



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**THE EU BANANA
REGIME:
EVOLUTION AND
IMPLICATIONS OF ITS
RECENT CHANGES**

INTA

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

**THE EU BANANA REGIME:
EVOLUTION AND IMPLICATIONS OF ITS RECENT
CHANGES**

Abstract

The study first surveys the key issues resulting from the long banana dispute at the WTO. It distinguishes 3 phases in the attempt by the EC to design an EU-wide and WTO-compatible banana import regime: the first (1993-1999) in which the first regime applicable to all EU member countries was introduced and challenged in WTO, and the first modifications made with changes to the methods for delivery of import licenses; the second phase (1999-2005) when the future regime was negotiated and the transition to a 'tariff only' regime began; the last phase (2006-to date) with the signing of the EPAs and the 'Geneva agreement' of 2009. The second part of the study looks at the possible implications of these recent changes, suggesting that their net effects are expected to be positive for ACP countries, slightly negative for Latin American countries, and indifferent for EU producers, which are unaffected due to the decoupled payment system now used for most production. The recent EU bilateral agreements with some Latin American banana producers further erode the preferential access of ACP producers and of other Latin American exporters to the EU, which are all expected to experience a limited decline in their relative competitiveness in the EU market. The main adjustment costs are likely to be borne by the Caribbean exporters, which will need to receive the majority of the support envisaged by the EU through the bananas accompanying measures to help banana exporters to adapt to the changes in the EU's import regime. These resources should be allocated across countries according to the expected losses in terms of banana exports and production, taking into account the lessons from previous similar schemes, including the SFA, STABEX, the support for sugar producers and the EU Rum Programme.

This study was requested by the European Parliament's Committee on International Trade.

AUTHORS:

CALÌ, Massimiliano, Overseas Development Institute, United Kingdom
ABBOTT, Roderick, LSE/ECIPE, UK
PAGE, Sheila, Overseas Development Institute, United Kingdom

ADMINISTRATOR RESPONSIBLE:

Roberto BENDINI / Dominique DELAUNAY
Directorate-General for External Policies of the Union
Policy Department
WIB 06 M 055 / WIB 06 M 053
rue Wiertz 60
B-1047 Brussels

LINGUISTIC VERSIONS

Original: EN - Translation: FR

ABOUT THE EDITOR

Manuscript completed on 14 octobre 2010.
© European Parliament, [2010]
Printed in [Belgium]

The study is available on the Internet at

<http://www.europarl.europa.eu/activities/committees/studies.do?language=EN>

If you are unable to download the information you require, please request a paper copy
by e-mail : xp-poldep@europarl.europa.eu

DISCLAIMER

Any opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

Reproduction and translation, except for commercial purposes, are authorised, provided the source is acknowledged and provided the publisher is given prior notice and supplied with a copy of the publication.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
PART I OF THE STUDY: THE EVOLUTION OF THE EU BANANAS REGIME	7
1 GENERAL OVERVIEW OF 1993 EC IMPORT REGIME FOR BANANAS	7
1.1 Introduction	7
1.2 The general trade context	7
1.3 The 1993 regime	7
2 MODIFICATIONS OF THE REGIME: 1998 AND BEYOND	13
2.1 Changes were made in 1998 after first WTO reports found the 1993 regime inconsistent with EC obligations under the GATT 1994, and under GATS.	13
2.2 In 1999 a compliance panel found that the 1998 changes were insufficient.	13
2.3 In 2001-2005 bilateral agreements were negotiated, and further changes made; in the WTO tariff negotiations under Article XXIV: 6; the EU was required to 'unbind' the previous commitments.	13
2.4 In 2006 new duty rates were set following adoption of a 'tariff only' regime.	14
2.5 The 'Geneva Agreement on Trade in Bananas'.	15
3 DOCUMENTARY SOURCES FOR WTO DISPUTE REPORTS	17
4 ANNEX TO PART I	18
4.1 More extensive history of the evolution of the EU bananas regime	18
4.2 Characteristics of the previous EC banana import regime.	18
4.3 Changes made with the new regime in 1993	20
4.3.1 Common External Tariff: customs duty rates	20
4.3.2 Distribution of quotas and licensing arrangements	21
4.4 Modifications to the 1993 regime in 1994-1995, prior to the WTO dispute process	22
4.5 The first WTO challenge	23
4.6 Compliance with WTO findings: 1998-99	24
4.7 From 1999 to 2006	26
5 APPENDIX 1	29
6 APPENDIX 2	31
PART II OF THE STUDY: THE POSSIBLE TRADE IMPLICATIONS OF THE NEW EU BANANA REGIME	32

7	INTRODUCTION	32
8	THE BANANAS EXPORT MARKET	32
8.1	The EU market for bananas	34
9	CHANGES IN THE EU IMPORT REGIME	37
10	EVALUATING THE IMPACT OF THE REGULATORY CHANGES IN THE EU BANANAS REGIME	38
10.1	Visible import changes in early 2010	39
10.2	Review of simulation results	42
10.3	The effects of bilateral agreements	46
10.4	Overall impact on producers	46
11	POLICY IMPLICATIONS	48
12	CONCLUSIONS	51
13	REFERENCES (FOR PART II)	52

EXECUTIVE SUMMARY

The complex preferential system regulating access to the EU banana market has produced one of the longest trade disputes in modern history. The recent reforms have streamlined the system of preferences and are also set to reduce long standing preferential margins for certain countries. This study aims to track the evolution of the EU banana regime from the 1990s until the most recent changes (Part I), and to assess the extent to which these changes affect the various banana exporters to the EU (Part II).

The first part of the study surveys the key issues resulting from the long banana dispute at the WTO. There are a number of issues that arose in the course of the different stages of the dispute; but perhaps the most important one – running like a thread through the whole history of the dispute - is whether trade measures to support specific countries remains possible in the context of WTO rules.

The 1993 regime and the disputes to which it gave rise are at the confluence of three different strands of EC policy: they can be seen in the context of internal trade policy (the Single Market), or from the angle of international trade rules (the WTO), or as part of European development/aid policy. The view you take of the banana regime, the weaknesses in the policy adopted or its strengths, will depend on your vantage point.

The study distinguishes three phases in the attempt by the EC to design an EU-wide and WTO-compatible banana import regime:

- First, between 1993 and mid-1999: the first regime applicable to all EU member countries was introduced and challenged in WTO, and the first modifications made; no basic changes to the shape of the regime (tariff quotas for MFN and for preferential trade) but the methods for delivery of import licenses were modified.
- Second, from mid-1999 through 2001 and until 2005: the bilateral agreements in 2001 were a key moment when the future regime was negotiated and the transition to a ‘tariff only’ regime was begun. The introduction of the new tariff was much more complicated than expected.
- Last, from January 2006 to date: further litigation in WTO was largely aimed at maintaining pressure on the EU to make its regime less discriminatory. This led to the ‘Geneva agreement’ of 2009, whereby the EU committed to reduce tariffs on bananas for non ACP MFN exporters in a series of gradual reductions until 2017. The EU’s EPA agreements with the ACP and FTAs with Colombia, Peru, and Central America consolidated a new regime.

The litigation over the legal compatibility of the EC arrangements was mainly in phase 1, whereas phase 2 was dedicated to negotiation with main partners and to tariff negotiation. Phase 3 saw further pressures on the EC to reduce the tariff, and the linkage between the Doha Round talks on tropical products and the banana tariff became the central issue.

The recent ‘Geneva agreement’ is part of a web of plurilateral and bilateral agreements that the EU has recently signed with the ACP countries (EPAs), with Latin American banana producers, with Colombia, Peru and Central American countries. The second part of the study looks at the possible implications of these changes on the basis of past trade data, of the review of simulations and of the dependence of the economies on export to the EU.

The analysis suggests that the adverse effect of the Geneva agreement for ACP countries is somewhat mitigated by the increase in EU imports and, for non-traditional ACP producers, by the positive effect of

the EPAs. The net effects of both EPAs and the Geneva Agreement are expected to be positive for ACP countries, slightly negative for Latin American countries, and indifferent for EU producers, who are unaffected in all scenarios due to the decoupled payment system now used for most production. The recent EU bilateral agreements with some Latin American banana producers further erode the preferential access of ACP producers and of other Latin American exporters to the EU, which are all expected to experience a decline in their relative competitiveness in the EU market. *Ceteris paribus*, they will export less to the EU and receive a lower price for their exports. However these effects should be contained as the increases in exports will come mainly from relatively small banana exporters (i.e. all but Colombia).

Among the ACP countries, we suggest that the ongoing changes in the EU bananas regime are likely to impose considerable adjustment costs, mainly on the Caribbean exporters. There will be limited costs for some African exporters (Cameroon and Cote d'Ivoire), but there are some indications that the latter may replace Caribbean exporters within the ACP group thereby not decreasing their level of exports to the EU in the future. Therefore it is the Caribbean countries that are likely to need and to receive the majority of the support envisaged by the EU to help banana exporters to "adapt to the effects of changes in the EU's import regime" (EC, 2010). To that end the European Commission has recently established a package of support – the Banana Accompanying Measures (BAM) – over a period of four years (2010-2013) with a total budget of €190 million.

It will be important to allocate the resources from the BAM across countries according to the expected losses in terms of banana exports and production. In addition a key decision will also have to be made in relation with the type of support to be provided. In principle there are three types of non-mutually exclusive types of interventions to address the challenges facing the banana production in the affected countries: those to improve efficiency of existing production, those to increase the value added locally, and those to help diversify away from banana production.

Whatever objectives will be pursued through this assistance, it will be crucial to take notice of the lessons from previous similar schemes, including the SFA, STABEX, support for sugar producers and the EU Rum Programme and not to repeat the mistakes that limited the effectiveness of these schemes.

PART I OF THE STUDY: THE EVOLUTION OF THE EU BANANAS REGIME

This first part of the study is complemented by an Annex which includes the fuller research study presenting the same material in greater detail. The Annex offers more analysis of the regime and of the problems that it encountered internationally at the WTO, with more technical and specific details on the tariff aspects (and preferences) as well as on licensing provisions and allocation of import licenses.

1 GENERAL OVERVIEW OF 1993 EC IMPORT REGIME FOR BANANAS¹

1.1 Introduction

The 1993 banana regime was a combination of tariff and tariff rate quota (TRQ) elements, which replaced the preceding regime based on the differing national systems with different objectives in the Member States. It combined pure tariffs, QRs and de facto prohibitions, and provisions for preferential trade. There were so many detailed and complicating factors which attached to the new regime, and especially to the way in which it was administered (by import licensing), that an overview in more general terms seems desirable in order to avoid being submerged in often contrasting and conflictual details.²

1.2 The general trade context

The 'normal' import regime – other things being equal – is that the entry of goods is subject to the payment of the applicable customs duty. The WTO philosophy follows economic theory in treating tariffs as the correct - 'least restrictive' – way to provide protection to domestic producers against import competition.

Where stricter control is considered necessary, with a fixed ceiling on the import volume to be admitted, quantitative restrictions (QRs) have often been used in the past. Art. XI of GATT 1994 in fact prohibits such QRs except in closely defined circumstances, such as balance of payments situations or to enforce laws against products for health or religious reasons.

As a variant on QRs, a tariff rate quota regime can be imposed. This allows a given quantity of imports to enter at lower rates of duty while imports beyond that level are discouraged by higher duties. The purpose is to control the volume of imports more flexibly than with a fixed ceiling.

1.3 The 1993 regime

¹ The study is full of references to inconsistency with "the WTO rules". This is shorthand, and should be understood to refer to the World Trade Organisation and to mean, for trade in Goods, the provisions of GATT 1994 and the 'covered agreements' which resulted from the Uruguay Round; and for trade in Services, the provisions of GATS (the General Agreement on Trade in Services).

² Among the complicating factors: in and out of quota duty rates, 'traditional' and non-traditional trade of ACP states, the Lomé Convention and EC obligations under it, country specific allocations of the TRQs, 'Hurricane licenses', operator criteria, activity functions, reference quantities etc etc

- As far as tariffs are concerned duty rates with a maximum of 20% (bound in WTO) were replaced by specific duties of 0 or 75 ECU/tonne within TRQs and by higher rates for amounts beyond those levels. Three separate TRQs were established - for preferential (ACP) trade which remained duty-free, for MFN (third country) imports, and for an additional quantity of MFN imports after the 1995 enlargement.³
- The MFN TRQ was set at 2 m. tonnes, rising to 2.2 m. in 1995, with a further 353,000 tonnes added in that year reflecting trade with Austria, Finland and Sweden. The ACP TRQ was set at 857,000 tonnes.
- TRQs require a way to allocate the allowed imports (see Annex). For this licensing, a complex structure was established, identifying 'operators' trading in MFN bananas and in ACP bananas separately, and dividing up licenses between primary importers and secondary activities such as customs clearance, warehousing and storage, and marketing.
- These licensing requirements created difficulties: they were too complex, with intricate linkages between different elements, and they had a direct impact on the established major suppliers. This led to the first complaints in WTO from third countries who challenged them as discriminatory and not providing the same treatment for all importers.
- In addition, in 1994, the EC signed the Banana Framework Agreement with Colombia, Costa Rica, Nicaragua and Venezuela, introducing further complications with specific country allocations for these countries within the main TRQ for MFN suppliers.⁴

Table 1 shows the customs duty regimes applied between 1993 and 2010 and more details can be found in the Annex. Box 1 details the origins of the EU Common Market Organisation for bananas.

What was the wider background to these changes? We can distinguish between legal factors and other factors related to various EC policies:

- First and foremost, the need to establish a common EC-wide import regime, applicable in all member states. The fact that individual regimes for some imports, including bananas, were still in force more than 30 years after the Treaty of Rome was an affront to EC principles and was a practical impediment to implementing the "1992 Single Market programme".
- Second, tariff and other changes had to be consistent with the rules of the GATT, later the WTO which came into being in 1995.
- Third, as a policy matter, the EC had an obligation to maintain the preferential treatment afforded to ACP states under the provisions of successive Lomé Conventions.
- Fourth, there was the internal policy need to support domestic production within the EC, although this is not competitive at world prices.
- Lastly, all this had to be done without serious interruptions of the trade affecting consumers, and without adding further to the EC budget – already under strain from agricultural expenditure.

³ MFN refers to the 'most favoured nation' principle which secures non-discrimination. ACP is the acronym for the African, Caribbean and Pacific states that are EC partners in the Lomé and other Conventions.

⁴ This followed challenges to the EC banana regimes by these same countries (and Guatemala) in GATT in 1992 and 1993, and was an effort to gain international support for the new regime by taking into account to some extent the commercial interests of non-ACP producers.

The new regime was designed to meet the various objectives indicated above. It was an example of 'managed trade' as were other market organised sectors in agriculture at that time. Critics of the regime then and since have called it a prime example of a protectionist policy in agriculture; but it might also be considered as a set of measures that were deeply discriminatory towards third countries and between some suppliers and others (MFN and ACP countries). It offered financial support to domestic producers rather than a guaranteed 20% share of the market; and in parallel it offered a degree of protection to ACP suppliers through preferential duty free access to EC markets. In addition the regime did not have the effect of killing the growth in the banana market: in 1989-1991 market size was about 2.6 million tonnes, rising to a peak of 3 million in 1992 and to 3.3 million in 1995 after enlargement. More complete data are given in the Annex.

In addition it was designed to promote the interests of small Caribbean producers, and even in some ways to encourage investment in and expansion of production in that region. The TRQ for ACP states was set higher than their recent aggregate trade level (it was later reduced), and some aspects of the licensing regime favoured importers from those sources.

Another feature that should be noted is that the new regime was introduced before the WTO had entered into force, together with the General Agreement on Trade in Services (GATS); but the regime would become subject to new obligations in the area of services from January 1995. This was of major significance in respect of the United States whose multinational companies were chiefly supplying services such as transport (shipping), warehousing and ripening, as well as marketing and distribution.

