



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.7.2005
COM(2005) 332 final

2005/0134 (ACC)

Proposal for a

COUNCIL DECISION

on a Community position within the Association Council on a derogation from Protocol 4, concerning the definition of originating products and methods of administrative co-operation, to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one part, and the Kingdom of Morocco, of the other part

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In the context of the Barcelona process, the Commission has made a proposal to the Council for the extension of the pan-European cumulation of origin to the Mediterranean countries, which will contribute to the creation of the Euro-Med free trade area by 2010.

The pan-Euro-Mediterranean cumulation of origin will allow, amongst other, that garments manufactured in Morocco will be conferred preferential origin for export to the Community if they are made up from fabrics originating in the other pan-Euro-Mediterranean countries, such as Turkey.

A basic condition for the application of pan-Euro-Mediterranean cumulation is the existence of free trade agreements with identical rules of origin, between the countries of the zone. On 7 April 2004 Morocco and Turkey signed a free trade agreement, which contains a declaration stating that the two Parties will replace the current origin protocol with the pan-Euro-Med origin protocol via an exchange of letter. The pan-Euro-Mediterranean cumulation also requires that the rules of origin of the EC-Morocco Euro-Mediterranean Agreement be amended. A proposal to that effect is currently being discussed by the Council.

- **General context**

The rule of origin applicable to the garments for which the derogation is requested is that all the fabrics used must be manufactured from already originating yarn. In other words, it does not allow for the use of non-originating fabrics in the manufacture of these garments.

Based upon the Joint Declaration on Article 39 of Protocol No. 4 to the EC-Morocco Agreement, on 19 April 2005, Morocco requested a derogation which will allow the manufacture in Morocco of originating garments from fabrics originating in Turkey for export to the EU. This derogation aims at anticipating the effects of pan-Euro-Mediterranean cumulation of origin among Morocco, Turkey and the EU.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with the other policies and objectives of the Union**

The consistency of the proposed decision with the various objectives of the Neighbourhood Policy has been met.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

No consultation needed because the proposed decision follows a request of the interested parties, i.e. the Moroccan authorities.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Option 1: granting of the derogation. This option will contribute to the development of a key sector of the Moroccan economy, the textile sector, without jeopardising the Community textile industry.

Option 2: refusal of the request for derogation. This option will not contribute to the development of the Moroccan economy and in particular of the textile industry which has been facing a difficult moment due to the abolition of quotas since January 2005.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal lays down that the derogation shall be granted:

- in respect of garments falling under chapters 61 and 62 of the Harmonized Commodity Description and Coding System;
- for a quantity of 10.890 tons of garments (detailed table enclosed in Annex 1);
- until the entry into force of the Pan-Euro-Mediterranean protocol on rules of origin among the Parties concerned, namely Morocco, Turkey and the EU but, in any event, for no longer than a period of one year;
- provided that Morocco carries out quantitative checks on the exports of the products concerned and supplies statements of the quantities in respect of which movement certificates have been issued;
- provided that the free trade agreement between Morocco and Turkey is in force.

- **Legal basis**

Article 133 in conjunction with Article 300 paragraph 2, second subparagraph of the Treaty establishing the European Community.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

There is no other option in the present case. Therefore this is the simplest measure possible.

There is no extra financial and administrative burden.

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reason(s).

The derogation implies an amendment of the protocol on rules of origin. Article 39 of the protocol provides that amendments are decided by the EC-Morocco Association Council.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300 paragraph 2, second subparagraph,

Having regard to the proposal from the Commission,

Whereas:

- (1) In accordance with Article 78 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one part, and the Kingdom of Morocco, of the other part, signed on 26 February 1996¹, an Association Council is established,
- (2) In accordance with Article 39 of Protocol 4 to the EC-Morocco Agreement, the Association Council may decide to derogate from the provisions of this Protocol,
- (3) In accordance with the Joint Declaration on Article 39 in Annex VIII to Protocol 4 the Community has examined the request from Morocco for a derogation from the rules of origin;
- (4) As a result of this examination, the Council, on behalf of the Community, considers that all the conditions are met to grant the derogation from the rules of origin laid down in Protocol 4;

HAS DECIDED AS FOLLOWS:

¹ OJ L 70 of 18.3.2000.

Sole Article

The position to be adopted by the Community within the Association Council established by virtue of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one part, and the Kingdom of Morocco, of the other part, on the derogation from the rules of origin laid down in Protocol 4, concerning the definition of originating products and methods of administrative co-operation, is that defined in the attached draft decision of the EC-Morocco Association Council.

