (EC) No 2820/98 of 21 December 1998 applying a multiannual scheme of generalised tariff preferences for the period 1 July 1999 to 31 December 2001 [1] provides for more favourable tariff treatment for the least developed countries.

(2) The Community's multiannual scheme of generalised tariff preferences has to be reviewed before the end of 2001 in order to decide what amendments are required for the last phase of the ten-year period of the scheme up to 2004.

(3) At the Singapore ministerial conference in December 1996 the World Trade Organisation (WTO) member countries pledged to carry out an action plan to improve access to their markets for products originating in the least developed countries.

(4) On 2 June 1997 the Council, on the basis of a Commission communication of 16 April 1997, adopted conclusions calling for the Singapore conclusions to be implemented by granting least developed countries not party to the Lomé Convention preferences equivalent to those enjoyed by signatories and, in the medium term, duty-free access for essentially all least developed country products.

(5) Regulation (EC) No 602/98 [2] granted least developed countries (LDCs) not party to the Lomé Convention preferences equivalent to those enjoyed by signatories to the Convention.

(6) Article 37(9) of the Partnership Agreement between the Members of the African, Caribbean and Pacific States, of the one part, and the European Community and its Member States, of the other part, signed at Cotonou (Benin) on 23 June 2000 and put into early application by Decision No 1/2000 of the ACP-EC Council of Ministers [3], states that, by the year 2000, the Community will start a process which, by the end of multilateral trade negotiations and at the latest 2005, will allow duty-free access for essentially all products from all LDCs, building on the level of the existing trade provisions of the fourth ACP-EC Convention.

(7) In the light of the real risk of the LDCs becoming increasingly marginalised in the world economy, the Community must go even further than these undertakings and grant all products from LDCs, except arms and munitions, duty-free access without quantitative restrictions immediately.

(8) In the light of the fact that the arrangements for the common organisation of the markets in sugar, rice and bananas are currently being revised or are due to be revised, the Regulations regarding these reforms will have to take account of duty-free access for the LDCs from the outset when they establish new general import arrangements.

(9) Provision should be made for free access for bananas through a process of progressive tariff elimination starting on 1 January 2002 and which is to result in full liberalisation on 1 January 2006, which is the date envisaged for the entry into force of the rate of the common customs tariff for fresh bananas established under the procedure provided for in Article XXVIII of the General Agreement on Tariffs and Trade pursuant to Council Regulation (EC) No 216/2001 of 29 January 2001 amending Regulation (EEC) No 404/93 on the common organisation of the market in bananas [4].

(10) Provision should be made for free access for rice and sugar through a process of progressive tariff elimination starting in 2006, when the current financial perspectives expire, and which is to result in full liberalisation in 2009.

In order to provide effective market access following the entry into force of this Regulation and until full liberalisation, duty-free tariff quotas should be opened for increasing quantities of rice and raw sugar originating in LDCs. The initial quantities of these global tariff quotas for the LDCs should be based on their best export levels to the Community in the recent past. In addition, a significant growth factor should be immediately applied

[1] OJ L 357, 30.12.1998, p. 1. Regulation as amended by Regulation (EC) No 1763/1999 (OJ L 211, 11.8.1999, p. 1).
[2] OJ L 80, 18.3.1998, p. 1.
[3] OJ L 195, 1.8.2000, p. 46.
[4] OJ L 31, 2.2.2001, p. 2.

and continue to be applied cumulatively every year until full liberalisation. Therefore, the tariff quota for rice should be opened at a level of 2 517 tonnes (husked-rice equivalent), and the tariff quota for sugar shall be opened at a level of 74 185 tonnes (white-sugar equivalent). Imports of sugar under the ACP-EC Sugar Protocol should be excluded from the above calculations so as to uphold the viability of this protocol.

In order to ensure adequate management of the liberalisation for sugar and rice, both the tariff elimination and the tariff quotas should be applied on the basis of the respective marketing years. The detailed rules necessary for implementing the tariff quotas should be decided upon by the Commission in accordance with the procedure laid down in Article 32 of Regulation (EC) No 2820/98.

(11) The special arrangements provided for in this Regulation with regard to market access for the least developed countries should be maintained for an unlimited period of time and not be subject to the periodic renewal of the Community's scheme of generalised preferences. Consequently, the date of expiry of the Community's current scheme should not apply to those arrangements nor, to the extent that they are applied in conjunction with them, to the other relevant provisions of Regulation (EC) No 2820/98.

(12) Technical amendments are needed to define more closely the scope of the provisions on the special drug prevention support measures in the light of the changes relating to the LDCs.