Another policy change which affected the details of the import regime, even before the WTO dispute process had begun was that following an earlier complaint in GATT (in 1993-94) and criticisms of the Lomé Convention in that report, the EC requested and obtained a waiver (hereafter 'the Lomé waiver') to legitimise the tariff preferences granted to ACP countries.

Table 1 on the following page traces the main elements of successive banana import regimes, showing the modifications that were made in 1998 and in 2001 in response to WTO rulings and in line with the bilateral agreements struck with the United States and Ecuador. Finally the Table includes the introduction of the tariff-only regime in 2006. Additional details of these changes in regime and the circumstances in which they became necessary are given in the pages that follow.

Box 1: The CMO (Common Market Organisation) for Bananas

Council Regulation (EEC) 404/93 of 13 February 1993 introduced not only a new EC-wide banana import regime, governing trade with all third countries, but also a Common Market Organisation which affected domestic producers and marketing of EC bananas. ⁽¹⁾

The main components of these internal provisions of the Regulation were: standards relating to the quality and marketing of the fruit, applicable to bananas from all sources, and provisions to set up and support producer organisations, with financial assistance to EC domestic farmers.

A first scheme of assistance was in force from 1994 to 1999, with an emphasis on setting up the producer organisations, to provide technical help with market intelligence and improving the quality of fruit for example, and on start-up aid. Due to the national regimes previously in force, no such organisations at EC level had existed.

The scheme also provided for 'compensation aid' to both organisations and to some individual producers who faced a drop in income under the new regime, within total quantities for each region

based on the average supplies sent in a recent three year period. The total quantity established in Reg. 404/93 was 854,000 tonnes. ⁽²⁾ This continued until 2003, when the compensation elements were incorporated into a 'single payment scheme' under Reg. (EC) 1782/2003. (The assistance to producer organisations was later terminated in December 2006.)

The Commission issued a report in 2005 on the functioning of the CMO for bananas since 1999. This took into account the enlargement to 25 members in 2004, and the utilisation of import licenses between ACP states and third countries (from 1999 a separate Framework of Assistance for ACP states had also been set up). The report analysed the supply from all origins to the market, as well as the main trends: EC production had increased, and banana consumption also rose. See COM (2005) 50.

Since January 2007 the POSEI programme (the French acronym for the '**Programme d'options spécifiques à l'Eloignement et à l'Insularité**') has been in application as the main **vehicle for assisting producers in the outlying regions of the EU.**

⁽¹⁾ Banana production in the EC is in peripheral areas such as the Canary Islands, the Azores and Madeira, Martinique and Guadeloupe, as well as in Crete.

⁽²⁾ Article 12 in general, and for the quantities, paragraph 2

Table 1: Changes in the EU bananas regime, 1993-2010

	Initial Regime of 1993 (1 July 1993)	1995 Reforms (Banana Agreement) (1 January 1995)	1998 Reforms (1 January 1999)	Regime of 2001: Phase 1 (1 July - 31 December 2001)	Regime of 2001: Phase 2 (1 January 2002 - 1 January 2006)	Regime of 2006 (1 Jan. 2006 - 1 Jan. 2010)
Quantities imported from traditional ACP suppliers	Tariff quota of 857,700 tonnes free of customs duties. These were split on a country-specific basis.	Tariff quota of 857,700 tonnes free of customs duties. These were split on a country-specific basis.	Tariff quota of 857,700 tonnes free of customs duties. No longer split on a country-specific basis.	There were 3 quotas: Quota A - 2.2 million tonnes Quota B - 353,000 tonnes Quota C - 850,000 tonnes with Quotas A and B managed as one.	3 quotas but with a transfer of 100,000 tonnes from C to B : Quota A - 2.2 million tonnes Quota B - 453,000 tonnes Quota C - 750,000 tonnes	Imports from third countries (MFN) subject to duty of €176 per tonne but with no tariff quota. Tariff quota of 775,000 tonnes maintained for ACP imports (but this was abolished in December 2007).
Traditional ACP exports in excess of quota	Tariff quota of 2.0 million tonnes. Within this, ACP exports were duty-free whilst third-country exports faced a specific tariff of 100 ECU/tonne (equivalent to 24% <i>ad valorem</i> at 1992 unit values)	Tariff quota of 2.2 million tonnes divided into: - 49.4% for Costa Rica, Colombia, Nicaragua and Venezuela; - 50.6% less 90,000 tonnes for the other countries;	Tariff quota of 2.2 million tonnes divided into: - 26.17% for Ecuador; - 25.61% for Costa Rica; - 23.03% for Colombia; - 15.76% for Panama;	Imports under A and B were subject to a specific tariff of €75/tonne. Imports under C were subject to a specific tariff of €300/tonne. Out-of-quota imports were subject to a	C is open to imports originating in ACP only. Imports under A and B were open to imports originating in all countries.	Imports from ACP countries are duty free.
Non-traditional ACP exports						
Third-country exports		specifically allocated, of which more than half was to the Dominican Republic.				

Within this, ACP exports were duty-free

<p>Non-traditional ACP exports and third-country exports in excess of quota</p>	<p>Subject to specific tariffs of 750 ECU and 850 ECU/tonne (equivalent to 180% and 204% <i>ad valorem</i>, respectively at 1992 unit values)</p>	<p>Introduction of an autonomous (EU discretionary) quota of 353,000 tonnes to allow for EU enlargement.</p>	<p>free. Duties on non-ACP sources under the bound and autonomous quota were 75 Euro/tonne. Quota of 353,000 tonnes to account for EU enlargement becomes permanent.</p>	<p>to a specific tariff of €680/tonne. A tariff preference of €300/tonne applied to imports originating in ACP countries both under and outside any of the three quotas effectively rendering them duty-free when imported within the quotas.</p>	<p>specific tariff of €75/tonne. ACP bananas are duty free. Imports under C are duty free. Out-of-quota imports subject to a specific tariff of €680/tonne.</p>	
--	---	--	---	--	---	--

2 MODIFICATIONS OF THE REGIME: 1998 AND BEYOND

2.1 Changes were made in 1998 after first WTO reports found the 1993 regime inconsistent with EC obligations under the GATT 1994, and under GATS.

After the first panel report and the appeal in 1997, the 1993 regime was found to be inconsistent with WTO in many respects. In particular,

the detailed provisions which introduced ‘operator categories’ and activity functions’ in connection with allocations of import licenses, and the application of these rules to companies providing services to the banana market, were found to be discriminatory.

In consequence, during 1998 licensing regulations were greatly simplified, and more closely based on historical performance, while the country specific allocations within TRQs were eliminated, or in some cases modified, and based on the shares of the four principal suppliers in the market.

2.2 In 1999 a compliance panel found that the 1998 changes were insufficient.⁵

These changes were not enough to satisfy third countries. The EC found itself threatened with unilateral action by the USA, which would have been contrary to the WTO Dispute Settlement Understanding adopted in 1995. Ecuador on the other hand followed the multilateral track and asked for a new panel under the Article 21.5 procedure in January 1999.⁶

The compliance panel in due course found that the modifications made by the EC to its regime were not consistent with The WTO rules. In this review the Panel findings were based more on Article XIII, and in particular the standard that quantities for import under TRQs must be *‘approaching as closely as possible the shares which importing countries might be expected to obtain in the absence of such restrictions’*. This is a tough test to apply. More details on the Panel’s findings can be found in the Annex.

On the basis of this report, the United States, and later Ecuador, sought authorisation from the WTO to retaliate. Retaliation measures are one of the solutions available to the parties, in cases where the member condemned is unwilling to bring its measures into conformity within a reasonable period of time - which was the case. The idea is to match the damage caused by equivalent tariff or other concessions withdrawn. The intention of retaliation is not to be a substitute for compliance, but to bring pressure on the country breaking WTO rules to find a satisfactory solution.

2.3 In 2001-2005 bilateral agreements were negotiated, and further changes made; in the WTO tariff negotiations under Article XXIV: 6; the EU was required to ‘unbind’ the previous commitments.

From mid-1999 until early 2001 negotiations were carried on with the United States and Ecuador, culminating in two separate bilateral agreements. These foresaw certain immediate adjustments (a

⁵ This was in fact the first ever compliance panel to be established under the new Dispute Settlement provisions. A compliance panel is established under Article 21:5 of the DSU and its task is to consider complaints that a member has failed to comply with the rulings and recommendations issued at an earlier stage in the case.

⁶ The United States did not join Ecuador’s complaint, and pursued the path of unilateral retaliation. The EC threatened a complaint - If measures were adopted - for violation of the DSU, and the Americans decided ultimately to seek WTO authorisation for measures against the EC once the 21.5 panel had reported.

reduced TRQ for the ACP states); further changes in the past performance criteria for licensing during a transitional period; and “no later than 1st January 2006” a move to a tariff only regime. These agreements were reported in the WTO, and formed the basis for an extension of waivers from Articles I and XIII in November 2001, to maintain the preferential trade with the ACP states.

In order to eliminate the TRQs and introduce a new MFN tariff rate the EC had to renegotiate the binding in its WTO schedule. This proved lengthy, as discussion took place with all MFN suppliers as well as the ACP countries, and difficult as no agreement could be found on the level of duty that would be acceptable to all.⁷ After efforts through 2003 and 2004 the EC announced that it would introduce a new duty of €230/tonne on 1.1.2006. This led to requests by exporting countries for arbitration, in accordance with the terms of the 2001 waiver, and as a result of the negative findings of arbitrators the EC was obliged to reduce the duty to be applied. More details are given in the Annex.

2.4 In 2006 new duty rates were set following adoption of a ‘tariff only’ regime.

From 1st January 2006 the principal TRQs (for MFN suppliers) were abolished, and a new duty rate of €176/tonne was applied. The TRQ in favour of the ACP states was maintained for a further period, pending the outcome of negotiations for new Economic Partnership Agreements. (The TRQ was in fact eliminated in December 2007.) There was however another consequence of the two arbitration procedures: given the negative findings that were issued, the 2001 waiver of Article I was terminated as far as bananas were concerned, in accordance with the terms of the annex, and the legal cover for preferential treatment lapsed.

The new regime did not immediately lead to further action within the WTO, whether on the fact that preferences were no longer legal or on the maintenance of the TRQ for such trade. MFN suppliers were however assessing the position and several requests for consultations were made at a later date:

- In February 2007 Ecuador, followed in June by the United States, asked for a second Art. 21.5 panel on the grounds that the EC had not fully complied with the recommendations and rulings of the original panel and AB reports in 1997. The panel reported in 2008 and its report was appealed; .
- In addition, requests were made by Colombia and Panama which sought to start a new dispute (DS 361 and 364 dated March and June 2007. The procedure for good offices by the Director General was invoked, and discussions became linked to the outcome of Doha Round negotiations in the area of tropical products. This linkage led to additional complications alongside the pressures for further MFN tariff reductions; the banana discussion fell in the middle of a long established debate between countries that pressed for deeper and quicker tariff cuts – beyond the norm agreed for all products – and others resisting the erosion of preferences , mainly from the ACP group.
- This issue was never finally settled, although an agreement in principle between the EC and MFN supplying countries was reached at the time of Ministerial negotiations held in July 2008. The final panel and appellate review of the Ecuador and US dispute cases was completed and reported out in November 2008.

⁷ This became clear from submissions to the Arbitrators in 2005, where three different groups of exporting countries presented different arguments and proposals.

2.5 The 'Geneva Agreement on Trade in Bananas'.

During the preparatory period for a major Ministerial effort to conclude the Doha Round in July 2008, negotiations had taken place between the EC and MFN suppliers on a side agreement on bananas and an agreement in principle had been reached. After the Doha effort had collapsed, a disagreement had flared up, with some supplying countries arguing that the agreement in principle was a 'stand alone' deal and should be implemented on its own, while the EC and ACP argued that it was conditional on other elements in the Doha tropical products debate which was not yet concluded. Negotiations continued among all parties through 2009 and the 'Geneva Agreement' was announced in December of that year.⁸

Under this agreement – already being implemented – the MFN tariff on bananas is to fall by eight progressive steps from €176 to €114 per tonne, with this final rate to be reached on 1st January 2017. (There is a provision for a two year delay in these reductions if the Doha negotiations on market access are not settled before the end of 2013.) More importantly, however, the agreement achieved two other objectives: it removes the banana sector from the Doha negotiation on tropical products, since the MFN suppliers accept that this is the EU's final commitment on access for bananas in the Doha Round, and it puts an end definitively to all the outstanding WTO disputes on the subject.

Two consequential matters of some importance remained to be settled. First, the United States had not been a party to the negotiations (although closely informed). A separate agreement was later reached on similar terms, ending all disputes with the United States and in particular confirming that no measures would be taken that would discriminate between suppliers of banana distribution services based on ownership or control of the companies concerned or on the origin of bananas they supplied. Once the Geneva agreement was ratified, and the EU tariff schedule at WTO amended, a mutually agreed solution would be achieved with all parties.

The second issue concerned the ACP countries. They also had not been parties – directly - to the negotiations but parallel discussions with the EU had been taking place. These led to an agreement on 'banana accompanying measures' (discussed in part II).

What essentially has been achieved in this agreement? Apart from ending litigation in WTO, the agreement allows bananas to be disconnected from the Doha Round and in particular the Tropical Products debate within the Round.⁹ This has been the forum where a major discussion was engaged between the proponents of preferences (who were opposed to further preference erosion through multilateral tariff cuts) and those who support the traditional objectives in Tropical Products negotiations (tariff cuts should be deeper and faster than the general timetable for all products).

The EU objective therefore was to resolve the problems of trade in bananas once for all and, from their perspective, to avoid 'paying twice' for further tariff cuts – once to settle the WTO history and secondly in any final Doha deal. Effectively, paragraph 7 of the agreement states that it "shall constitute the EU's final market access commitments for bananas" to be included in the results of the Doha Round. In so doing the EU has anticipated the end of the Doha Round (which may in fact never be concluded) and

⁸ Another element that was agreed among the EU, the ACP and MFN suppliers, and linked to the banana agreement, concerned tariff cuts on other tropical products. The parties will promote an approach where slower reduction timetables would be applied on sensitive items to shelter them from preference erosion.

⁹ The terms of reference for this study asked "why bananas have been excluded as tropical products."

resolved the preference erosion argument in the banana sector by agreeing to reduce MFN tariffs further over the next 8 years.

It is understood that in exchange for settling the banana sector the EC had agreed with WTO partners that tariffs on other tropical products of particular interest to ACP countries would be reduced by smaller and slower cuts than the general formula applied in the negotiations. This agreement remains in draft form and would still have to be agreed by all parties to the Doha Round. Some other WTO participants (India and Pakistan) have already reserved their positions on this subject.

At a later date during 2010 the EU also reached an agreement in principle for free trade area arrangement with Central American countries, with Colombia and with Peru which would see the tariff applied to their banana exports reduced further. These agreements were initialled by both parties at an EU-Latin America Summit in July; but they have not yet been formally signed, let alone implemented.

Under the terms of the deals tariffs on the banana exports of the parties would be reduced in stages and reach the level of €75 per tonne on 1st January 2020, and would be subject to the operation of a special safeguard clause where exports from any country exceed a 'trigger import volume'. This would mean that three separate tariff regimes would then apply: the MFN rate of €114/tonne, the free trade area rate of €75 and duty free for the ACP countries. This could create some difficulties in WTO since the major MFN supplier, Ecuador, has not signed a free trade agreement. Other exporters such as Brazil would be affected.