Done at Brussels,

*For the Council
The President*

Proposal for a

DECISION No. 1/2005 OF THE EC-MOROCCO ASSOCIATION COUNCIL

of

derogating from Protocol 4, concerning the definition of originating products and methods of administrative co-operation, to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, on the one part, and the Kingdom of Morocco, of the other part

THE EC-MOROCCO ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Kingdom of Morocco², signed at Brussels on 26 February 1996, hereinafter "EC-Morocco Agreement", and in particular to Article 39 of Protocol 4 concerning the definition of originating products and methods of administrative co-operation thereof,

Whereas:

- (1) The Joint Declaration on Article 39 states that the Community is prepared to examine any request from Morocco for derogations from the rules of origin after signature of the EC-Morocco Agreement;
- (2) On 19 April 2005, Morocco submitted a request for a derogation from the rules of origin for garments. On 7 June 2005, Morocco completed its request by sending the list of products and relevant quantities, for a total amount of 10.890 tons of garments falling under chapters 61 and 62 of the Harmonized Commodity Description and Coding System;
- (3) Pending the entry into force of the Morocco-Turkey Free Trade Agreement signed on 7 April 2004 and pending the amendment of the EC-Morocco protocol on rules of origin, the derogation would allow the manufacture in Morocco of originating garments from fabrics originating in Turkey for export to the Community;
- (4) This derogation applies also to fabrics originating in Turkey and exported to Morocco from the Community;
- (5) This derogation will anticipate the effects of a higher degree of cumulation as compared to the one provided for in the current origin protocol, thus contributing to the development of the Moroccan economy, in particular of its textile sector;

² OJ L 70 of 18.3.2000.

- (6) Accordingly, this derogation should be granted on the condition that the free trade agreement between Morocco and Turkey, including its protocol on rules of origin, has entered into force.
- (7) The derogation should be granted until the entry into force of the new protocol on rules of origin among the three Parties concerned, namely Morocco, Turkey and the Community but, in any event, for no longer than a period of one year.

HAS DECIDED AS FOLLOWS:

Article 1

By way of derogation from Annex II to Protocol 4 to the EC-Morocco Agreement, the garments listed in the Annex to this Decision and obtained in Morocco from fabric originating in Turkey shall be considered as originating in Morocco.

Article 2

The derogation provided for in Article 1 may only be applied provided that preferential rules of origin identical to the rules of origin contained in Protocol to the EC-Morocco Agreement are in force between Turkey and Morocco in order to determine the originating status of the fabrics sourced in Turkey.

Article 3

For the purpose of this Decision and by way of derogation from Article 18 (4) and (5) to Protocol No 4 of the EC-Morocco Agreement, the customs authorities of a Member State of the European Community may issue EUR.1 movement certificates for fabric originating in Turkey to be exported to Morocco.

Article 4

The quantities referred to in the Annex shall be managed by the Commission, which shall take all administrative actions it deems advisable for their efficient management. Articles 308a, 308b and 308c of Council Regulation (EEC) No 2454/93³ shall apply *mutatis mutandis* to the management of those quantities referred to in the Annex.

Article 5

The customs authorities of Morocco shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1. To that end, all the certificates they issue pursuant to this Decision shall bear a reference to it. The competent authorities of Morocco shall forward to the Commission every three months a statement of the quantities in

³ OJ L 25, 11.10.1993, p. 1 as last amended by Regulation (EC) No 883/2005 of the Commission, OJ L 148, 11.6.2005, p. 5.

respect of which movement certificates EUR.1 have been issued pursuant to this Decision and the serial numbers of those certificates.

Article 6

Box 7 of movement certificates EUR.1 issued pursuant to this Decision shall contain the following indication, in one of the languages in which the EC-Morocco Agreement is drawn up, that is to say all Community languages and Arabic:

"Derogation – Decision No. 1/2005

Article 7

Morocco and the Member States of the European Community shall take the measures necessary on their part to implement this Decision.

Article 8

This Decision shall enter into force on the day of its adoption.

This Decision shall apply until the entry into force of the new protocol on the definition of originating products and methods of administrative co-operation among Morocco, Turkey and the Community but, in any event, for no longer than a period of one year.

Done at Brussels

*For the Association Council
The President*

ANNEX I

LIST AS REFERRED TO IN ARTICLE 1

(products benefiting from the derogation)

HS heading No.	Description	Quantities (tons)
6203 42 and 6204 62	Men's or boys' trousers, bib and braces overalls, breeches and shorts of cotton Women's or girls' trousers, bib and braces overalls, breeches and shorts of cotton	6400
6204 63 and 6204 69	Women's or girls' trousers, bib and braces overalls, breeches and shorts of synthetic fibres Women's or girls' trousers, bib and braces overalls, breeches and shorts of other textile materials	
6207 6211 6212	Men's or boys' singlets and other vests, underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles Tracksuits, ski suits and swimwear; other garments Brassières, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted	860
6203 41 6203 43 6203 49	Men's or boys' trousers, bib and braces overalls, breeches and shorts of wool or fine animal hair Men's or boys' trousers, bib and braces overalls, breeches and shorts of synthetic fibres Men's or boys' trousers, bib and braces overalls, breeches and shorts of other textile materials	700
6205 and 6206	Men's or boys' shirts Women's or girls' blouses, shirts and shirt- blouses	800

6204 51 to 6204 59	Women's or girls' skirts and divided skirts	800
6109 90	T-shirts, singlets and other vests, knitted or crocheted of other textiles materials	450
6204 31 to 6204 39	Women's or girls' jackets and blazers	430
6111 30	Babies' garments and clothing accessories, knitted or crocheted of synthetic fibres	350
6204 42	Women's or girls' dresses of cotton	100
	TOTAL	10.890