COMMISSION DECISION

of 15 November 2007

derogating from the rules of origin set out in Council Decision 2001/822/EC as regards certain fishery products imported from the Falkland Islands

(notified under document number C(2007) 5393)

(2007/767/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 ('Overseas Association Decision') [1], and in particular Article 37 of Annex III thereto,

Whereas:

(1) On 7 August 2002 the Commission adopted Decision 2002/644/EC [2] derogating from the definition of the concept of 'originating products'; to take account of the special situation of the Falkland Islands with regard to various species of frozen fish of CN heading 0303, various species of frozen fish fillets of CN heading 0304 and frozen *Loligo* squid and *Illex* squid of CN heading 0307. That derogation expired on 31 August 2007.

(2) On 31 July 2007 the Falkland Islands requested a new derogation from the rules of origin set out in Annex III to Decision 2001/822/EC for a period of five years. This request covers a total annual quantity of 16 200 tonnes of frozen fish of CN heading 0303, 5 100 tons of frozen fish fillets of CN heading 0304, 57 900 tons of frozen *Loligo* squid and 47 200 tons of frozen *Illex* squid of CN heading 0307.

(3) The Falkland Islands have based their request on the fact that for frozen fish, frozen fish fillets and *Loligo* squid, it is becoming increasingly difficult to recruit crews for their fishing vessels and factory ships from the OCTs, the Community or ACP States. As regards *Illex* squid, the Falkland Islands indicate that not all specific fishing expertise required is currently available from crew from the OCTs, the Community or ACP States. The lack of crew from the OCTs, the Community or the ACP states, stems in particular from the specific geographical situation of the Falkland Islands and cannot be remedied by increasing the presence of Community fishing fleets in the Falkland area.

(4) A derogation should be granted from the rules of origin set out in Annex III to Decision 2001/822/EC for products falling within CN headings 0303 and 0304, *Loligo* squid of CN code 0307 49 35 and *Illex* squid of CN code 0307 99 11. This derogation is justified under Article 37(1) of that Annex, in particular as regards the development of an existing local industry. Derogation from Article 3(2) d of Annex III will provide greater security for the local fishing companies enabling investment in new activities and markets. Use of the derogation granted in 2002 remained extremely low (51 620 tons for CN heading 0303, 35 320 tons for CN heading 0304, 52 348 tons for *Loligo* squid and 6 720 tons for *Illex* squid over a period of five years) The derogation should therefore be granted for the following total annual quantities, based on the total annual quantities as covered by the derogation in 2002 i.e. 12 500 tons for CN heading 0303, 5 100 tons for CN heading 0304, 34 600 tons for *Loligo* squid of CN 0307 49 35 and 31 000 tons for *Illex* squid of CN 0307 99 11.

(5) 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.

(6) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Common Customs Code [3] lays down rules for the management of tariff quotas. Those rules should be applied *mutatis mutandis* to the management of the quantity in respect of which the derogation in question is granted.

(7) As Decision 2002/822/EC expires on 31 December 2011, it should be laid down that the derogation will continue to apply after 31 December 2011 if a new decision is adopted on the association of the overseas countries and territories with the European Community or if Decision 2001/822/EC is extended.

[1] OJ L 314, 30.11.2001, p. 1. Decision modified by Decision 2007/249/EC (OJ L 109, 26.4.2007, p. 33).

[2] OJ L 211, 7.8.2002, p. 16.

[3] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2006, p. 6).

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

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Annex III to Decision 2001/822/EC, the fishery products referred to in the Annex to this Decision taken from the sea outside the territorial waters shall be regarded as originating in the Falkland Islands under the conditions set out in this Decision.

Article 2

The derogation provided for in Article 1 shall apply to fish taken from the sea by vessels or factory ships and to the annual quantities set out in the Annex to this Decision which are imported into the Community from the Falkland Islands from 1 December 2007 to 30 November 2012.

The vessels and factory ships referred to in the first paragraph shall comply with the criteria set out in Article 3(2) of Annex III to Decision 2001/822/EC, with the exception of point (d).

Article 3

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

Article 4

The customs authorities of the Falkland Islands shall take the necessary measures 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 the Falkland Islands shall forward to the Commission every three months a statement of the quantities in respect of which EUR 1 movement certificates 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 entries:

— 'Derogation — Decision No …';,

— 'Dérogation — Décision nº …',

indicating the number of this Decision.

Article 6

This Decision shall apply from 1 December 2007 until 30 November 2012.

However, if a new preferential regime is adopted replacing Decision 2001/822/EC beyond 31 December 2011, or if the current regime is extended, this Decision shall continue to apply until the date of expiry of the new regime or of the extended current regime but in any case not later than 30 November 2012.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 15 November 2007.

For the Commission

László KOVÁCS

Member of the Commission

ANNEX

Order No	CN Code	Description of goods	Total annual quantity (1) (tonnes)
09.1914	0303	Fish frozen, excluding fish fillets and other fish meat of heading 0304	12 500
09.1915	ex 0304	Fish fillets, frozen	5 100
09.1916	0307 49 35	Frozen squid of the specie *Loligo Patagonica (Loligo gahi)*	34 600
09.1917	0307 99 11	Frozen squid of the genus *Illex*	31 000

(1) The total annual quantity covers all species together.