3 DOCUMENTARY SOURCES FOR WTO DISPUTE REPORTS

- Council Regulation (EC) No. 404/1993 of 13 February 1993, establishing a common import regime for Bananas, OJ L Series, No. 47 (25 February 1993)
- WTO Panel ‘Bananas III’, 1997: WT/DS27/R/ECU and GTM-HND-MEX-USA.¹⁰
- WTO Appellate Body, 1997: WT/DS27/AB/R.
- WTO Article 21.5 Panel, 1999: WT/DS27/RW/ECU
- Bilateral agreements USA and Ecuador, 2001: (texts in paras 8 and 9 of document cited at 12 below).
- Papers relating to the Doha waivers in November 2001.
- Papers relating to Art. XXIV: 6 negotiations in 2004-2005.
- WTO first Arbitration report, 2005: WT/L/616, 1 August 2005.
- WTO second Arbitration report, 2005: WT/L/625, 27 October 2005
- EC new tariff only regime: Council Regulation (EC) No. 1964/2005 of 29 November 2005, OJ L Series, No. 316 (2 December 2005).¹¹
- EC abolishing the TRQ for ACP: Council Regulation (EC) No. 1528/2007 of 20 December 2007, OJ L Series, No. 348 (31 December 2007).
- WTO second Article 21.5 Panel, 2007-08: WT/DS27/RW2/ECU and WT/DS27/RW/USA.
- WTO Appellate Body, 2008: WT/DS27/AB/RW2/ECU and USA.

And

- GATT Panel Report, Bananas I, DS32/R, June 1993, unadopted¹²
- GATT Panel Report, Bananas II, DS38/R, 11 February 1994, unadopted.

¹⁰ Called ‘Bananas iii’ because of the two earlier GATT challenges mentioned at the bottom of the list.

¹¹ For this and the following Regulation, see para 16 at page 8 of document cited at 11 below.

¹² Cited in DS27/R/USA, footnote 17/page 16, and footnotes 33 and 34/page 24; see Email folder Bananas, under Old GATT sequence and GATT Panels I and II

4 ANNEX TO PART I

4.1 More extensive history of the evolution of the EU bananas regime

The banana is a tropical fruit and grows in tropical zones on each side of the equator. In consequence, while there are some limited domestic supplies from within the EC, the majority of bananas have to be imported. The European Community market for bananas in 1994 was approximately 3.5 million tonnes, with imports from third countries and from ACP states supplying the major part (80%) and domestic production the rest.

The market combined three different interests that would have to be satisfied in any change of regime for banana imports: MFN (full duty) importers, preferential importers and domestic producers.¹³ It is important to note that individual member states had widely different interests, according to their historical and commercial situations. One can add that the interests of the consumers, who want a consistent supply at good quality and reasonable prices, have to be taken into account; and perhaps also the EC budget authorities who have to support domestic production which is not competitive with other suppliers at world prices.

4.2 Characteristics of the previous EC banana import regime.

Prior to the new import regime for bananas introduced by the EC in 1993 there were a number of different import regimes in place in the Member States. Half of them basically had restrictions on all imports *other than those that were permitted*, usually from former colonies in Africa and the Caribbean; the other half had open entry under the bound duty rate of 20% established in the CET, with an exception that allowed Germany to import duty-free.

This situation was clearly a major breach of the Customs Union concept, both in terms of EC provisions in the Rome Treaty and in terms of GATT requirements (a Customs Union is required to have a common external duty rate and a common import regime on other matters such as licensing).

One important feature of the new regime was the preferential treatment afforded to the ACP (African, Caribbean and Pacific) States. This had been a feature of some of the previous national regimes and followed the EC commitments made to these States in the Lomé Convention (signed in).¹⁴

In parallel there were special arrangements for banana trade from outlying areas of the EC, which of course are not considered to be 'imports'.

When we turn to the pattern of banana imports into the EC, the situation is clearly dominated by the volume of imports from third countries (between 75 and 80% of all imports, depending on the year) while preferential imports account for 20 to 25%. This pattern reflects (i) the much larger area under cultivation in Central and South America, with more favourable land conditions, and (ii) the fact that Caribbean and African producers are in general much less competitive on costs.

¹³ These are mainly from the non-metropolitan regions such as Martinique and Guadeloupe in the Caribbean and the Canary islands and the Azores in the south Atlantic, and Crete..

¹⁴ These commitments in turn reflected the preferential treatment established under the Treaty of Rome, in 1957, in favour of former colonies of the then Member States. In Lomé this was consolidated and extended to the new category of ACP states.

In view of the widely different nature of the previous national regimes – some with liberal access, some more restrictive – and the different policy objectives they pursued, the import profile of the larger member states has also been studied. The results are shown in Appendix to this study, and confirm that some were heavily dependent on MFN suppliers while others were more oriented towards preferential suppliers (the ACP). In the period under review, a small shift towards MFN suppliers as a result of the new regime can be detected.

The pattern of EC imports in 1990-1994 is shown in the table A1:

Table A1: Imports of bananas to the EC (tonnes)

	1990	1991	1992	1993	1994
ACP	621875	596416	680191	748118	726921
Cameroon				146902	158167
Cote d'Ivoire				161247	149085
St Lucia				122066	91541
MFN	2024168	2285149	2365874	2219632	2102687
Colombia			499834	417905	511316
Costa Rica			451847	480325	726805
Ecuador			674528	605243	612040
Panama			470655	413132	426933

Source: author's selection of statistics from the table in the WTO Panel report, page 396. The data used by the Panel are the figures for the EC-12, and the EC-15 figures are given simply to provide a comparison with the TRQs set for 1995 and in later years.

Several points to be noted from the table of EC imports (above).

- Imports from third countries – in practice, Central and South America – at the MFN duty rate were always far greater in volume than preferential imports from ACP.
- While therefore an element of differential tariff treatment existed, it did not in any way prevent the more competitive suppliers from taking most of the market.
- The better competitive conditions were reinforced by the fact that the greater volumes from these exports meant that the activity of the main multinational companies with their transport (shipping) and marketing advantages was in Central and South America.¹⁵
- MFN imports in 1990 to 1993 were above the ceiling of 2 million tonnes set in the Regulation; the new regime did not enter into force until 1st July that year, and exporters had increased supplies to the EC market so as to obtain a more favourable share of any future licensing regime.
- In addition to revising the basic TRQ of 2 million tonnes upwards in 1994 and 1995, to give increased access, the further TRQ established for the enlarged EC of 15 members was properly based on the data available for the imports.

¹⁵ The principal multinationals in 1992-93 were Chiquita, Dole and Del Monte (all companies with US origins and registered there), together with Grupo Noboa in Ecuador and Fyffes in Ireland.

4.3 Changes made with the new regime in 1993

4.3.1 Common External Tariff: customs duty rates

A new MFN duty rate was introduced in the new regime, replacing the previous 20% bound rate. This was set at 75 ECU per tonne within a limit of 2 million tonnes.¹⁶ Both the duty rate and the quantities were bound in GATT. Imports outside the limit were discouraged, facing a prohibitive duty.

The preferential duty rate for bananas imported from ACP states remained duty free (or essentially duty-free)¹⁷ with the total trade permitted being about 950,000 tonnes. This represents less than one-third of total imports with the rest admitted at the MFN duty rate. In practice the ACP suppliers were never able to actually send their full entitlement.

Tariff Rate Quotas (TRQs) were set separately for each group, MFN third countries and preference countries. The full range of tariff measures is set out in the annex table (on the next page).

A further 353,000 tonnes was added in 1995 and 1996 to take account of the enlarged EC market (Austria, Finland and Sweden), but this quantity was not bound pending negotiation of a new EC Tariff Schedule. De facto and despite the separate elements, a total volume of 2.55 million was available for MFN imports in 1995.

The different types of tariff treatment are illustrated in the following table:

¹⁶ This quota ceiling of 2 million was increased to 2.1 in 1994 and again to 2.2 in 1995.

¹⁷ This simple picture – ‘preferential trade’ – is then complicated by a distinction between ‘traditional’ and ‘non-traditional’ ACP suppliers. These categories originated in provisions of the Lomé Convention and there were differences in the way that such imports were treated – see table below. However, in practice, this was a relatively unimportant feature of the new regime.

EC tariff treatment of banana imports

Category of banana imports	Source/Definition	Tariffs applied
Traditional ACP bananas	Bananas within country-specific quantitative limits totalling 857,700 tonnes established for each of 12 ACP countries.	Duty-free.
Non-traditional ACP bananas	Either ACP imports above the traditional allocations for traditional ACP countries or any quantities supplied by ACP countries which are non-traditional suppliers.	Duty-free up to 90,000 tonnes, divided into country-specific allocations and an "other ACP countries" category; ECU 693 per tonne for out-of-quota shipments in 1996/97.
Third-country bananas	Imports from any non-ACP source.	ECU 75 per tonne up to 2.11 million tonnes as provided in the EC Schedule. An additional 353,000 tonnes were made available in 1995 and 1996. Country-specific allocations were made for countries party to the Framework Agreement on Bananas (BFA), plus an "others" category; ECU 793 per tonne for out-of-quota shipments in 1996/97.

Source: WTO panel report, page 17. 18

4.3.2 Distribution of quotas and licensing arrangements

These elements of the new regime were both the most complex to understand and the ones that had the most impact on exporters and importers from third countries. In consequence the complaints that were brought to GATT in due course were focussed largely on aspects of quota allocation and the specific licensing regime which applicants for licenses considered to be discriminatory and to favour certain importers and suppliers with ongoing activities in the marketing of ACP and EC bananas over those more active in Central/South America.

In general terms, where quotas or tariff rate quotas are involved and the import quantities permitted are limited, an importer has to apply for a license. Under GATT rules licenses are supposed to be issued on a non-discriminatory basis, and rules about how the quantities available are divided among applicants are published (with shares based on previous trade patterns a frequently used approach). A certificate of origin and other documentation may be required.

In the case of the EC banana regime, quantities for import were admitted under Tariff Rate Quotas (TRQs), but the procedure for obtaining a license was an obstacle course (or minefield) for exporters, importers and wholesale distributors - with several different layers to determine the eligibility of applicants before deciding how the quantity would be allocated.

- Applicants were first divided into three broad categories according to their previous marketing activity related to bananas from different origins and sources: from third countries or from ACP

¹⁸ See WT/DS27/R/USA

- states, with provision for 'newcomers' (as defined). The total volume of licenses available was then allocated as follows: 66.5% to operators in Cat A, 30% to Cat B and 3.5% to newcomers.¹⁹
- Once these entitlements were settled, applicants in A and B were further divided into groups according to the type of 'function' they performed, namely: (i) primary importers, (ii) secondary importers and customs clearance agents, and (iii) ripeners. A weighting coefficient was then applied to the average quantity 'marketed' by operators in each of these groups in the last three years (1989-1991)²⁰ and the result was the 'reference quantity' for each individual operator.
 - In defining these categories much emphasis was placed on ownership of the fruit: thus the primary importers had to *purchase or produce* green bananas from third country or ACP sources; and the secondary importers – '*as owners*' – had to supply green bananas and secure their release into circulation (ie. clearing customs) with a view to marketing in the EC; and the ripeners – '*as owners*' – had to carry out the ripening process of the green bananas and market them within the EC.
 - It will be noted immediately that applicants for licenses include, but are not confined to, the primary importers who carry bananas from the farms to the frontier. In the banana trade there are firms – some related to the primary importer, some not – acting as middlemen to unload cargoes, to store the green bananas in cold stores prior to customs clearance, and to organise marketing and distribution down the chain. Ripeners are a specific example of an activity in this trade.

4.4 Modifications to the 1993 regime in 1994-1995, prior to the WTO dispute process

1. In the period 1992-94, before the new regime, and before the WTO was established (before the Dispute Settlement system set up in the Uruguay Round had entered into force), exporting countries were already preparing their attacks. One complaint was directed at the national banana regimes which had existed prior to the new 1993 regime; that was overtaken by events, but another attacked the new regime head on with the argument that the tariff treatment it provided was discriminatory as between MFN suppliers and those with preferential access. The complainants argued that the Lomé Convention had not been recognised as a free trade area, and consequently the tariff preferences could not be justified under Article XXIV GATT and were therefore illegal.

The GATT panel agreed with this argument, and found that Lomé "was not an agreement of the type covered by Article XXIV". This report in 1994 was to have consequences later in the story. To ensure that Lomé could be effectively respected, the EC requested and obtained a waiver in December 1994 which permitted tariff preferences to be maintained notwithstanding the MFN rule.

2. There had been many contacts and consultations with major suppliers before the regime was introduced, and these led in 1994 to the signature of the Banana Framework Agreement (BFA).²¹ This had two features which would cause trouble in the WTO and with other suppliers:

¹⁹ Category C - "newcomer category": "operators who started marketing bananas other than EC and/or traditional ACP bananas as from 1992 or thereafter". These rules are set out in Commission Regulation (EEC) 1442/93 (as amended), Article 4.4

²⁰ In 1992 when the Regulation was being prepared these were the latest 3 years for which statistics were available.

²¹ Signatories were Colombia, Costa Rica, Nicaragua and Venezuela.

- First, signatories to the BFA were permitted to issue export certificates which were accepted by the EU as a valid alternative to an import license. This procedure was much less onerous than that applied to all other MFN imports and led to charges of discrimination from competing suppliers.²²
- Second BFA signatories were allocated specific country shares within the TRQ for MFN imports. These amounted to almost 50% of the total and were seen to be a second source of discrimination.²³
- 3. Enlargement from EC 12 to EC 15. As already mentioned (at page 3) the basic TRQ for imports from third countries was adjusted from 2 million tonnes to 2.1 million in 1994 and to 2.2 million in 1995, when a new EC tariff schedule was lodged with WTO, reflecting also Uruguay Round tariff cuts. This was probably done in order to meet demand (see table of EC imports at page 2).

4.5 The first WTO challenge

In 1995 a first complaint was made under the new Dispute Settlement Understanding (DSU). The four joint plaintiffs were Guatemala, Honduras, Mexico and the United States. This complaint was not actively pursued however since the parties had agreed that Ecuador, which was seeking WTO membership in early 1996, should join in the complaint as soon as it was able to do so.²⁴

As would become customary in WTO disputes, the plaintiffs alleged that the regime was inconsistent with a series of Articles under GATT and under GATS (the agreement on Trade in Services), as well as with the agreements on Import Licensing, on Agriculture and on Trade-related Investment Measures (TRIMs). These allegations however were reduced to three main points: that the tariff rate quotas established in the new regime were inconsistent with Art. I for various reasons, that the level of MFN duties applied was in excess of the bound levels, and that the modalities applied to the grant of import licensing were inconsistent with Art. XIII GATT.

The Panel issued its report in May 1997 and its findings amounted to an across the board condemnation of the new regime. The general finding said:

“The Panel concludes that for the reasons outlined in this Report aspects of the European Communities' import regime for bananas are inconsistent with its obligations under Articles I:1, III:4, X:3 and XIII:1 of GATT, Article 1.3 of the Licensing Agreement and Articles II and XVII of the GATS. These conclusions are also described briefly in the summary of findings.”²⁵

Behind these carefully drafted words lay a series of specific findings that individual elements of the regime were not consistent with WTO rules. The most significant were

²² Further, the system placed control – and thus a greater share of the profit – in the hands of exporting countries. This was anathema to large multinational companies whose policy was to control each successive stage from the farm to the export market. There was a history: in the 1970s the exporting countries had attempted to set up a cartel based upon a system of export taxes in order to keep more of the revenue in their own hands. However, due to internal rivalries, the agreement collapsed shortly after it was introduced.

²³ Colombia 23%, Costa Rica 21%, Nicaragua 3% and Venezuela 2%

²⁴ The case was reactivated in February 1996 under the number DS 27. The Panel was established in May, and was only the eighth panel under the new system.

