COUNCIL DECISION

of 16 June 2000

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

(2000/399/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133,

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 2000 [1] 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 of 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) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [2].

(7) Council Decision 90/523/EEC [3] 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 1182/71 [4] 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 Code [5], 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.

[1] OJ L 56, 1.3.2000, p. 47.
[2] OJ L 184, 17.7.1999, p. 23.
[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 until 31 December 2007.

Done at Luxembourg, 16 June 2000.

For the Council

The President

L. CAPOULAS SANTOS