

ANNEX I

CUSTOMS DUTIES ON PRODUCTS ORIGINATING IN ESA STATES

1. Without prejudice to paragraphs 2, 4, 5, 6 and 7 customs duties of the EC Party (hereinafter 'EC customs duties') shall be entirely eliminated on all products of Chapters 1 to 97 of the Harmonised System, except those of Chapter 93 thereof, originating in a ESA State upon the entry into force of this Agreement. For products of Chapter 93 the EC Party shall continue to impose the applied MFN duties. For indicative purposes the schedule of EC customs duties applicable to products originating in a ESA State is appended to this Annex.
2. EC customs duties on the products of tariff heading 1006 originating in the ESA States shall be eliminated as from 1 January 2010, with the exception of EC customs duties on the products of subheading 1006 10 10 which shall be eliminated as from the entry into force of this Agreement.
3. The EC Party and the Signatory ESA States agree that the provisions of Protocol 3 of the Cotonou Agreement (hereinafter the 'Sugar Protocol') shall remain applicable until 30 September 2009, and that thereafter the Sugar Protocol shall no longer be in force between them. For the purposes of Article 4(1) of the Sugar Protocol, the delivery period 2008/2009 will last from 1 July 2008 to 30 September 2009. The guaranteed price for 1 July to 30 September 2009 shall be decided following the negotiation provided for in Article 5(4).
4. EC Customs duties on products of tariff heading 1701 originating in an ESA State shall be eliminated as from 1 October 2009. Until EC customs duties are entirely eliminated, and in addition to the allocations of tariff rate quotas at zero duty set out in the Sugar Protocol, a tariff rate quota at zero duty of 75 000 tonnes shall be opened for marketing year ⁽¹⁾ 2008/2009 for products of tariff heading 1701, white sugar equivalent, originating in the ESA States. No import licence shall be granted with regard to products to be imported under this additional tariff rate quota, unless the importer undertakes to purchase such products at a price at least equal to the guaranteed prices fixed for sugar imported into the EC Party under Sugar Protocol.
5. (a) The EC Party may, during the period between 1 October 2009 and 30 September 2015 impose the applied Most Favoured Nation duty on the products originating in ESA States of tariff heading 1701 [sugar] imported in excess of the following levels expressed in white sugar equivalent, which are deemed to cause a disturbance in the EC Party sugar market:
 - (i) 3,5 million tonnes in a marketing year of such products originating in States members of the African, Caribbean and Pacific Group of States (ACP States) signatory to the Cotonou Agreement, and
 - (ii) 1,38 million tonnes in marketing year 2009/2010 of such products originating in ACP States that are not recognised by the United Nations as least developed countries. The figure of 1,38 million tonnes shall increase to 1,45 million tonnes in marketing year 2010/2011, and 1,6 million tonnes in the following four marketing years.
- (b) The importation of products of tariff heading 1701 originating in any ESA State that is recognised by the United Nations as a least developed country shall not be subject to the provisions of subparagraph 5(a). However, such imports shall remain subject to the provisions of Article 21 (safeguard clause) ⁽²⁾.
- (c) The imposition of the applied Most Favoured Nation duty shall cease at the end of the marketing year during which it was introduced.
- (d) Any measure taken pursuant to this paragraph shall be notified immediately to the EPA Committee and shall be the subject of periodic consultations within that body.
6. As of 1 October 2015, for the purpose of the application of the provisions of Article 21 (safeguard clause), disturbances in the markets of products of tariff heading 1701 may be deemed to arise in situations where the European Community market price of white sugar falls during two consecutive months below 80 percent of the European Community market price for white sugar prevailing during the previous marketing year.

⁽¹⁾ For the purpose of paragraphs 4, 5, 6 and 7 'marketing year' means the period between 1 October and 30 September.

⁽²⁾ For this purpose and by derogation to Article 21, individual State recognised by the United Nations as a least developed country may be subject to safeguard measures.

7. From 1 January 2008 until 30 September 2015 products of tariff heading 1704 90 99, 1806 10 30, 1806 10 90, 2106 90 59 and 2106 90 98 shall be subject to a special surveillance mechanism in order to ensure the arrangements provided for in paragraphs 4 and 5 are not circumvented. In the event of a cumulative increase of imports of such products originating in ESA States by more than 20 percent in volume during a period of 12 consecutive months compared to the average of the yearly imports over the three previous 12-month periods, the EC Party shall analyse the pattern of trade, the economic justification and the sugar content of such imports and, if it considers that such imports are used to circumvent the arrangements provided for in paragraphs 4 and 5, it may suspend the preferential treatment and introduce the specific MFN duty applied to imports pursuant to the European Community Common Customs Tariff for products of tariff heading 1704 90 99, 1806 10 30, 1806 10 90, 2106 90 59 and 2106 90 98 originating in ESA States. Subparagraphs 5(b), (c) and (d) shall apply *mutatis mutandis* to action under this paragraph.
 8. Between 1 October 2009 and 30 September 2012 with regard to the products of tariff heading 1701, no preferential import licence shall be granted unless the importer undertakes to purchase such products at a price not lower than 90 percent of the reference price set by the EC Party for the relevant marketing year. The Parties take note that at the time of initialling of the Agreement the reference price is contained in Regulation (EC) No 318/2006.
 9. Paragraphs 1, 3 and 4 shall not apply to products of tariff heading 1701 originating in ESA States and released for free circulation in the French overseas departments. This provision shall be applicable for a period of 10 years. This period shall be extended for a further period of 10 years unless the Parties agree otherwise.
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