²⁵ Paragraph 9.1 in doc. WT/DS27/R/US

- that the licensing procedures in general were discriminatory and contrary to Article I, and that the Lomé waiver did not cover these procedures;
- that the application of both the ‘operator category’ and the ‘activity function’ criteria in allocating import licenses was contrary to Article I also.
- As regards the complaints under GATS, the finding was that the EC was not respecting both Article XVII and Article II of the agreement.
- In the tariff area, one positive finding was that tariff preferences were covered by the Lomé waiver and therefore legal; but on more detailed issues, such as the allocation of the tariff quota to individual countries among the MFN suppliers and non-traditional ACP suppliers, the Panel found that the EC practice was not consistent with Article XIII GATT.²⁶

When the Panel report was appealed by both the plaintiffs and defendants, the result was a strong confirmation of the panel’s conclusions. The Appellate Body upheld the Panel findings on 19 out of 24 points, and reversed them on only three points which were of lesser importance. The AB found that the Lomé waiver did not cover inconsistencies with Art.XIII when allocating country shares to ACP states.²⁷

One significant result is that the limitations of the Lomé Convention in permitting tariff or other preferential treatment for the ACP states were clearly underlined. On the tariff side, the existence of the waiver obtained in 1994, and extended in 1996, gave legitimacy to the preferential regime; but almost all other aspects to do with import licensing and country allocation of TRQ shares fell foul of Articles I or XIII and of the GATS. This had the effect, for the many parties directly affected by the dispute, of making it clear that development policy objectives, however legitimate in themselves, would not in future provide legal cover in WTO for policies which were designed to deliver preferential treatment, and were thus discriminatory.²⁸

4.6 Compliance with WTO findings: 1998-99

After the first panel report and the appeal in 1997, when some aspects of the 1993 regime were found to be inconsistent with WTO, the EC accepted that it should move into compliance and began to consider modifications to the regime.

The Panel findings were focussed on two areas of the regime that were considered to be discriminatory: all the detailed provisions which introduced ‘operator categories’ and ‘activity functions’ in connection with allocations of import licenses were judged to be inconsistent with Article I (the basic MFN rule); and the application of these rules to companies providing services to the banana market was judged to be contrary to Articles II and XVII of GATS.. In general the Panel accepted that the Lomé waiver covered the application of tariff preferences to the ACP countries; but even here there were elements of allocation of the TRQs to suppliers which were found to be discriminatory.

²⁶ These findings are at para 7.204, 7.195 and 7.223, 7.341 and 7.353, 7.136 and 7.110 respectively in the same doc.

²⁷ For their conclusions see doc. WT/DS27/AB/R issued in September 1997, at paragraphs 255 - 257.

²⁸ Twenty three third parties notified their interest in the dispute, in addition to the five complainants and the one (fifteen) defendant members. This is probably the largest number of WTO members involved in a single dispute case.

The changes that were made were accordingly in these same areas of the import regime. Licensing regulations were greatly simplified, and more closely based on historical performance, while the country specific allocations within TRQs were eliminated, or in some cases modified and based on the shares of the four principal suppliers in the market. The provisions that identified the rights of license applicants to receive import licenses were also eliminated.²⁹

These changes were not enough to satisfy third countries. Already in mid-1998 when the process of adopting new regulations was still unfinished, the complainant parties requested consultations about the modifications proposed, and it became clear that the exporting countries believed that the EC had not fully complied with the Panel's findings. In such a situation Article 21.5 of the DSU provided for a multilateral review of compliance. .

This report of the compliance Panel found that the changes made were not sufficient to ensure that the regime was fully consistent with the WTO rules; but the grounds for that finding were not the same as those given by the first Panel. The compliance Panel based its conclusions on Article XIII and the relationship of elements in the regime to the Lomé waiver. This can be seen from the following quotation:

*"... we find that the 857,700 tonne limit on traditional ACP imports is a tariff quota and therefore Article XIII applies to it ... (and) that the reservation of the quantity of 857,700 tonnes for traditional ACP imports under the revised regime is inconsistent with paragraphs 1 and 2 of Article XIII of GATT. We also find that the country-specific allocations to Ecuador as well as to the other substantial suppliers are not consistent with the requirements of Article XIII:2."*³⁰

In the first WTO reports the 857,700 limit had been challenged because it was divided into country specific allocations, which were not available to all exporters; and the whole preferential arrangement for ACP states was challenged in the context of Article I (discrimination) and the requirements of the Lomé Convention. Here the emphasis is on a different ground - that the revised licensing rules, developed to deal with the first criticisms, are contrary to the rules under Article XIII. This Article lays down a different standard to be respected; it is not just that management of TRQs must be non-discriminatory and fair to all, but also that quantities for import must be 'approaching as closely as possible the shares which importing countries might be expected to obtain in the absence of such restrictions'³¹

Among its other findings

- However, we also find that it is not reasonable for the European Communities to conclude that Protocol 5 of the Lomé Convention requires a collective allocation for traditional ACP suppliers.
- Some ACP trade volumes are not covered by the Lomé waiver and the preferential tariff thereon is therefore inconsistent with Article I:1.
- in respect of preferences for non-traditional trade, we find that the violations alleged by Ecuador are covered by the Lomé waiver.

²⁹ For details see the compliance panel report WT/DS27/RW/ECU in 1999, pages 2 to 5. The original allocations to BFA countries in 1994 had been eliminated in 1995 and replaced by quotas for the principal suppliers, Ecuador 26%, Costa Rica 26%, Colombia 23% and Panama 16% (see tables 1 and 2, paras 2.3 to 2.11).

³⁰ From WT/DS27/RW/ECU, page 97, para 6.160 : emphasis added.

³¹ See inter alia paragraph 6.29 in doc. WT/DS27/RW/ECU where this is stated.

- In respect of GATS, we find that Ecuador's suppliers of wholesale services are accorded *de facto* less favourable treatment in respect of licence allocation in violation of Articles II and XVII of GATS and that the criteria for acquiring "newcomer" status under the revised licensing procedures (are) in violation of Article XVII of GATS.

This marked the end effectively of the litigation in respect of the 1993 banana import regime. From this point on the focus of international efforts was to reach agreement on an alternative regime in which the elements of managed trade which had inspired the EC in 1993 would disappear, with more open access being secured, but with preferential tariffs for the ACP countries maintained.

4.7 From 1999 to 2006³²

The focus of EC efforts now moved to bilateral negotiation with the United States, and to a lesser degree with Ecuador, culminating in two separate bilateral agreements signed in April 2001.³³ These foresaw certain immediate adjustments: further changes in the past performance criteria for licensing during a transitional period; a reduced TRQ for the ACP states; and "no later than 1st January 2006" a move to a tariff only regime. These agreements were reported in WTO, and formed the basis for an extension of the waivers (from Articles I and XIII) necessary to maintain the preferential trade with the ACP states. These waivers were adopted at the Doha conference in November 2001.

Key extracts from the agreement with the United States are reproduced below (emphasis added):

Understanding on Bananas between the EC and the United States of 11 April 2001

1. In accordance with Article 16(1) of Regulation No. (EC) 404/93 (as amended by Regulation No. (EC) 216/2001), the European Communities (EC) will introduce a Tariff Only regime for imports of bananas no later than 1 January 2006.
2. In the interim, the EC will implement an import regime on the basis of historical licensing as follows :
 - Effective 1 July 2001, the EC will implement an import regime on the basis of historical licensing as set out in Annex 1.
 - Effective as soon as possible thereafter, subject to Council and European Parliament approval and to adoption of the Article XIII waiver referred to in paragraph E, the EC will implement an import regime on the basis of historical licensing as set out in Annex 2. The Commission will seek to obtain the implementation of such an import regime as soon as possible.
3. The EC and the United States have informed Ecuador and will cooperate in seeking the agreement of all parties.

Several points in the agreements could be implemented during 2001-2002, but the introduction of a new MFN tariff involved consultations and renegotiation of the commitments in the EC Tariff Schedule. An additional complication arose from the decision by the EC to extend 'duty-free, quota-free'

³² For the successive changes in the import regime, see the table at page 4 of the first part of this study.

³³ There were changes of the main negotiators, with Pascal Lamy in charge of Trade Policy at the EC Commission, and Robert Zoellick as USTR in Washington.

treatment to all least developed countries under what is commonly called the EBA (Everything But Arms) Regulation. In practice, however, the benefits of this treatment were not granted on bananas until after a transitional period of several years.³⁴

The further enlargement of the EC from 15 to 25 members took place in May 2004. This required the EC to withdraw the tariff commitments of the ten new members and extend the EC's commitments to the 25. At the same time it would be renegotiating its tariff rates on bananas. At this stage therefore the EC entered into two sets of tariff negotiations in parallel, under Article XXIV: 6 and under Article XXVIII.³⁵

This proved lengthy, as discussion took place with all MFN suppliers as well as the ACP countries, and - predictably - no agreement could be found on the level of duty that would be acceptable to all. In the absence of any agreement, the EC announced that it would introduce a new duty of €230/tonne on 1.1.2006. This level of customs duty was challenged by exporting countries and, under the terms of the waivers adopted at Doha in 2001, the matter was sent to arbitration.³⁶

Two arbitration hearings were held, with the purpose of determining "whether the envisaged rebinding of the EC tariff on bananas would result in at least maintaining total market access for MFN banana suppliers". Their findings were announced on 1st August and 27th October 2005, and in both cases the tariff levels successively proposed by the EC were judged to be too high in the context of the commitment it had taken when the waivers were negotiated.³⁷

In the light of their findings the EC was obliged to set a new duty rate on a unilateral basis, following failure to reach agreement with MFN and other suppliers. The new duty rate of €176 per tonne came into force on 1st January 2006. There was however another consequence of the two arbitration procedures: given the negative findings that were issued, the 2001 waiver of Article I was terminated as far as bananas were concerned, in accordance with the terms of the annex, and the legal cover for preferential treatment lapsed.

From 1st January 2006 the principal TRQs (for MFN suppliers) were abolished, and a new duty rate of €176/tonne was applied. The TRQ in favour of the ACP states was maintained for a further period, pending the outcome of negotiations for new Economic Partnership Agreements. (The TRQ in question was in fact eliminated in December 2007.)

The new regime did not immediately lead to further action within the WTO, whether on the fact that preferences were no longer legal or on the maintenance of the TRQ for such trade. MFN suppliers were however assessing the position and several requests for consultations were made at a later date:

- In February 2007 Ecuador, followed after a short time by the United States (in June), asked for a second Art. 21.5 panel on the grounds that the EC had not fully complied with the

³⁴ In principle the duty free treatment offered might have led to diversion of trade through members of the LDC group, but the fact that transport of bananas required careful handling and refrigeration on special ships minimized this risk. No imports with LDC origin were recorded in the EC import statistics from 2000 to 2009.

³⁵ The EC notified its intentions on this issue in January 2004, in doc. G/SECRET/20, and in July it added a notification that it intended to modify its commitments on bananas: G/SECRET/22.

³⁶ The Article I waiver included an annex which spelled out the procedures for modifying the EC tariff on bananas, and especially the steps to be followed in case of disagreements.

³⁷ The EC had proposed successively €230 per tonne, and later €187 per tonne. The arbitrators interpreted their mandate in a rather narrow fashion and stated that any duty rate above the bound level of 75 euro per tonne would be less favourable to MFN importers; this is tautological and did not provide a clear answer to the question.

recommendations and rulings of the original panel and AB reports in 1997. The panel reported in 2008 and its report was appealed; the AB also reported in 2008.

- In addition, requests were made by Colombia and Panama which sought to start a new dispute (DS 361 and 364 dated March and June 2007). The procedure for good offices by the Director General was invoked, and discussions became linked to the outcome of Doha Round negotiations in the area of tropical products. This linkage led to additional complications alongside the pressures for further MFN tariff reductions; the banana discussion fell in the middle of a long established debate between countries that pressed for deeper and quicker tariff cuts – beyond the norm agreed for all products - and others resisting the erosion of preferences, mainly from the ACP group.
- This issue was never finally settled, although an agreement in principle between the EC and MFN supplying countries was reached at the time of Ministerial negotiations held in July 2008. When wider disagreements led to the collapse of those negotiations the banana deal was also consigned to limbo. The final panel and appellate review of the Ecuador and US dispute cases was completed and reported out in November 2008.

The further development of negotiations between the EU and the MFN exporting countries, and the consultations with ACP countries, have been fully described in Part I of the study, and there is no additional information to be provided here.

The full text of the Geneva Agreement on Trade in Bananas can be found in WTO doc. WT/L/784 dated 15 December 2009.

5 APPENDIX 1

The profile of the EC banana market prior to 1993 was determined by the previous national import regimes, and this shaped the main elements of the new 1993 regime. Within the total market, imports accounted for 80% in 1994, with the balance coming from EC domestic sources. Imports in turn divided 75 : 25% between MFN suppliers and ACP suppliers

For comparison purposes, to see what the national profiles were prior to 1993, and how the new regime impacted on individual member states, we also looked at the data for the larger member state markets. Given the different import regimes, and the fact that MFN suppliers had been largely shut out of some markets, different profiles were to be expected. Since price levels and competitiveness varied greatly between Caribbean, African and Central/Latin American suppliers, the new regime was bound to modify some patterns of trade.³⁸

Member State imports (average quantities) in order of volume in 1990-1993 were:

Germany	1.3 million tonnes
France	500-600,000 tonnes
The UK	475,000 rising to over 600,000 tonnes
Italy	500,000 (but 900,000 tonnes in 1992)
Netherlands	140,000 rising to 180,000 tonnes
Spain	no reliable data (200,000 tonnes in 1995)

The individual profiles are as follows:

- Germany: for the years 1991-1993 imports were 100% from MFN suppliers, and for 1994-1995 the same countries accounted for 98% of German imports, with only one supplier from preferential sources. Costa Rica, Ecuador, Panama, Colombia, Honduras were the main exporters, with Dominican Republic and Martinique appearing after the start of the new regime.
- The Netherlands profile is similar to Germany: in 1990-1993 between 50% and 80% of Dutch imports were from the BLEU³⁹ and this intra-trade was likely to have been mainly fruit from MFN suppliers. The balance was exported from MFN countries. The pattern continued in 1994-1995, France, the UK and Germany also selling in the market.
- France is pretty much the opposite of Germany: main suppliers are ACP African countries (e.g. Ivory Coast and Cameroon) as well as the French territories of Martinique and Guadeloupe. In the years 1990-1993 the fifth supplier was usually an MFN country, either Ecuador or Colombia, but with less than 5% of the market. Similar pattern in 1994-1995.
- The UK also imported mainly from preferential sources: Caribbean countries (the Windward Islands and Jamaica) were the main suppliers in 1990 to 1993 with some minor quantities from intra-trade. From 1994 on the pattern changed: only two Caribbean suppliers, accounting for

³⁸ Note on statistics: the data come from UN/Comtrade tables, and this shows intra-EC trade among member states as well as from third countries. We worked on data for the top 5 suppliers to each market. These do not therefore cover ALL imports, and in some cases - UK – they account for only half of the total.

³⁹ BLEU is the acronym for the Belgium-Luxemburg Economic Union. Presumably these banana imports were passed through Antwerp. From 1992 onwards, other intra sources are also quoted: Germany, France and the UK, some of which may have come from ACP countries.

25% of imports, with increased volumes from intra-trade (France and BLEU) and one MFN supplier (Costa Rica) providing 5-10% of supply.

- Italy had had traditional links to Somalia but by the 1990s their exports had declined. In 1990-1993 supplies are largely from MFN sources (Costa Rica, Panama, Ecuador, Colombia) with some intra-trade (Germany). From 1994 onwards MFN supplies were still 50% of imports but intra-trade had increased, from BLEU and Spain as well as Germany.
- Spain: the Spanish profile, according to the UN data, is bizarre in 1990–1992. Total imports are very low and strange suppliers are shown (Philippines, USA, Iceland and Latvia).⁴⁰ From 1993 onwards the total volume becomes 'normal', with mainly MFN suppliers and one ACP country (Cameroon or Dominican Republic).

To the extent that any changes of pattern can be observed in these years, they are favourable to the MFN suppliers who began to make some inroads into the French and British markets.

⁴⁰ The UN data do not record exports from the Canary Islands in any year 1990-1995, and this probably adds significantly to the figures shown. This was perhaps not considered to be imported (although in the case of France, exports from Martinique and Guadeloupe are recorded).

