

## Client Advisory

April 2001

# United States and European Union Settle Banana Dispute

On April 11, 2001, the United States and the European Union (EU) announced a settlement to the long-standing dispute over the EU's banana import regime. Since 1999, the U.S. has assessed 100% retaliatory *ad valorem* duties on the importation of certain items (*i.e.*, bath preparations, hand bags, folding cartons and boxes, certain bed linen, lead-acid storage batteries, and household electrothermic coffee or tea makers) from the EU because the World Trade Organization (WTO) ruled that the EU regime was discriminatory and contrary to the WTO Agreement. As a result, the WTO permitted the U.S. to seek compensation from the EU in the amount of \$191.4 million. Additionally, as a result of the *Trade and Development Act of 2000*, the U.S. proposed to rotate the 100% retaliatory duties on a variety of other products (*i.e.*, items previously subject to retaliatory duties plus certain meat, pecorino cheese, sweet biscuits, candles, printed cards, sweaters, and chandeliers) from the EU. *See* 65 Fed. Reg. 34,786 dated May 31, 2000. However, the revised list of sanctioned products was never finalized, pending negotiations between the U.S. and EU to settle the dispute.

Under the settlement agreement, the EU will implement a new import regime beginning on July 1, 2001, whereby import licenses will be issued to importers and tariff rate quotas (TRQs) allocated to countries based on historic references (*i.e.*, between 1994 and 1996) of trade in bananas. On July 1, 2001, the U.S. will suspend the 100% retaliatory duties on designated EU goods.

By January 1, 2002, the EU is obligated to increase two quotas for Latin America by 100,000 tons of bananas and to reduce the quota allocated to Africa, Caribbean and Pacific (ACP) countries until 2005. When the EU implements this second phase of the banana import regime, which must be approved by EU member states, the U.S. will definitely remove the retaliatory duties. If, however, the EU fails to implement this second phase of the banana import regime, the U.S. has reserved the right to reimpose 100% retaliatory duties on EU products. After 2005, the EU is scheduled to consider a banana import regime based on tariff rates only, rather than quotas, which may assess duties on bananas imported from certain countries (*e.g.*, Latin America) and permit duty-free entry of bananas from other countries (*e.g.*, ACP).

Importers of merchandise subject to 100% retaliatory duties should be aware that, although such duties may be suspended on July 1, 2001, the U.S. may reimpose these sanctions on January 1, 2002. Katten Muchin Zavis Rosenman will continue to monitor the progress of the EU to implement the revised banana import regime under this agreement. Importers affected by this dispute should consult with KMZ Rosenman to determine the likelihood of reimposed retaliatory sanctions on EU products.

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