COUNCIL DECISION

of 8 October 1990

on the procedure concerning derogations from the rules of origin set out in Protocol No 1 to the Fourth ACP-EEC Convention

(90/523/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Fourth ACP-EEC Convention was signed at Lomé on 15 December 1989;

Whereas Article 2 of Decision 2/90 of the ACP-EEC Council of Ministers of 27 February 1990 on transitional measures to be applied from 1 March 1990 [1] lays down that Protocol No 1 to the Convention applies from 1 March 1990; whereas Article 31 of the said Protocol provides that requests of 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 the position on the requests within 60 working days from their receipt by the EEC Co-Chairman of the ACP-EEC Customs Cooperation Committee, set up by Article 30 of Protocol No 1;

Whereas the appropriate procedure ensuring timely decision-making by the Community in this field is procedure II, variant (b) laid down in Article 2 of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission [2];

Whereas 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 60 working days;

Whereas Regulation (EEC, Euratom) No 1182/711 [3] lays down the rules applicable to periods, dates and terms,

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-EEC Convention shall be adopted by the Commission in accordance with the procedure laid down in Article 2.

Article 2

The representative of the Commission shall submit to the Committee on Origin set up by Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods [4] as last amended by Regulation (EEC) No 1769/89 [5], hereafter referred to as the 'Committe', a draft common position within 20 working days after the receipt of a request for derogation by the EEC Co-Chairman of the EEC-ACP Customs Cooperation Committee. The Committee shall deliver an opinion on the draft within a time limit which its Chairman may lay down according to the urgency of the matter concerned. The opinion shall be delivered by the majority laid down in Article 148 (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 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 twenty 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 time limit referred to in the second paragraph.

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.

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[1] OJ No L 84, 30. 3. 1990, p. 2.
[2] OJ No L 197, 18. 7. 1987, p. 33.
[3] OJ No L 124, 8. 6. 1971, p. 1.
[4] OJ No L 148, 28. 6. 1968, p. 1.
[5] OJ No L 174, 22. 6. 1989, p. 11.

Article 4

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

Done at Luxembourg, 8 October 1990.

For the Council

The President

E. RUBBI