6 APPENDIX 2

Operator categories under the tariff quota for third-country/non-traditional ACP imports		
Operator category definition⁴¹	Allocation of import licences allowing the importation of bananas at in-quota rates	Basis of determining operator entitlement
Category A: operators that have marketed third-country and/or non-traditional ACP bananas.	66.5%	Average quantities of third-country and/or non-traditional ACP bananas marketed in the three most recent years for which data are available.
Category B: operators that have marketed EC and/or traditional ACP bananas.	30.0%	Average quantities of traditional ACP and/or EC bananas marketed in the three most recent years for which data are available.
Category C: operators who started marketing bananas other than EC and/or traditional ACP bananas as from 1992 or thereafter ("newcomer category").	03.5%	Divided pro rata among applicants.

Activity function system under the tariff quota for third-country/non-traditional ACP imports		
Activity functions	Definitions	Weighting coefficients
Activity (a): "primary importer"	"the purchase of green third-country bananas and/or ACP bananas from the producers, or where applicable, the production, and their subsequent consignment to and sale of such products in the Community"	57 per cent
Activity (b): "secondary importer or customs clearer"	"as owners, the supply and release for free circulation of green bananas and sale with a view to their subsequent marketing in the Community; the risks of spoilage or loss of the product shall be equated with the risk taken on by the owner"	15 per cent
Activity (c): "ripeners"	"as owners, the ripening of green bananas and their marketing within the Community"	28 per cent

The weighting coefficient assigned to each type of activity function multiplied by the average quantity of bananas marketed by each operator of Categories A and B in the three most recent years, determines the individual operator's reference quantity. According to Regulation 1442/93, the weighting coefficients are designed to reflect the level of commercial risk borne by operators for each of the activities in the marketing chain for bananas.

⁴¹ Article 19 of Council Regulation (EEC) 404/93 (as amended) and Article 2 of Commission Regulation (EEC) 1442/93 (as amended).

PART II OF THE STUDY: THE POSSIBLE TRADE IMPLICATIONS OF THE NEW EU BANANA REGIME

7 INTRODUCTION

After having set out the history of the dispute around the EU banana regime in the first part of the study, Part II of the study aims to look forward and analyse how the current regime and the changes that it is bound to bring about may affect the various countries involved in the international banana market. As highlighted in part I, the EU import regime for bananas has always been complex with a multitude of different rules for different players. This system has recently been simplified with the move to a tariff only regime, but still maintaining a differentiation in terms of access among exporters. In particular there are three groups of relevant producers in this respect: ACP producers, other extra-European producers, and European producers. In addition, as explained above the ACP producers have been historically divided into traditional and non traditional, which may have an influence on the likely impact of the EU bananas reform market. Any modifications in the import regime would inevitably produce winners and losers and identifying which countries belong to what category is important also given that bananas represent a key export in a number of developing countries, and provide economic livelihoods to several tens of thousands farmers.

The purpose of this second part of the study is to examine the possible impact of the reforms in the EU import regime for bananas on the main groups of producers mentioned above. In addition to the specific banana regime reform, the EU has also entered into Free Trade Agreements (FTAs) with non ACP banana producers, which have an impact on the relative market access of other exporters to the EU market. We aim to analyse data and review evidence on such likely impact on the various groups of countries defined above.

The rest of the study is organised as follows: the next section presents an overview of the international market for bananas; section three describes the various changes in the regime that are considered in the paper; section four examines then the likely impact of these changes on trade flows and other macroeconomic variables; section five draws some policy implications from the analysis and section six concludes.

8 THE BANANAS EXPORT MARKET

The banana sector is a dynamic industry relatively to other agricultural commodities. World production has expanded by over 70 percent since the early 1990s; the international trade of bananas shows a similar growth, increasing from around 10 million tonnes at the beginning of the past decade to 17.6 million tonnes in 2007.⁴² International trade represents around 20 percent of world banana production, as the majority of the production is for domestic markets. In fact India is by far the largest banana producing country in the world (with around 22 million tonnes produced in 2007), followed by China (7.4 million), but neither of those countries is an important exporter. This suggests a clear distinction

⁴² These figures include also some re-exports of bananas, especially from certain countries of Europe, which act as hubs for bananas imports in Europe, such as Belgium, Germany, the Netherlands, and from the US. Taking away these re-exports does not change the growth of international trade much.

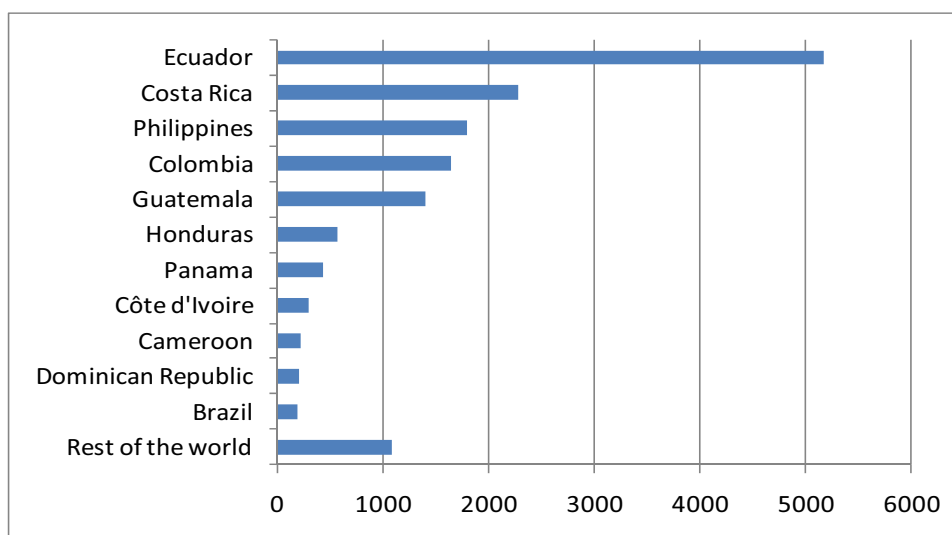
between domestic and internationally traded banana production. In this study we are essentially concerned with the latter market.

There are large variations in terms of productivity and level of competitiveness in the banana production across and within countries. Unfortunately data on these costs are not readily available and comparisons between countries are difficult due to the lack of a consistent methodology for reporting production costs (Gillson et al., 2004). However, existing analysis suggests that Caribbean ACP producers have a cost disadvantage, with per unit production costs in St. Vincent & the Grenadines being almost three times as high as those in Ecuador, the largest banana exporter in the world (see Fig. 1). Given that bananas are highly perishable - the timing of harvests needs to be coordinated with the availability of ships - the most important of these cost factors facing banana producers is the transportation of bananas to retail markets.

Production in the Caribbean, particularly in the Windward Islands, tends to be on small farms located on hilly land. The crop is largely rain-fed, since irrigation for small farms would be expensive and impractical, which causes large variations in crop yields. Shipping costs in the Caribbean are also high because vessels have to load at several ports and because the variable export volumes increase unit shipping costs. Banana production in the Caribbean is in stark contrast to that in Latin America where the large, flat plantations are operated on an industrial basis often with extensive mechanisation and irrigation. In addition, the depth and mineral content of soil in Latin America are better suited to banana production providing yields per hectare of more than double that in the Caribbean. Most importantly, large plantations are situated next to ports dedicated to the export of bananas. Together, these factors afford Latin America substantial economies of scale in the production of bananas (IMF, 2002 and Mlachila et al., 2010).

These features of the Caribbean economies undermine their competitiveness vis-à-vis the major exporters, essentially Latin American countries and the Philippines (Fig. 1). Thus generous preference margins (in Europe) have historically been necessary to allow them to develop a banana export sector. The gradual reduction of such margins has potential implications for the sector in these countries.

Figure 1: Main exporting countries in 2007 (thousands of tonnes)⁴³

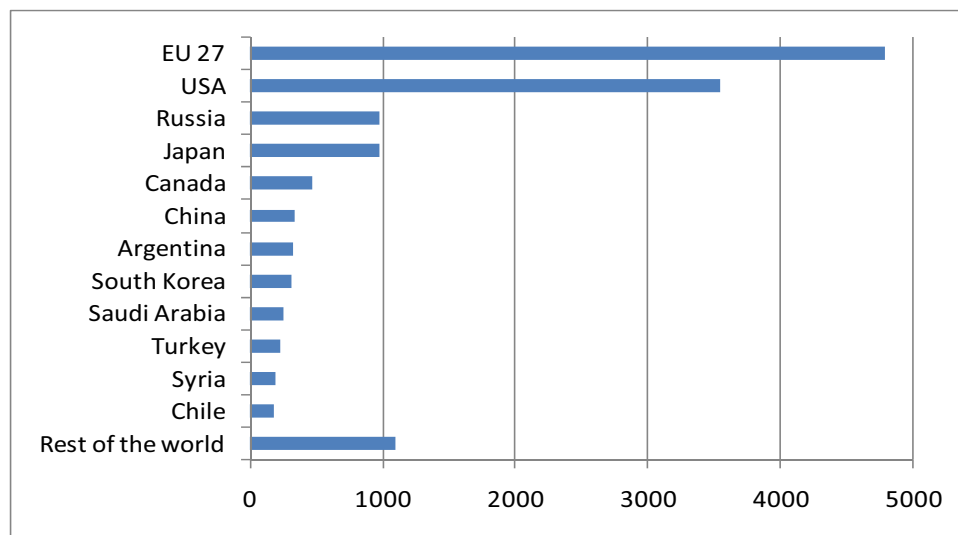


Source: FAOSTAT (2010)

8.1 The EU market for bananas

The EU is the largest banana (net) importer in the world with almost 5 million tonnes in 2007 (Figure 2). The US is the second largest and together they account for almost two thirds of world's banana imports. EU imports have been growing (figure 3), and the high level of protection makes it attractive for countries with special access agreements.

Figure 2: Main importing countries in 2007 (thousands of tonnes)



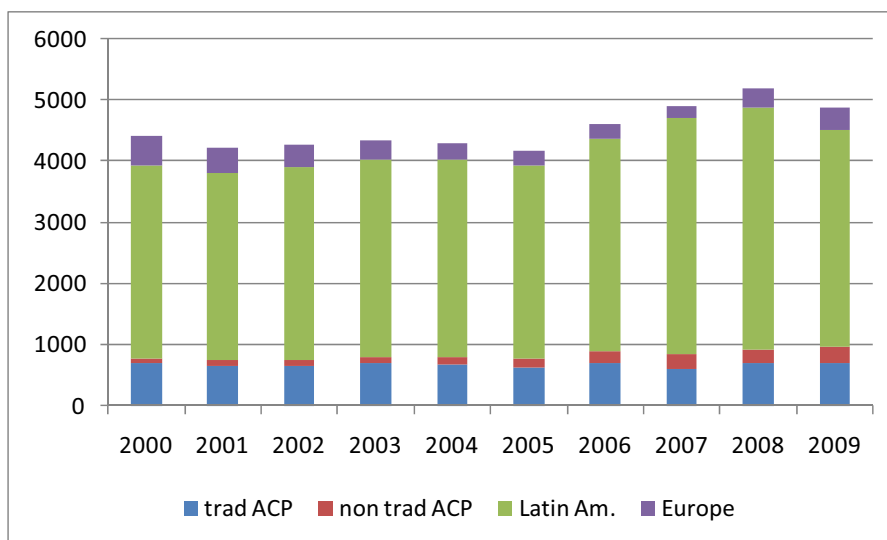
Source: FAOSTAT (2010)

As explained in Part I of the study, the TRQ system in place to regulate EU imports has de facto guaranteed to the ACP countries as well as to some European producers (essentially Europe's 'outermost regions' Guadeloupe and Martinique in France, Canary Islands in Spain and Azores and Madeira in Portugal plus some marginal production in Greece) the possibility of exporting some substantial quantities of bananas to the EU. The presence of these countries among exporters to the EU makes the composition of EU banana imports by source countries quite unique. The share of these countries in the EU imports has been gradually reducing at the expenses of the more competitive Latin American countries, with the exception of 2009 when imports from the latter declined (Figure 3). The share of imports from ACP has remained roughly constant throughout the decade although there has been a shift in their composition with the non traditional ACP countries (essentially Dominican Republic and Ghana) increasing their share at the expenses of traditional ACP.

Within the decline of aggregate traditional ACP exports to the EU, exports Cameroon, Cote d'Ivoire and to a lesser extent Belize and Suriname have been relatively stable (Figure 4), with a decline in exports from the Caribbean countries (Figure 5). Jamaica went from being the largest (albeit small) among the traditional Caribbean exporters of bananas to the EU in 2001 to zero exports in 2008 through a national strategy. These patterns are likely to be linked to the high relative costs of production of Caribbean bananas producers, especially among the Windward Island. This suggests the reallocation of exports among preference receiving countries towards African countries (and possibly the Dominican Republic) and away from Caribbean countries will continue.

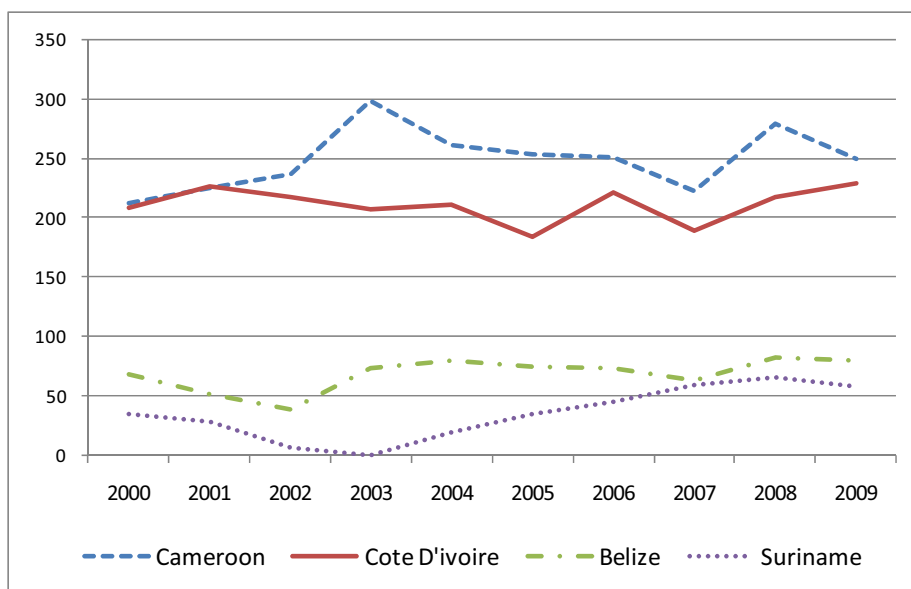
⁴³ Note that the latest available figures for global bananas trade are for 2007.

Figure 3: EU supplies by country groups (thousands of tonnes)



Source: Eurostat (2010)

Figure 4: EU imports from major ACP exporters (thousands of tonnes)



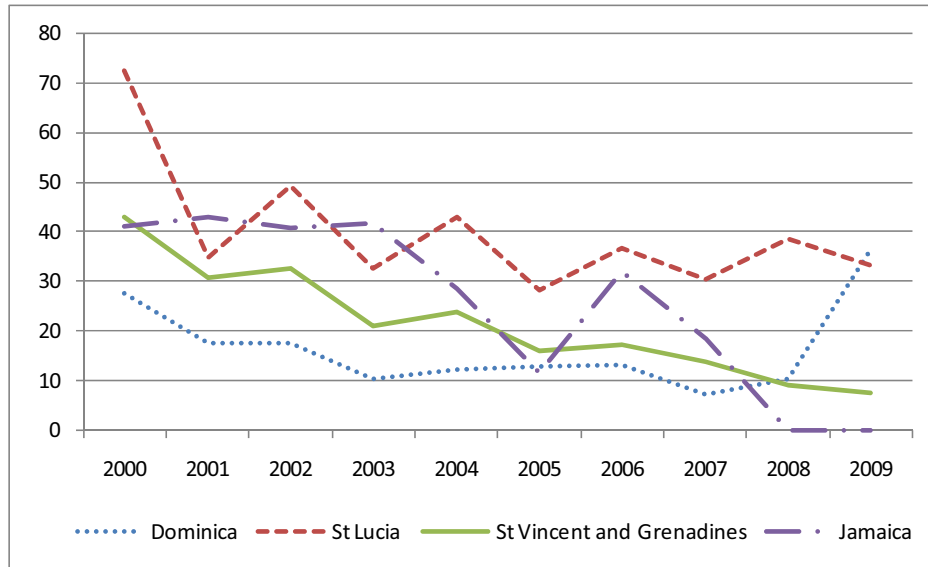
Source: Eurostat (2010)

EU imports from non traditional ACP exporters increased rapidly in the last decade especially from Dominican Republic, although also Ghana has increased its exports to the EU after the preferential treatment was equalised to that of traditional ACP exporters in 2006. The Dominican Republic has experienced the strongest growth rate in exports to the EU of all ACP countries and it is now set to overtake Cameroon as the largest ACP banana exporter to the EU. This suggests that it is likely to be one of the main ACP beneficiaries of the EPA agreement which eliminated the EU tariffs on bananas originating from ACP countries.

