II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 September 2003

derogating from Council Decision 2001/822/EC, as regards the rules of origin for lobsters in pieces from Saint Pierre and Miquelon

(notified under document number C(2003) 3335)

(2003/673/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community [1], and in particular Article 37 of Annex III thereto,

Whereas:

(1) On 19 June 2003, Saint Pierre and Miquelon requested a derogation for five years from the rules of origin set out in Annex III to Decision 2001/822/EC in respect of an annual quantity of 105 tonnes of cooked and frozen lobster tails, legs and claws, exported from Saint Pierre and Miquelon.

(2) Saint Pierre and Miquelon based its request on the disappearance of its raw material, the originating snow crab, whose population has moved out of its territorial waters. The processing of non-originating live lobsters into cooked and frozen tails, legs and claws will replace the production chain of the snow crab, which the company concerned cannot procure.

(3) The requested derogation is justified under Annex III to Decision 2001/822/EC and, specifically, under Article 37(1) thereof, in particular as regards the development of an existing industry in Saint Pierre and Miquelon. The derogation is essential for the preservation of the activity of the plant in question, which employs a significant number of people. Subject to compliance with certain conditions relating to quantities, surveillance and duration, the derogation would not cause serious injury to an established industry of the Community or one or more of the Member States.

(4) Accordingly, a derogation should be granted in respect of certain quantities of cooked and frozen lobster tails, legs and claws processed in Saint Pierre and Miquelon and imported into the Community.

(5) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down the provisions for the application of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [2], as last amended by Regulation (EC) No 1335/2003 [3], lays down rules for the management of tariff quotas. Those rules should be applied *mutatis mutandis* to the management of the quantities in respect of which the derogation in question is granted.

(6) Saint Pierre and Miquelon requested that the derogation apply from 1 September 2003. However, given the date on which Saint Pierre and Miquelon submitted its request and the length of the decision process, the derogation cannot be adopted before 1 September. As a result, it will apply from 1 October 2003.

(7) The measures provided for in this Decision are in accordance with the opinion of the Customs Code Committee,

[1] OJ L 314, 30.11.2001, p. 1.

[2] OJ L 253, 11.10.1993, p. 1.

[3] OJ L 187, 26.7.2003, p. 16.

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from the provisions of Annex III to Decision 2001/822/EC, cooked and frozen lobster tails, legs and claws covered by CN code ex 0306 12 90 which are processed in Saint Pierre and Miquelon are regarded as originating in Saint Pierre and Miquelon where they are obtained from non-originating lobsters, in accordance with the terms of this Decision.

Article 2

The derogation provided for in Article 1 applies to the quantities shown in the Annex which are imported into the Community from Saint Pierre and Miquelon during the period from 1 October 2003 to 30 September 2008.

Article 3

Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93 relating to the management of tariff quotas apply *mutatis mutandis* to the management of the quantities referred to in the Annex.

Article 4

1. The customs authorities of Saint Pierre and Miquelon 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.

2. The competent authorities of Saint Pierre and Miquelon shall forward to the Commission every three months a statement of the quantities in respect of which movement certificates EUR 1 have been issued pursuant to this Decision and the serial numbers of those certificates.

Article 5

Box 7 of EUR 1 certificates issued under this Decision shall contain one of the following:

— Excepción — Decisión …

— Undtagelse — Beslutning …

— Ausnahme — Entscheidung …

— Παρέκκλιση — Απόφαση …

— Derogation — Decision …

— Dérogation — Décision …

— Deroga — Decisione …

— Afwijking — Beschikking …

— Derrogação — Decisão …

— Poikkeus — päätös …

— Undantag – beslut …

Article 6

This Decision shall apply from 1 October 2003 to 30 September 2008.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 25 September 2003.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

ANNEX

Quantities imported from Saint Pierre and Miquelon

(in tonnes)

Order No	CN code	Description of goods	Period	Quantities
09.1660	ex 0306 12 90	Frozen tails, legs and claws of lobster (*Homarus* spp.)	1.10.2003 to 30.9.2004	105
			1.10.2004 to 30.9.2005	105
			1.10.2005 to 30.9.2006	105
			1.10.2006 to 30.9.2007	105
			1.10.2007 to 30.9.2008	105

TIMETABLE

1. **Recommended date**

The proposal should be adopted as soon as possible.

2. **Grounds for recommendation**

Article 37(8) of Annex III to Council Decision 2001/822/EC lays down that a decision must be taken within 75 working days of receipt of the request for a derogation. Otherwise, the request shall be deemed to have been accepted in full.

The deadline for this decision is **2 October 2003**.