(13) It is necessary to add to the reasons for the possible provisional suspension of preferences, allowing the Commission to react swiftly when the Community's financial interests are at stake, massive increases in imports of products originating in the LDCs in relation to their usual levels of production and export capacity,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2820/98 is hereby amended as follows:

1. Article 1(2) shall be amended as follows:

'2. Without prejudice to Article 6, this Regulation shall apply to the products falling within Chapters 1 to 97 of the Common Customs Tariff, excluding Chapter 93, which are listed in Annex I. It shall apply only to the products listed in Annex VII on the conditions laid down in Article 7.';

2. Article 6 shall be replaced by the following:

'Article 6

1. Without prejudice to paragraphs 2 to 4, Common Customs Tariff duties on all products of Chapters 1 to 97, except those of Chapter 93, originating in the least developed developing countries listed in Annex IV, shall be entirely suspended.

2. Common Customs Tariff duties on the products of CN code 0803 00 19 shall be reduced by 20 % annually starting on 1 January 2002. They shall be entirely suspended as from 1 January 2006.

3. Common Customs Tariff duties on the products of tariff heading 1006 shall be reduced by 20 % on 1 September 2006, by 50 % on 1 September 2007 and by 80 % on 1 September 2008. They shall be entirely suspended as from 1 September 2009.

4. Common Customs Tariff duties on the products of tariff heading 1701 shall be reduced by 20 % on 1 July 2006, by 50 % on 1 July 2007 and by 80 % on 1 July 2008. They shall be entirely suspended as from 1 July 2009.

5. Until Common Customs Tariff duties are entirely suspended in accordance with the provisions of paragraphs 3 and 4, a global tariff quota at zero duty shall be opened for every marketing year for products of tariff heading 1006 and subheading 1701 11 10 respectively, originating in the least developed developing countries listed in Annex IV. The initial tariff quotas for the marketing years 2001/2002 shall be equal to 2 517 tonnes, husked rice equivalent, for products of tariff heading 1006 and 74 185 tonnes, white sugar equivalent, for products of subheading 1701 11 10. For each of the following marketing years, the quotas shall be increased by 15 % in relation to the quotas of the previous marketing year.

6. The Commission shall decide the implementation of the provisions referred to in paragraph 5 in accordance with the procedure laid down in Article 32.

7. The Commission shall, in close cooperation with the Member States, carefully monitor imports of rice, bananas and sugar.

Member States or any interested natural or legal persons shall inform the Commission, without delay, of any circumstances of which they are aware that could justify the adoption of a measure to suspend preferences. Where the Commission finds that there is sufficient evidence to establish that the conditions for temporary suspension of the preferences are met, all appropriate measures will be taken as quickly as possible.';

3. Article 7 shall be replaced by the following:

'*Article 7*

For the countries listed in Annex V, Common Customs Tariff duties shall be suspended in their entirety on the industrial products listed in Annex I falling within Chapters 25 to 97 of the Common Customs Tariff, excluding Chapter 93, and on the agricultural products listed in Annex VII, without prejudice to the procedure described in Article 31(3).';

4. Article 22(1)(d) shall be amended as follows:

'(d) fraud or failure to provide administrative cooperation as required for the verification of certificates of origin form A, or massive increases in imports into the Community of products originating in the countries listed in Annex IV in relation to their usual levels of production and export capacity.';

5. in Article 28:

— the following paragraph shall be inserted:

'2. Notwithstanding the provisions of Article 22 and paragraph 1 above, given the particular sensitivity of products of tariff headings 1006 and 1701, and CN code 0803 00 19, if imports of these products cause serious disturbance to the Community markets and their regulatory mechanisms, the Commission may suspend the preferences provided by this Regulation for the products concerned in accordance with the procedure set out below.'

— in consequence, current paragraphs 2 to 7 shall be renumbered 3 to 8;

6. Article 29(4) shall be amended as follows:

'4. Save as otherwise provided in the Annexes, with respect to products falling within Chapters 1 to 24, wherever customs duties comprise an *ad valorem* duty plus one or more specific duties, the preferential reduction shall be limited to the *ad valorem* duty. However, the exemption from customs duties provided for in Article 6 shall also apply to the specific duties. Where the customs duties comprise an *ad valorem* duty with a minimum and a maximum duty, the preferential reduction shall also apply to that minimum and maximum duty. Where they comprise more than one specific duty, the preferential reduction shall apply to all of these.';

7. the following paragraph shall be added to Article 35:

'3. The date of 31 December 2001, referred to in paragraph 2, shall not apply to the special market access arrangements for the least developed developing countries provided for in Article 6 nor, to the extent that they are applied in conjunction with those arrangements, to the provisions of Article 1(5) and (6), and of Titles III, IV and V.';

8. Annex VII shall be replaced by the text which appears in the Annex to this Regulation.

Article 2

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

It shall apply from 5 March 2001.