European supplies of bananas from EU countries have somewhat declined during the decade driven by a steep drop in Guadeloupe and Martinique (France), which have recently re-bounced to some extent

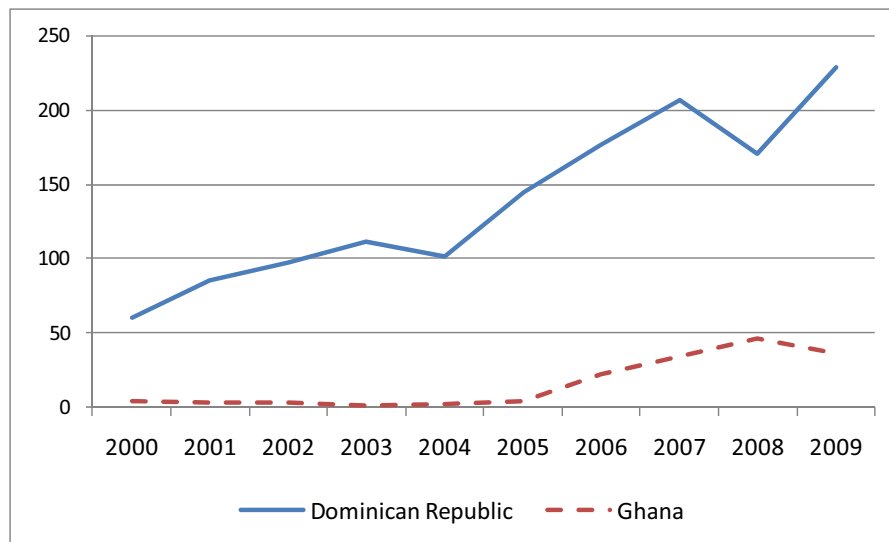
(Figure 7). Production in the other EU countries is marginal and has remained relatively stable throughout the decade.

Figure 5: EU imports from Caribbean exporters (thousands of tonnes)



Source: Eurostat (2010)

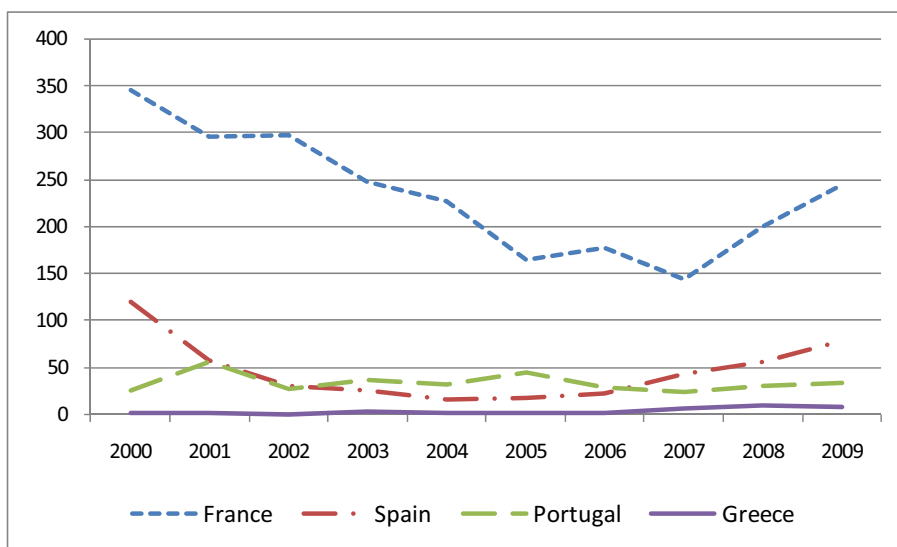
Figure 6: EU imports from main non traditional ACP exporters (tonnes)



Source: Eurostat (2010)

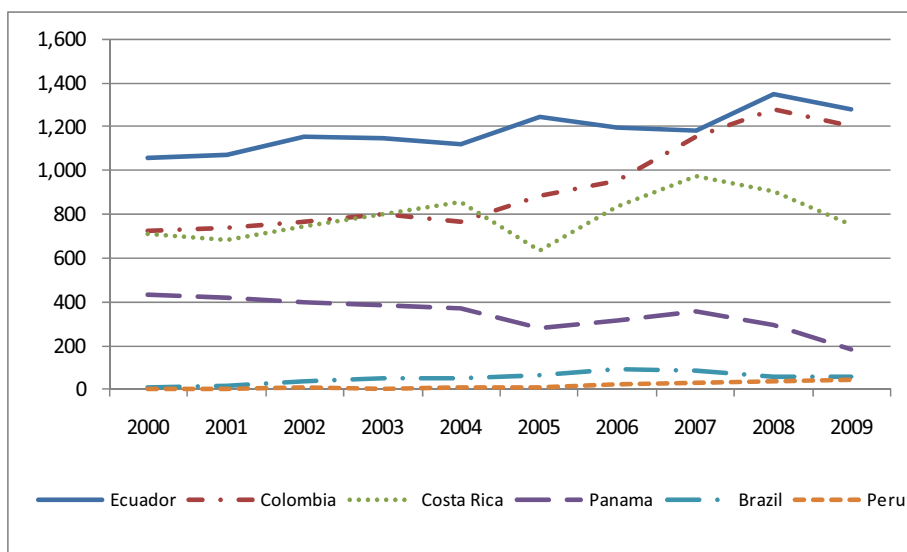
Most EU imports come from non ACP countries, essentially Latin American countries, which are also among the largest banana exporters in the world. All of their exports to the EU except for Panama have experienced an increase in this decade (Figure 8). Particularly noticeable has been the performance of Colombian exports which jumped from 700 to 1200 thousand tonnes between 2000 and 2009. In the same period the growth of other major Latin American exporters was much more modest. The Colombian export performance is relevant in view of the preferential access provided by the EU to bananas imports from Colombia vis-à-vis the other Latin American countries, as we will see below.

Figure 7: Intra-EU sources (thousands of tonnes)



Source: Eurostat (2010)

Figure 8: EU banana imports from Latin American countries (thousands of tons)



Source: Eurostat (2010)

9 CHANGES IN THE EU IMPORT REGIME

The EU system of preferences in the banana market has been undergoing a series of changes that are likely to affect the future ability of the various exporters to supply the EU market. We briefly summarise the relevant changes here and remind the reader to the first part of the study for a more detailed treatment of these changes.

The first of the recent changes bound to have an impact on the EU banana market was the EPA agreements, according to which *all* ACP countries have duty free quota free access to the EU market since 2008. this binds some preferential access for ACP countries The recent 'Geneva agreement' signed at the end of 2009, which supposedly ends the lengthy 'banana dispute' in the WTO, cuts the

EU's tariffs on Latin American banana exports from €176 per tonne to €114 per tonne by 2017, with an initial cut of €28 per tonne that took effect on 15 December 2009.

The final important change to consider is the series of bilateral trade agreements that the EU finalised this year with relevant banana producers, which involve further reductions in import tariffs on bananas. There are three such agreements: one with Colombia, one with Peru and one with six Central American countries (Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua and Panama). According to these agreements the EU will progressively reduce its import tariff on bananas from these countries to 75 €/t by 1 January 2020. This effectively grants a preferential margin on the MFN rate which will increase from 3 €/t in 2010 to 39 €/t from 2020 on. However, between the entry into force of the agreement and 2020 a 'safeguard' clause will apply to prevent larger than anticipated increases in EU banana imports. If imports from a specific country in a given calendar year exceed that country-specific 'trigger import volume' (TIV) for that year (see Table 1), then the EU may suspend for up to three months or until the end of the calendar year (whichever comes first) the preferential import regime and revert to the MFN tariff (Anania, 2010).

Table 1: Trigger import volumes for bananas (tonnes) of the recent EU Association Agreements

	Colombia	Peru	Costa R.	Panama	Honduras	Guatemala	Nicaragua	El Salv.
2009*	1,205,943	44,284	752,937	183,455	8,516	3,672	0	0
2010	1,350,000	67,500	1,025,000	375,000	50,000	50,000	10,000	10,000
2011	1,417,500	712,500	1,076,250	393,750	52,500	52,500	10,500	10,500
2012	1,485,000	7,500	1,127,500	412,500	55,000	55,000	11,000	11,000
2013	1,552,500	787,500	1,178,750	431,250	57,500	57,500	11,500	11,500
2014	1,620,000	82,500	1,230,000	450,000	60,000	60,000	12,000	12,000
2015	1,687,500	862,500	1,281,250	468,750	62,500	62,500	12,500	12,500
2016	1,755,000	9,000	13,325	487,500	65,000	65,000	13,000	13,000
2017	1,822,500	937,500	1,383,750	506,250	67,500	67,500	13,500	13,500
2018	1,890,000	97,500	1,435,000	525,000	70,000	70,000	14,000	14,000
2019	1,957,500	1,012,500	1,486,250	543,750	72,500	72,500	14,500	14,500
From 112020	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

*Actual import data

Source: Eurostat (2010) and Anania (2010)

As compensation for the potential negative effects of the WTO banana deal on ACP banana producing countries, the EU introduced a fund to assist affected ACP countries, by improving their competitiveness and/or helping them engage in alternative economic activities. This fund, under the acronym BAMS (Banana Accompanying Measures) amounts to around €190 million.

10 EVALUATING THE IMPACT OF THE REGULATORY CHANGES IN THE EU BANANAS REGIME

How are these changes likely to affect the various groups of exporters to the EU? We first examine the effects already visible (if at all) on EU imports for the first four months of 2010. We compare these with the potential country competitiveness according to the recent export trends as shown above. We then

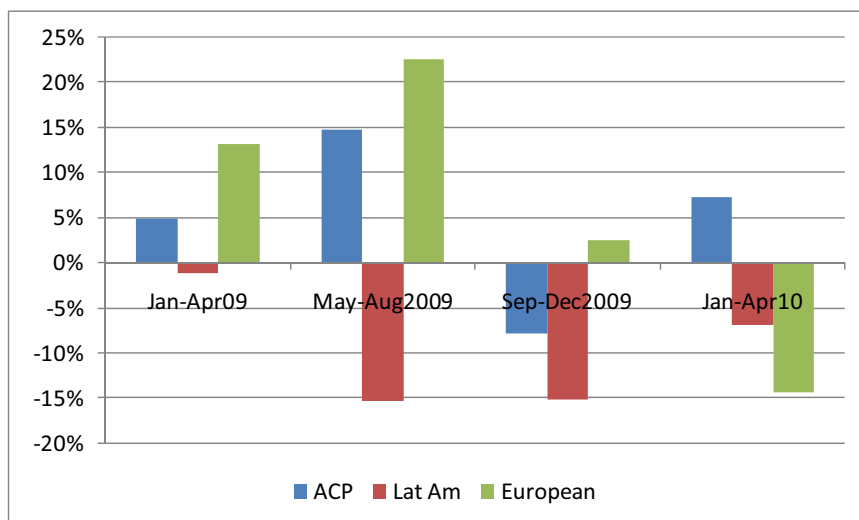
review recent evidence based on partial equilibrium modelling of the banana market (Anania, 2009). Finally we speculate on the overall impact on the economies on the basis of their dependence on banana exports to the EU.

10.1 Visible import changes in early 2010

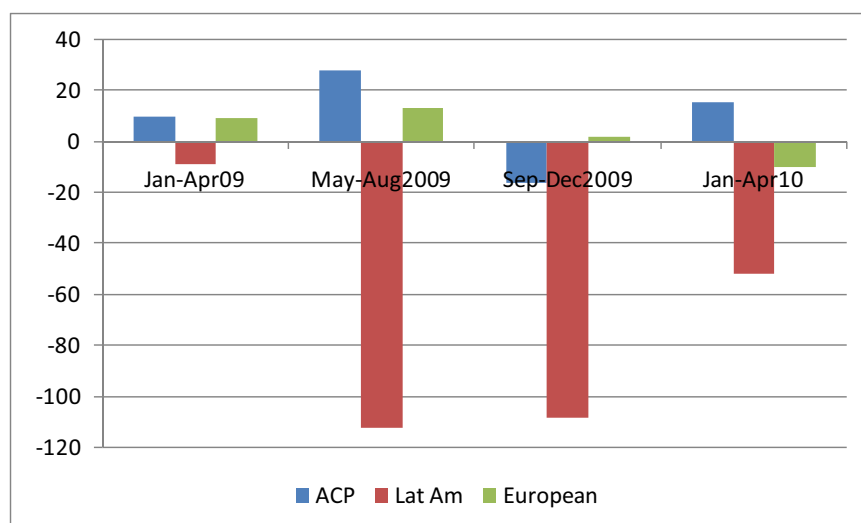
Although it is very early days to start assessing the possible impact of the changes in the bananas regime, it is worth examining the pattern of change in the composition EU imports in the first months of 2010. Figure 9 shows the year-on-year changes in EU four-monthly imports from the three main groups of countries. The figure suggests that there seems to be no particular effect of the preference erosion for ACP and EU exporters in the first four months of 2010. EU imports from other EU countries have declined but not in favour of Latin American exporters (whose exports to the EU have dropped by 5% in the first four months of 2010, or around 50,000 tonnes) as one may have expected, but in favour of ACP countries, which have gained preferences vis-à-vis EU exporters. This may obviously be only the product of periodic fluctuations but it is still suggestive that the partial drop of tariffs for Latin American exporters has not been associated with an increase in their exports. To be sure these exports had been declining even in the last two four-month periods in 2009, so this may be only the end of that period.

Figure 9: yr-o-yr change in banana real exports to the EU, by country group

(a) yr-o-yr % change



(b) yr-o-yr absolute change ('000 tonnes)



Source: Eurostat (2010)

In order to test these hypotheses somewhat more formally, we run a simple regression model using the annual change in EU bananas real import from a specific country as the dependent variable, regressed on time effects and on two interaction term between a post-2009 dummy and the ACP and EU countries respectively. These two interaction terms should capture the eventual effects of the 'Geneva agreement' introduced from 15 December 2009. Table 2 presents the results, which suggest that the negative effect of the agreement is present only for the EU countries (column 1), but that fades away once we account for the different historical level of exports between ACP, EU and Latin American countries, and for the long run trend of ACP and EU exports to the EU (columns 2 and 3). The same insignificant effect applies when we lump all ACP and EU countries in one category (non-MFN), as they are exposed to the same degree of preference erosion (col. 4).⁴⁴ As we said, these results are too preliminary to be robust and some more time will have to elapse for any proper empirical evaluation of the actual impact of the changes in the EU banana regime. These types of empirical tools should help assessing the impact at the appropriate time.

⁴⁴ Note that adding fixed effects to control for time invariant differences across exporting countries does not change much the results.

