



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.05.2000
COM(2000) 198 final

2000/0103 (ACC)

Proposal for a

COUNCIL DECISION

**on the procedure concerning derogations from the rules of origin set out in
Protocol No 1 to the ACP-EC Partnership Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The fourth Lomé Convention expired on 29 February 2000. Negotiations on a successor Agreement have been concluded at the political level on 3 February 2000. Since the new ACP-EC Partnership Agreement could not enter into force by the date the previous Convention expired, the ACP-EC Committee of Ambassadors adopted transitional measures on 28 February 2000. These measures provide for the anticipated application of the trade provisions of the new Partnership Agreement.

The proposed decision will confer on the Commission the implementing powers for the decision-making by the Community on requests from the ACP States for derogations from the rules of origin set out in Protocol No 1 to the new Partnership Agreement. It will replace the delegation of powers presently contained in Council Decision 90/523/EEC¹.

According to Article 38(9) of Protocol No 1 to the new Partnership Agreement, requests from the ACP States for derogations from the rules of origin are deemed to have been accepted if the Community does not inform the ACP States of its position on the requests within 75 working days from their receipt. In order to allow timely decision-making on request for derogations, it is therefore urgent that the Council adopt the proposed decision as soon as possible. It is therefore suggested that the Commission decide to adopt the present proposal and transmit it to the Council.

¹ OJ L 290, 23.10.1990, p. 33.

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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(2) and (3), first subparagraph,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Fourth ACP-EC Convention expired on 29 February 2000.
- (2) The new ACP-EC Partnership Agreement could not enter into force on that date.
- (3) Article 3 of Decision No 1/2000 of the ACP-EC Committee of Ambassadors of 28 February 2000 on transitional measures valid from 1 March 2000¹ provides that the trade provisions of the ACP-EC Partnership Agreement, including Protocol No 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation to the Convention applies from 1 March 2000.
- (4) Article 38(9) of the said Protocol provides that requests by the ACP States for derogations from the rules of origin of the same Protocol shall be deemed to have been accepted if the Community does not inform the ACP States of its position on the requests within 75 working days from their receipt by the EC Co-Chairman of the ACP-EC Customs Cooperation Committee, set up by Article 37 of Protocol No 1.
- (5) It is therefore necessary to adopt a procedure ensuring that the Community position can be adopted and communicated to the ACP States within the period of 75 working days.
- (6) Since the measures necessary for the implementation of this Decision are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission², they should be adopted by use of the management procedure provided for in Article 4 of that Decision.

¹ OJ L 56, 1.3.2000, p. 47.

² OJ L 184, 17.7.1999, p. 23.

- (7) Council Decision 90/523/EEC³ provided for the delegation of powers to the Commission with regard to the adoption of a common position of the Community following a request by the ACP States for derogation from the rules of origin laid down in Protocol No 1 to the Fourth ACP-EC Convention. A similar delegation of powers to the Commission should now be provided for with regard to requests for derogations from the rules of origin laid down in Protocol No 1 to the ACP-EC Partnership Agreement.
- (8) Council Regulation (EEC, Euratom) No 1182/71⁴ lays down the rules applicable to periods, dates and time-limits,

HAS DECIDED AS FOLLOWS:

Article 1

The common position of the Community with regard to a request presented by the ACP States for derogation from the rules of origin laid down in Protocol No 1 to the ACP-EC Partnership Agreement shall be adopted by the Commission in accordance with the procedure laid down in Article 2.

Article 2

The Commission shall be assisted by the Customs Code Committee instituted by Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁵, hereinafter referred to as the 'Committee'.

The representative of the Commission shall submit to the Committee a draft common position within 25 working days from the receipt of a request for derogation by the EC Co-Chairman of the EC-ACP Customs Cooperation Committee. The Committee shall deliver an opinion on the draft within a time-limit determined by its Chairman according to the urgency of the matter concerned. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt the common position and transmit it immediately to the ACP States. However, if the common position is not in accordance with the opinion of the Committee, it shall be submitted by the Commission to the Council forthwith. In that event, the Commission shall defer its transmission to the ACP States for a period of 25 working days from the date of the vote in the Committee.

The Council, acting by a qualified majority, may adopt a different common position within the period provided for in the third paragraph.

³ OJ L 290, 23.10.1990, p. 33.

⁴ OJ L 124, 8.6.1971, p. 1.

⁵ OJ L 302, 19.10.1992, p. 1.

Article 3

The definition of working days for the purposes of this Decision shall be that laid down in Regulation (EEC, Euratom) No 1182/71.

Article 4

This Decision shall take effect on the date of its publication in the *Official Journal of the European Communities*.

It shall apply for the whole duration of the preparatory period established by the ACP-EC Partnership Agreement.

Done at Brussels,

*For the Council
The President*

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Proposal for a Council Decision on the procedure concerning derogations from the rules of origin set out in Protocol No 1 to the ACP-EC Partnership Agreement

2. BUDGET HEADING(S) INVOLVED

Chapter 12, Article 120 (zero-rated duty)

3. LEGAL BASIS

Article 133 of the Treaty

4. DESCRIPTION OF OPERATION

4.1 General objective

Delegation of implementing powers to the Commission for the decision-making by the Community on requests from the ACP States for derogations from the rules of origin set out in Protocol No 1 to the ACP-EC Partnership Agreement

Renewal of Council Decision 90/523/EEC of 8 October 1990

5. FINANCIAL IMPACT

This Decision does not entail any financial losses or gains to the Community budget.

6. FRAUD PREVENTION MEASURES

Not applicable

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES(SMEs)

TITLE OF PROPOSAL

Proposal for a Council Decision on the procedure concerning derogations from the rules of origin set out in Protocol No 1 to the ACP-EC Partnership Agreement

DOCUMENT REFERENCE NUMBER

TAXUD/1014/2000

THE IMPACT ON BUSINESS

The proposal will not have any effect on competition and employment in the Community.