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

Done at Brussels, 28 February 2001.

For the Council

The President

A. LINDH

ANNEX

'ANNEX VII

CN code	Description of goods
	Live horses, other than pure-bred animals:
0101 19 90	– Other horses
0104 20 10	Live goats, pure-bred breeding animals (1)
0106 00 10	Live domestic rabbits
0106 00 20	Live pigeons
0205 00	Meat of horses, asses, mules or hinnies, fresh, chilled or frozen
	Edible offal, fresh, chilled or frozen:
0206 80 91	– of horses, asses, mules or hinnies
0206 90 91	
0208	Other meat and edible meat offal, fresh, chilled or frozen, except products of 0208 90 50
CHAPTER 3 (2)	FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC VERTEBRATES
0407 00 90	Birds' eggs, in shell, fresh, preserved or cooked, other than poultry eggs
0409 00 00	Natural honey
0410 00 00	Edible products and animal origin, not elsewhere specified or included
CHAPTER 5	OTHER PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED
CHAPTER 6 (3)	LIVE TREES AND OTHER PLANTS; BULBS, ROOTS, AND THE LIKE; CUT FLOWERS AND ORNAMENTAL FOLIAGE
0701	Potatoes, fresh or chilled
0706 90 30	Horseradish (*Cochlearia armoracia*), fresh or chilled
ex 0707 00 05	Cucumbers fresh or chilled, from 16 May to 31 October
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
	Other vegetables, fresh or chilled:
ex 0709 20 00	– Asparagus, from 1 October to 31 January
0709 30 00	– Aubergines (egg-plants)
0709 40 00	– Celery, other than celeriac
0709 51 30	– Chanterelles
0709 60 10	– Sweet peppers
0709 60 99	– Other
0709 90 70	– Courgettes
0709 90 90	– Other
ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen, except products of 0710 80 10

CN code	Description of goods
ex 0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, except products of 0711 20 10 and 0711 20 90
	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared:
0712 20 00	– Onions
0712 30 00	– Mushrooms and truffles
0712 90 05	– Potatoes, whether or not cut or sliced, but not further prepared
0712 90 30	– Tomatoes
0712 90 50	– Carrots
ex 0712 90 90	– Other, excluding olives
0713	Dried leguminous vegetables, shelled, whether or not skinned or split
0803 00 90	Bananas, including plantains, dried
0804 10 00	Dates, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried
0804 30 00	
0804 40 00	
	Citrus fruit, fresh or dried:
ex 0805 20	– Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids, from 15 May to 15 September
0805 30 90	– Limes (*Citrus aurantifolia*)
0805 40 00	Grapefruit
0805 90 00	– Other
	Melons (including watermelons) and papaws (papayas), fresh:
0807 11 00	– Watermelons
0807 19 00	– Other melons
0809 20 05	Sour cherries (*Prunus cerasus*), fresh
0809 40 90	Sloes
	Other fruit, fresh:
0810 20	Raspberries, blackberries, mulberries and loganberries
0810 30	Black-, white- or redcurrants and gooseberries
	– Fruits of the genus *Vaccinium*:
0810 40 30	– – Fruit of the species *Vaccinium myrtillus*
0810 40 50	– – Fruit of the species *Vaccinium macrocarpon* and *Vaccinium corymbosum*
0810 40 90	– – Other
0810 50 00	– Kiwifruit
0810 90 85	– – Other
0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter

CN code	Description of goods
0812	Fruit and nuts, provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
	Fruit, dried, other than that of heading Nos 0801 to 0806:
0813 10 00	– Apricots
0813 20 00	– Prunes
0813 30 00	– Apples
	– Other fruit:
0813 40 10	– – Peaches, including nectarines
0813 40 30	– – Pears
0813 40 50	– – Papaws (papayas)
0813 40 95	– – Other
	Mixtures of nuts or dried fruits of this chapter:
0813 50 12	– Fruit salads of dried fruit, other than that of heading Nos 0801 to 0806
0813 50 15	
0813 50 19	
ex 0813 50 31	– Mixtures exclusively of coconut, Brazil nuts, cashew nuts, areca (or betel) nuts or colanuts
ex 0813 50 91	– Mixtures of dried guavas, mangoes and mangosteens, papaws, tamarind, cashew apples, jackfruit, lychees or sapodillo plums
0901 12 00	Coffee, not roasted, decaffeinated
0901 21 00	Coffee, roasted
0901 22 00	
0901 90 90	Coffee substitutes containing coffee
0904 20 10	Sweet peppers, dried, neither crushed nor ground
0910 40 13	Thyme, other than wild thyme *(Thymus serpyllum)*, neither crushed nor ground
0910 40 19	Thyme, crushed or ground
0910 40 90	Bay leaves
0910 91 90	Mixtures of spices, crushed or ground
0910 99 99	Other spices, crushed or ground
ex 1008 90 90	Quinoa
1105	Flour, meal, powder, flakes, granules and pellets of potatoes
	Flour, meal and powder:
1106 10 00	– Of the dried leguminous vegetables of heading No 0713
1106 30	– Of the products of Chapter 8
ex CHAPTER 12	OIL SEEDS AND OLEAGINOUS FRUITS; MISCELLANEOUS GRAINS, SEEDS AND FRUIT; INDUSTRIAL AND MEDICINAL PLANTS; STRAW AND FODDER excluding sugar beet and sugar cane falling within subheadings 1212 91 and 1212 92
CHAPTER 13	GUMS, RESINS AND OTHER VEGETABLE SAPS AND EXTRACTS