Table 2: Impact of the ‘Geneva agreement’ on countries’ exports to the EU

	(1)	(2)	(3)	(4)
ACP x post-2009 dummy	-0.188 (0.200)	3.384 (2.676)	6.703 (5.683)	
European x post-2009 dummy	-0.397** (0.178)	3.894 (2.637)	7.477 (5.751)	
Non MFN x post-2009 dummy				6.941 (5.605)
ACP dummy		-3.572 (2.669)	2.592 (5.044)	
European dummy		-4.291 (2.631)	2.362 (5.099)	
Non MFN dummy				2.522 (4.909)
Group specific time trend	NO	NO	YES	YES
Observations	154	154	154	154
R-squared	0.032	0.055	0.059	0.059

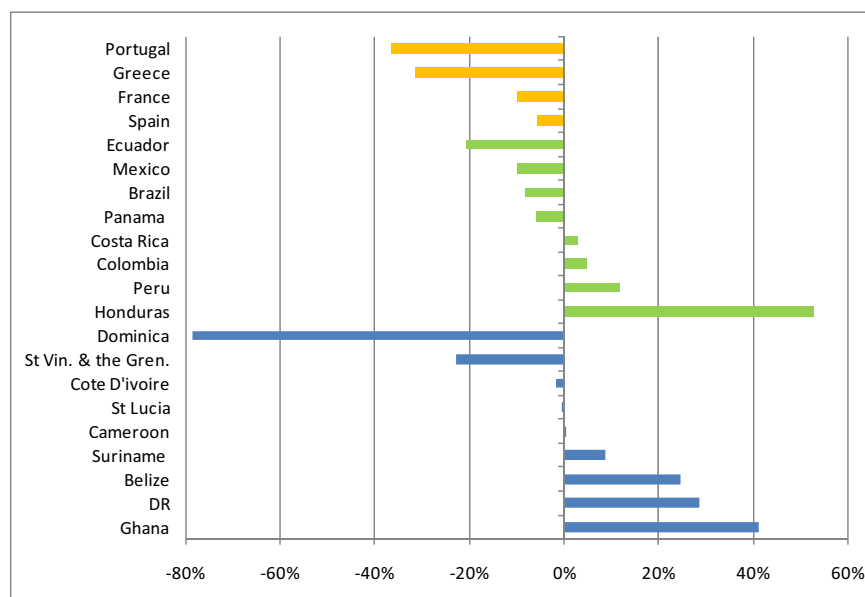
*Robust standard errors in parentheses; *** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$; dependent variable is the percentage growth in the volume of exports to the EU; all regressions include time effects.*

It is interesting to look at the (year on year) changes in EU imports from individual countries for the first four months of 2010 (Figure 10). These changes are broadly in line with the recent trends, i.e. decline for European and (most) Caribbean countries, while the major Latin American countries are evenly split between drops and increases in exports to the EU. In particular, Colombia and Peru experience some increases (Honduras’ large increase is due to the very low export figure in the first four months of 2009), while Ecuador has the largest drop both in relative (-20%) and in absolute term (-67,000 tonnes, a larger drop than for the entire Latin American exporters to the EU). On the other hand, changes for the other Central American countries signatories of the multi-party trade agreement – Panama and Costa Rica – are small. Taken at their face value, these preliminary figures suggest that Colombia and Peru are set to take the main advantages of the new bilateral agreements signed by the EU.

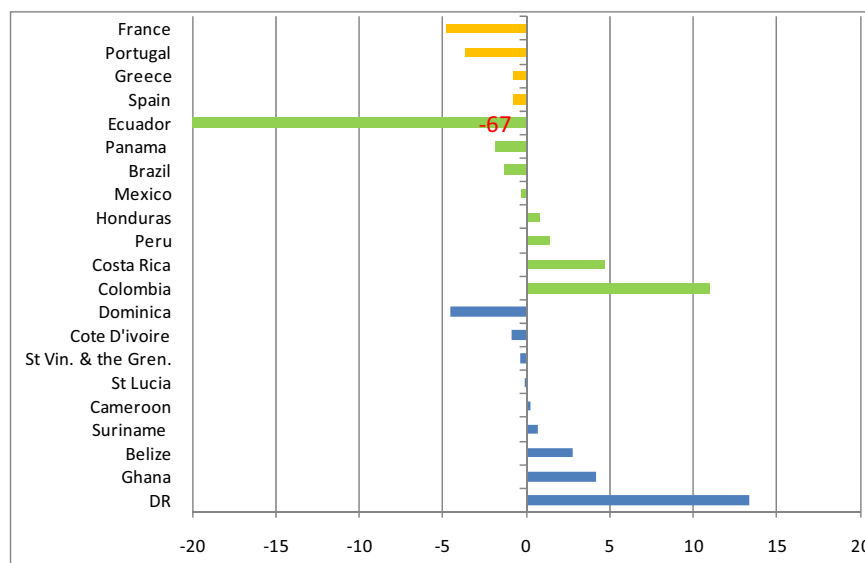
Exports from non traditional ACP countries to the EU are still experiencing the fastest rates of growth among the ACP countries. Dominican Republic and Ghana grew between 30% and 40% in the first four months of 2010 (vis-à-vis the same period in 2009). Belize and Suriname were the other two ACP countries to experience positive rates of growth in that period, while the main Caribbean exporters either maintained the same level of exports of 2009 or decreased it substantially (St. Vincent & Grenadines and Dominica).

Figure 10: yr-o-yr (Jan-Apr 2010 vs. 2009) in volume of banana exports to the EU

(a) yr-o-yr % change



(b) yr-o-yr absolute change ('000 tonnes)



Source: Eurostat (2010)

10.2 Review of simulation results

A recent study by Anania (2009) builds a partial equilibrium model for the bananas market to simulate the effects of various changes in the EU banana regime on trade patterns.⁴⁵ We review here the main results of the simulations. The model focuses on the effects on European, ACP and Latin American

⁴⁵ The model is a single commodity, spatial, partial equilibrium, mathematical programming model. The fact that the model is solved for the trade flows between each pair of countries makes it particularly suitable for representing policies that apply different regimes to imports from different countries.

countries, while it does not include other large exporters such as the Philippines, whose exports are not directed to the EU.

Table 3 presents the aggregate results of simulating a baseline scenario and four different scenarios representing the main possible changes in the banana regime, except for the bilateral agreements between the EU and the Latin American countries. We will briefly discuss below how the latter agreements may further change the picture. The results in Table 3 are presented for the year 2016, when all the main modifications to the banana regime modelled here should be completed. The reference scenario ("Base 2016") ignores the EPAs agreement and any eventual outcome of the multilateral and "bilateral" WTO negotiations. It is essentially modelling a pre-EPAs status quo, which includes the implementation of the EU tariff only regime, the Everything But Arms (EBA) initiative, and the changes in import demand and export supply functions in all countries/regions resulting from expected shifts in domestic demand and supply due to expected changes in yields, population and per capita incomes (based on past observed changes between 1992-95 and 2002-05).

The first scenario simulates the introduction of the EPAs (i.e. duty-free quota free for all ACP countries) relative to the baseline. By guaranteeing larger preference margins to ACP countries, this scenario has substantially higher EU imports from the ACP, which effectively displace the other extra-EU imports, i.e. from Latin America.⁴⁶ On the other hand intra-EU imports are not affected as in the major EU producing countries, i.e. France and Spain, banana production is forecast to equal the minimum threshold required for farms to claim the full amount of their entitlements of "decoupled" payments: 255,000 tonnes and 294,000 tonnes (Table 4), respectively. In Portugal on the other hand support remains fully "coupled" (although under a different policy instrument), thus it is (negatively) affected by changes in market conditions and preferential margins, and so are Greece and Cyprus, the two smallest bananas producers in the EU. Table 4 details country level results, which suggest that Cote d'Ivoire and Dominican Republic are the ACP countries benefiting the most in absolute terms in the first scenario. This is in line with the relative performance of these countries highlighted in the export trends above. The other major ACP exporter, Cameroon, becomes instead a marginal exporter in the 2016 scenarios due to changes in yields and in domestic consumption due to changes in population and per capita incomes. In the model this causes exports in Cameroon to decline dramatically between 2005 and the 2016 scenarios. Given the data available for the first months of 2010, this decline – which is based on pre-2005 data - is probably unrealistic and therefore results for Cameroon are likely to underestimate the future exports. Belize and Suriname are the other major winners among ACP countries, and are forecast to increase their exports (almost all of which to the EU) from 93,000 to 163,000 tonnes due to the EPA implementation. The model does not have specific details on individual countries for the rest of ACP, which also benefit from the EPAs. Considering the rapid decline of Caribbean exports, the main country in this group by 2016 is likely to be Ghana.

The second scenario adds to the first the 'Geneva agreement' on bananas. As this reduces the preferential margin of ACP countries at the expense of the Latin American countries, its impact is effectively the opposite of the implementation of the EPAs in the first scenario. Latin American countries increase their exports partly at the expenses of ACP countries and partly as a consequence to increased EU imports (due to lower tariffs and prices). The Geneva agreement is forecast to reduce ACP exports to the EU by 243,000 tonnes, equivalent to almost US\$ 300 million. Concomitantly the increase in Latin American exports to the EU should be of around 515,000 tonnes, some of which is obtained by diverting exports from other markets towards the EU. Thus the increase in total exports from Latin

⁴⁶ The Latin American share in total EU imports (including intra-EU) decreases from 75% in the baseline to 57%, while the ACP share correspondingly increases from 14% to 33%.

American countries is lower, at 391,000 tonnes (+US\$ 252 million in revenues). Again EU producers are not affected as explained above. The gains and losses across countries are fairly in line with their level of exports (see Table 4), i.e. among the ACP Cote d'Ivoire and Dominican Republic are the most negatively affected (more the latter than the former due to its relatively lower competitiveness), while among the Latin American countries the proportional increase in exports are much lower due to the fact that the majority of their exports is aimed to non EU markets.

Table 3: Aggregate results of the simulations based on the model by Anania (2009)

	Base 2016 (no EPA)	EPA		Impact of Geneva agreement ([2]-[1])
		no EU-MFN countries agreement	EU-MFN Geneva agreement (Dec. 2009)	
		EU $t_{MFN}=176$ €/t US $t=0.5\%$ ROW $t=18.9\%$ [1]	EU $t_{MFN}=114$ €/t US $t=0.5\%$ ROW $t=18.9\%$ [2]	
EU-27 consumption (000 t)	5429.6	5471.8	5741.5	269.7
EU-27 production (000 t)	578.7	578.6	575.8	-2.8
EU-15 border price (€/t, tariff inclusive)	529.2	520	464.2	-55.8
EU-27 imports (000 t)	4850.8	4893.2	5165.7	272.5
from ACP non LDC	775	1784.1	1541.5	-242.6
from MFN non LDC	4075.8	3109.1	3624.2	515.1
from LDC countries	0	0	0	0
	717.3	547.2	413.2	-134
USA imports (000 t)	4412	4475	4433.1	-41.9
Rest of the world net imports (000 t)	4496.6	4620.2	4538	-82.2
ACP non LDC, total exports (000 t)	967.1	1784.1	1541.5	-242.6
ACP non LDC, export revenue (mill \$)	382.7	1213	918.4	-294.6
MFN non LDC, total exports (000 t)	12792.3	12204.3	12595.3	391
MFN non LDC, export revenue (mill \$)	4703.3	4321.4	4573.6	252.2

Source: Adapted from Anania (2009)

Table 4: Countries' results of the simulations based on the model by Anania (2009), '000

	Base 2016 (no EPA)	EPA		Impact of Geneva agreement ([2]-[1])
		no EU-MFN countries agreement	EU-MFN countries Geneva agreement (Dec. 2009)	
		EU $t_{MFN}=176$ €/t US $t=0.5\%$ ROW $t=18.9\%$ [1]	EU $t_{MFN}=114$ €/t US $t=0.5\%$ ROW $t=18.9\%$ [2]	
Spain	294	294	294	0
France	255.3	255.3	255.3	0
Portugal	22.8	22.6	21.5	-1.1
Greece	1.6	1.5	1.2	-0.3
Cyprus	5.1	5.1	3.8	-1.3
EU-27, production	578.7	578.6	575.8	-2.8
Côte d'Ivoire	243.1	507.7	429.3	-78.4
Cameroon	14.1	34.1	27.7	-6.4
Dominican Republic	352.9	601.7	528	-73.7
Belize and Suriname	93.1	163	142.3	-20.7
Other ACP non LDC	264	477.5	414.3	-63.2
ACP non LDC, tot. exp.	967.1	1784.1	1541.5	-242.6
Ecuador	5849.1	5580.9	5759.3	178.4
Colombia	1562.4	1494.2	1539.6	45.4
Costa Rica	2106.4	2031.3	2081.3	50
Guatemala	2467.7	2326.7	2420.5	93.8
Panama	325.4	314.5	321.8	7.3
Honduras	404.5	383.4	397.4	14
Brazil	76.7	73.3	75.6	2.3
Other MFN non LDC	0	0	0	0
MFN non LDC, tot. exp.	12792.3	12204.3	12595.3	391
LDC total exports	0	0	0	0

Source: Adapted from Anania (2009)

In a nutshell, these results confirm the adverse effect of the Geneva agreement for ACP countries, which is somewhat mitigated by the increase in EU imports and the positive effect for ACP of the EPAs. EU producers are unaffected in all scenarios due to the decoupled payment system most of the production benefits from. While the simulations provide a useful and reasonably reliable indication of the expected direction of the effects of the various agreements, the numerical results, especially at the country level, need to be taken with a substantial note of caution, as they rely on various assumptions and on a model which is necessarily a simplification of the reality.

10.3 The effects of bilateral agreements

As mentioned, these simulations do not take into account the most recent EU bilateral agreements involving banana producers. A different study by Anania (2010) helps assess how these agreements may change the overall picture. Colombia is the largest exporter involved in the agreements. Based on recent trends Colombian exports of bananas to the EU are expected to be very close to the TIVs established for Colombia (after which the preferential treatment will be suspended for three months or until the end of the year); moreover, its overall bananas exports have been increasing and under the new import regime it will become profitable to divert some of its exports from other destinations to the EU. Therefore it is plausible that the actual quantities exported by Colombia to the EU will remain the same as without the agreement – i.e. scenario 2 above - (and prices will also be unchanged). The reduction in EU tariff revenues will eventually translate into ‘rents’, likely to be transferred to banana traders. This should equal around €4 million in 2010, and will reach €76 million by 2019.

On the other hand Peru, Costa Rica and Panama seem likely to experience an increase in the production, exports and price received, as their expected exports to the EU under the current import regime remain below the relevant TIVs. Costa Rica and Peru show upward trends both for their exports to the EU market and overall, which may be further aided by the agreements with the EU. Panama shows instead a negative trend for its banana exports, both to the EU and overall; all things being equal, the agreement with the EU should help contain this trend. The expected increase in exports to the EU from these countries is likely to reduce EU domestic price and the import price paid for bananas originating in countries whose exports remain subject to the MFN tariff. In this case too part of the reduction in EU tariff revenue may well become ‘rents’ to be captured (again, most likely) by banana traders.

The other countries, Guatemala, Honduras, Nicaragua and El Salvador do not currently export to the EU, except for some exports by Honduras, but they do export elsewhere. Therefore exports from these countries to the EU could become profitable under the new preferential tariff. In this case EU would start importing from these countries generating again a reduction in the EU domestic price and in the import price for bananas from other MFN exporters.

As a consequence of these bilateral agreements other MFN exporters to the EU (chiefly Ecuador), as well as ACP countries, are all expected to experience a decline in their relative competitiveness in the EU market; *ceteris paribus*, they will export less to the EU and receive a lower price for their exports. However these effects should be contained as they will be determined only by increases in exports by relatively small banana exporters (i.e. all but Colombia). As in the simulations above production in the EU should not be significantly affected by the agreements because of the ‘decoupling’ system, but EU producers will see their incomes decline somewhat because of the lower domestic price.