CN code	Description of goods
	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared, excluding lard stearin and oleostearin for industrial uses
1503 00 19	
1503 00 90	
ex 1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified, excluding products of ex 1504 30 00 (whale oil or sperm oil)
1505	Wool grease and fatty substances derived therefrom (including lanolin)
1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified
1508	Ground-nut oil and its fractions, whether or not refined, but not chemically modified
1511	Palm oil and its fraction, whether or not refined, but not chemically modified
1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified
1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified
1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified
1515	Other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats and oils or their fractions of heading No 1516
1518 00	Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading No 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included
1521 90 99	Beeswax and other insect waxes, whether or not refined or coloured, other than raw
	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes:
1522 00 10	– Degras
1522 00 91	– Oil foots and dregs; soapstocks
	Other prepared or preserved meat, meat offal or blood
1602 20 11	
1602 20 19	
1602 41 90	
1602 42 90	
1602 49 90	
1602 50 31	
1602 50 39	
1602 50 80	

CN code	Description of goods
1602 90 31	
1602 90 41	
1602 90 69	
1602 90 72	
1602 90 74	
1602 90 76	
1602 90 78	
1602 90 98	
1603 00 10	Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates, in immediate packings of a net content of less than 20 kg
1604 (4)	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs
1605	Crustaceans, molluscs or other aquatic invertebrates, prepared or preserved
1702 50 00	Chemically pure fructose
1702 90 10	Chemically pure maltose
1704 (5)	Sugar confectionery (including white chocolate), not containing cocoa
CHAPTER 18	COCOA AND COCOA PREPARATIONS
CHAPTER 19	PREPARATIONS OF CEREALS, FLOUR, STARCH OR MILK, PASTRYCOOKS' PRODUCTS
CHAPTER 20	PREPARATIONS OF VEGETABLES, FRUIT, NUTS OR OTHER PARTS OF PLANTS
ex CHAPTER 21	MISCELLANEOUS EDIBLE PREPARATIONS, excluding sugar syrups falling within subheadings 2106 90 30, 2106 90 51, 2106 90 55 and 2106 90 59
ex CHAPTER 22	BEVERAGES, SPIRITS AND VINEGAR, excluding products falling within subheadings 2204 10 11 to 2204 30 10, 2206 00 10, 2208 40, 2208 90 11 and 2208 90 19
	Bran, sharps and other residues, whether or not in the form of pellets derived from the sifting, milling or other working of cereals or of leguminous plants:
2302 50 00	– Of leguminous plants
	Preparations of a kind used in animal feeding:
2309 10 90	– Dog or cat food put up for retail sale, other than containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products
	– Other
2309 90 91	– – Beet-pulp with added molasses
2309 90 93	– – Premixtures
2309 90 95	– – Other
2309 90 97	
CHAPTER 24	TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

(1) Entry under this subheading is subject to conditions laid down in the relevant Community provisions.
(2) The duty is 3,6 % for shrimps of CN code 0306 13.
(3) For cut flowers of CN code 0603, the conditions laid down by Article 28(1) are deemed to be fulfilled when the quantities put into free circulation with preferential benefit in any year exceed the volume of imports from one of those countries into the Community corresponding to the figure half-way between the highest and the average quantity for the last four years for which statistics are available.
(4) For prepared and preserved tuna of CN codes 1604 14 11, 1604 14 18, 1604 14 90, 1604 19 39 and 1604 20 70, the examination of the conditions laid down by Article 29(1) shall be carried out for a particular country when the quantities put into free circulation with preferential benefit, originating in that country, exceed the average annual quantity of its exports to the Community of the products concerned over the last three years.
(5) The specific duty for products falling within CN codes 1704 10 91 and 1704 10 99 shall be limited to 16 % of the customs value.'