10.4 Overall impact on producers

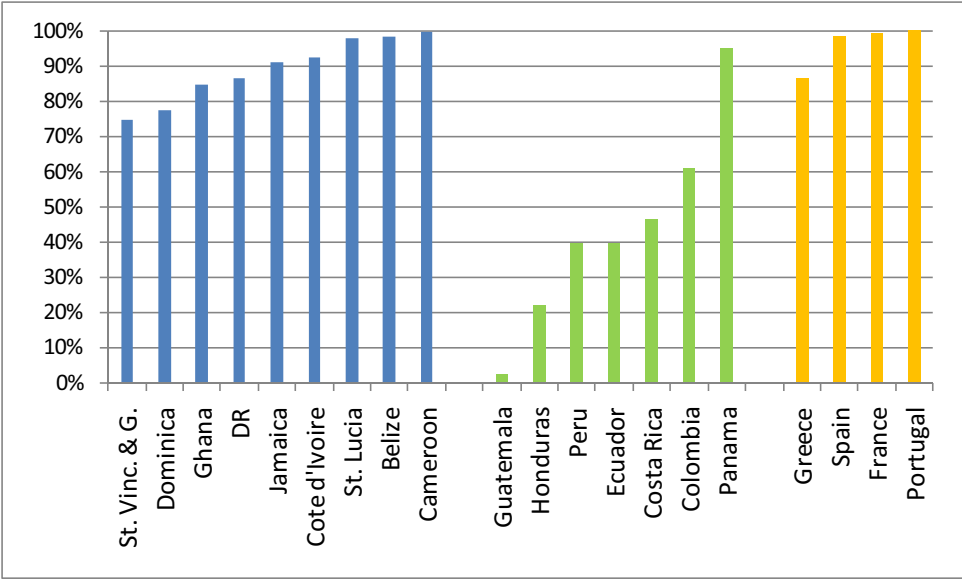
After having examined who the winners and losers of the different policy changes in the EU banana regime may be, it is worth briefly exploring how large the impact for the main bananas exporters involved may be.

As noted above, the main ACP exporters are heavily dependent on the EU market, the EU producers are entirely dependent, while Latin American exporters are much less dependent, except for Panama and Colombia (Figure 11).

This dependence does not always translate into a dependence of the economy on bananas exports to the EU. A case in point is the European producers whose economies are totally independent of banana

exports to the EU (Table 5), although their banana producing regions do rely on banana production a great deal. On the other hand ACP countries are generally quite dependent on bananas exports to the EU, which in the case of some Caribbean countries, i.e. Belize, St. Lucia, Dominica and St. Vincent, represent over 4% of total exports of goods and services and over 2% of GDP. Even certain African countries, as Cameroon and Cote d'Ivoire have quite high rates of dependence on banana exports to the EU. The dependence of Latin American countries is much less pronounced, although banana exports to the EU represent over 5% of total exports in Costa Rica and Ecuador.

Figure 11: Real bananas exports to the EU as % of total bananas exports (avg. 2001-09)



Source: Authors' elaboration on Eurostat and COMTRADE

Table 5: Average dependence of economies on banana exports to the EU

	% GDP (2006-08)	% Exp (2006-08)
Belize	3.72%	6.08%
St Lucia	2.91%	6.08%
Dominica	2.44%	5.69%
St Vinc. & the Gren.	2.05%	4.84%
Cameroon	1.09%	4.45%
Suriname	1.03%	3.00%*
Cote d'Ivoire	0.93%	1.89%
Dominican Republic	0.37%	1.29%
Ghana	0.18%	0.44%
Avg. ACP countries	1.63%	3.84%
Costa Rica	2.63%	5.48%
Ecuador	1.90%	5.35%
Panama	1.23%	1.59%
Colombia	0.43%	2.44%
Honduras	0.19%	0.36%
Guatemala	0.04%	0.15%
Peru	0.03%	0.09%
Venezuela	0.01%	0.02%
Brazil	0.004%	0.03%
Avg. Latin American	0.72%	1.72%
Portugal	0.011%	0.034%
France	0.005%	0.019%
Spain	0.002%	0.009%
Greece	0.002%	0.008%
Avg. Europe	0.01%	0.02%

* Data for share of bananas in total exports refer to 2005

Source: Authors' calculations on EUROSTAT (2010) and World Bank (2010)

These data suggest that the ongoing changes in the EU bananas regime are likely to impose considerable adjustment costs mainly to the Caribbean exporters, and to a much more limited extent to some African exporters (Cameroon and Cote d'Ivoire). In fact there are some indications that the latter may replace Caribbean exporters within the ACP group thereby not decreasing their level of exports to the EU in the future. On the other hand the effects on producing countries within the EU are going to be minimal due to the system of decoupled payments to the producers, which should induce them to produce the minimum quantities to receive the payments (as any extra quantity above the minimum would not be economically viable due to the high production costs).

11 POLICY IMPLICATIONS

The plurilateral Geneva agreement on bananas of last year and the recent bilateral agreements by the EU are likely to speed up the decline of the banana industry in most of the Caribbean countries. On the other hand these changes are expected to have much milder effects on African producers and for the Dominican Republic, which may be set to replace Caribbean countries as banana suppliers to the EU.

The EU producers are not likely to be much affected by the changes in the import regime. Nonetheless the EU has established an assistance package in order to offset any eventual drop in income for those associations of producers and individual producers unable to participate in a producer group on account of their geographical remoteness could receive compensation. The guaranteed Community quantity for which compensation could be claimed was 854,000 tonnes, allocated among the producer regions (Canary Islands, Guadeloupe, Martinique, Madeira, Azores, Crete, Algarve and Lakonia). A guaranteed quantity of 13,500 tonnes had been granted to Cyprus in the accession negotiations. The Commission would determine the amount of the compensation each year in the spring. An additional envelope of EUR 278.8 million will be added to the budget for the POSEI programme (programme d'options spécifiques à l'éloignement et à l'insularité) for the outermost regions. Banana-producing areas other than the outermost regions (and thus not covered by the POSEI programme) will receive an additional EUR 4.5 million and come under the single (decoupled) payment scheme. The overall financial envelope will be based on average aid granted over an historical reference period of a number of years. It will be allocated according to relative shares in the year 2000 (Dimireva, 2009).

Most Latin American countries are set to increase their exports to the EU, particularly Colombia, and to some extent Peru, Honduras and Costa Rica. Therefore the adjustment costs of the changes in the EU regime for bananas will have to be essentially borne by Caribbean countries. Those are the countries that are likely, and in fact should, receive the majority of the support envisaged by the EU to help banana exporters to "adapt to the effects of changes in the EU's import regime" (EC, 2010).

To that end the European Commission has recently established a package of support – the Banana Accompanying Measures (BAM) – over a period of four years (2010-2013) with a total budget of €190 million.⁴⁷ This assistance will be directed to the "main ACP banana-exporting countries". It will be important to allocate the BAM across countries according to the expected losses, not only in terms of banana exports and production. As noted by Mlachila et al. (2010) incomes and employment prospects for poor rural households in the Windward Islands, which have limited alternative employment opportunities, have been already adversely affected.

The other strategic decision to be made with respect to the assistance to banana producing countries has to do with the type of support to be provided. In principle there are three types of non-mutually excludable types of interventions to address the challenges facing the banana production in the affected countries: those to improve efficiency of existing production, those to add value, through processing or differentiation, and those to help diversify away from banana production.

The first objective may be the most difficult to pursue especially in the context of banana producing regions in the Caribbean which suffer the penalties of adverse factor endowments as highlighted above. There seems to be limited scope to employ technology to compensate these penalties. A more promising route which has been followed with some success in the Windward Islands is the differentiation of banana production through Fair Trade initiatives. The Fairtrade movement has maintained a viable market opening for Windward Islands bananas, particularly to the United Kingdom (Silva, 2010).⁴⁸ To what extent additional assistance could help banana producers address the possible challenges of certification, price review process, and quality control involved in the Fairtrade activities is a question worth investigating further.

⁴⁷ In addition the Commission will examine the possibility of "topping up this amount by €10 million if the corresponding credits become available in the annual budget procedures" (EC, 2010).

⁴⁸ Essentially, the Fairtrade label ensures that certified producers comply with certain environmental, social and ethical practices; in return, these producers receive a premium price for their bananas which ensures their survival against unsustainable drops in the market.

Supporting diversification away from bananas is likely to be a key strategy in countering the negative effects of preference erosion especially in the most affected Caribbean countries. The success of Jamaica and other countries in diversification up to now shows that this is a feasible strategy (Gillson et al 2004), although the low share of funds of the previous fund for bananas, the Special Framework for Assistance for traditional ACP suppliers of bananas (SFA) which was spent on diversification was an important factor in the low levels of growth experienced in traditional ACP banana-producing countries (Commonwealth Secretariat, 2004). Spending on diversification projects eventually increased and since 1999, much of the support in Dominica, St. Vincent and Grenada has been directed towards diversification into the production of other fruits and vegetables. Since 2002, Jamaica has also used a proportion of its grant for diversification purposes. However, as noted by Gillson et al. (2004) most of the diversification projects funded under the SFA were small-scale pilot projects within the agricultural sector. The approach was rather *ad hoc* and did not address the key constraints in the wider business environment (e.g. public sector reform). Action to remove these would have promoted economic diversification covering all potential sectors. The lack of consistency in the EU approach to funding in the SFA programme - specifying, initially, that funds be used for investments in the affected industry and, later, insisting on diversification – created uncertainty and hampered investment. This suggests the importance of well-targeted social safety nets and transition measures, such as income transfers, retraining programs, and non-contributory pensions.

Services (especially tourism and mode 4) seem to be a particularly viable sector for the diversification of exports in the Caribbean and its expansion somewhat offset the losses arising from the decline of Windward Islands' banana sectors (Gillson et al., 2004). Improved market access for services (especially mode 4) could encourage diversification into more profitable activities. Transitional assistance could play a key role in supporting any of these diversification strategies by funding investments and promoting retraining. Donors, however, are not in the best position to 'pick winners' in identifying potential growth opportunities that deserve funding. Choices are better made by national recipient governments or by the private sector, as happened in Mauritius.

Gillson et al. (2004) also examine past similar schemes, including the STABEX system (providing resources to commodity-dependent ACP countries not included under the Sugar Protocol), the EU Rum Programme, the SFA and took some lessons from them which could be applied to the current BAM as well. First, in order to facilitate adjustment and avoid nurturing dependency on preferences, support needs to be de-linked from production. The SFA and STABEX (initially) compensated for loss of export earnings in declining commodity sectors which aggravated dependence. Incidentally this should ideally apply also to the assistance currently provided to the main EU banana producing regions, which is not yet entirely decoupled from production, thus requiring some production of bananas in these regions. Second, in order to be effective any scheme needs to be predictable (without frequent changes in how the funds can be spent) since this will encourage investment. Both the SFA and STABEX were undermined by seemingly conflicting conditionality in the course of their lifetimes. Third, over-strict regulation of conditions should be avoided since this could delay disbursements and limit the potential to use transitional assistance effectively. Fourth, financing should be provided *ex ante* so that the required investments can be made in anticipation of the preference erosion shock (e.g. as with the Rum Programme). Finally, strong national or regional ownership of the scheme, with close relationships between the public and private sectors, help to ensure that funds are used effectively.

12 CONCLUSIONS

The web of plurilateral and bilateral agreements that the EU has recently signed with the ACP countries (EPAs), with Latin American banana producers, with Colombia, Peru and Central American countries is revolutionising the banana market in the EU and beyond. This study has looked at the possible implications of these changes on the basis of past trade data, of the review of simulations and of the dependence of the economies on export to the EU.

The analysis suggests that the adverse effect of the Geneva agreement for ACP countries, is somewhat mitigated by the increase in EU imports and, for non-traditional ACP producers, by the positive effect of the EPAs. The net effects of both EPAs and the Geneva Agreement are expected to be positive for ACP countries, slightly negative for Latin American countries, and indifferent for EU producers, who are unaffected in all scenarios due to the decoupled payment system now used for most production

The recent EU bilateral agreements with some Latin American banana producers further erode the preferential access of ACP producers and of other Latin American exporters to the EU, which are all expected to experience a decline in their relative competitiveness in the EU market. *Ceteris paribus*, they will export less to the EU and receive a lower price for their exports. However these effects should be contained as the increases in exports will come mainly from relatively small banana exporters (i.e. all but Colombia).

Among the ACP countries, we suggest that the ongoing changes in the EU bananas regime are likely to impose considerable adjustment costs mainly to the Caribbean exporters, and to a much more limited extent to some African exporters (Cameroon and Cote d'Ivoire). In fact there are some indications that the latter may replace Caribbean exporters within the ACP group thereby not decreasing their level of exports to the EU in the future. Therefore the adjustment costs of the changes in the EU regime for bananas will have to be essentially borne by Caribbean countries. Those are the countries that are likely, and in fact should, receive the majority of the support envisaged by the EU to help banana exporters to "adapt to the effects of changes in the EU's import regime" (EC, 2010). To that end the European Commission has recently established a package of support – the Banana Accompanying Measures (BAM) – over a period of four years (2010-2013) with a total budget of €190 million.

It will be important to allocate the resources from the BAM across countries according to the expected losses, not only in terms of banana exports and production, but also in terms of the ensuing social effects. In addition a key decision will also have to be made in relation with the type of support to be provided. In principle there are three types of non-mutually excludable types of interventions to address the challenges facing the banana production in the affected countries: those to improve efficiency of existing production, those to improve the quality, and those to help diversify away from banana production.

Whatever objectives will be pursued through this assistance, it will be crucial to take notice of the lessons from previous similar schemes, including the SFA, STABEX and the EU Rum Programme and not to repeat the mistakes that (greatly) limited the effectiveness of these schemes.

13 REFERENCES (FOR PART II)

- Anania, G. (2009), How would a WTO Agreement on Bananas Affect Exporting and Importing Countries?. International Centre for Trade and Sustainable Development, Geneva.
- Anania (2010), The implications for bananas of the recent trade agreements between the EU and Andean and Central American countries, Policy Brief no. 5, International Centre for Trade and Sustainable Development, Geneva.
- Anderson, R., T. Taylor and T. Josling (2003), 'The Caribbean and the banana trade' in Josling, T. and T. Taylor (eds.), *Banana wars: the anatomy of a trade dispute*, CABI Publishing, Cambridge.
- Dimireva, I. (2009), Markets for agricultural products: Bananas, EU Business,
- <http://www.eubusiness.com/topics/agri/markets-bananas/>
- Eurostat (2010), Eurostat COMEXT database, downloaded 9 September 2010.
- European Commission (2010), Banana Accompanying Measures: Supporting the Sustainable Adjustment of the Main ACP Banana-Exporting Countries to New Trade Realities, COM(2010)101, Brussels.
- FAO (2003) *Medium-term prospects for agricultural commodities*, Rome.
- Gillson, I., Hewitt, A. and Page, S. (2004), Forthcoming Changes in the EU Banana/Sugar Markets: A Menu of Options for an Effective EU Transitional Package, ODI Report.
- IMF (2000), *St. Vincent and the Grenadines: recent economic developments*, IMF Staff Country Report 00/163. International Monetary Fund.
- IMF (2002), *IMF Country Report No. 02/14*, St. Lucia: Selected Issues and Statistical Appendix, January 2002.
- ITCSD (2010), Bananas: Geneva Agreement Signed; Bilaterals Cut Tariffs Further, Bridges Weekly.
- Mlachila, M., Cashin, P. and Haines, C. (2010), Caribbean Bananas: The Macroeconomic Impact of Trade Preference Erosion, IMF Working Paper 10/59.
- NERA/OPM (2004), 'Addressing the impact of preference erosion in bananas on Caribbean countries', A Report for DFID, 3 June, NERA Economic Consulting and Oxford Policy Management.
- Silva, S. (2010), Fairtrade, the Windward Islands and the changing EU banana regime, Commonwealth Trade Hot Topic 74.
- World Bank (2010), World Development Indicators, online database, downloaded 12 September 2010.

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

Foreign Affairs
Human Rights
Security and Defence
Development
International Trade

Documents

Visit the European Parliament website: <http://www.europarl.europa.eu/studies>

