



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.12.2001
COM(2001) 739 final

Proposal for a

COUNCIL DECISION

determining the Community Position for a decision of the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America on adopting its rules of procedure

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. BACKGROUND

Article 14(1) of the Agreement on Mutual Recognition between the European Community and the United States of America (hereafter referred to as the “Agreement”) establishes a Joint Committee. Article 14(3) of the Agreement provides that the Joint Committee shall determine its own rules of procedures.

According to Article 3(3) of Council 1999/78/EC¹ on conclusion of the Agreement, the position of the Community, with regard to a decision of the Joint Committee adopting its rules of procedures, shall be determined by the Council, acting by qualified majority on a proposal from the Commission.

2. THE RULES OF PROCEDURE

The rules of procedures lay down the operational modalities for the functioning of the Joint Committee. This includes, inter alia, the following:

- Organisation of the Joint Committee in terms of chairmanship (Article 1), meetings at regular intervals and their preparation (Article 2), drawing up and agreeing on a draft agenda for meetings (Article 4) and the joint records of meetings (Article 5).
- Establishing procedures for how decisions by the Joint Committee are to be taken (Article 6). These apply in particular to the designation and listing of Conformity Assessment Bodies under the Sectoral Annexes, as foreseen in Article 7 of the Agreement.
- Stating that meetings of the Joint Committee are not open to the public and that the confidentiality requirement of Article 17 of the Agreement applies to documents exchanged and to persons invited to attend meetings and are not officials of the Parties.

3. FINANCIAL AND BUSINESS IMPACT

This proposal has no impact on the Community budget or on small and medium sized companies.

4. CONCLUSION

For the reasons explained above, the Commission proposes to the Council to adopt a Decision on determining the Community position for a decision of the Joint Committee, established under the Agreement, on adopting its rules of procedures.

¹ OJ L 31, 4.2.1999, p.1

Proposal for a

COUNCIL DECISION

determining the Community Position for a decision of the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America on adopting its rules of procedure

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 1999/78/EC, of 22 June 1998, on the conclusion of an Agreement on Mutual Recognition between the European Community and the United States of America², hereinafter referred to as the “Agreement”, and in particular Article 3(3) thereof

Having regard to the proposal from the Commission³,

Whereas

- (1) Article 14(3) of the Agreement provides that the Joint Committee established under the Agreement shall determine its rules of procedures,
- (2) The Community position should be determined for such a decision,

HAS DECIDED AS FOLLOWS :

Article 1

The position to be adopted by the European Community for a decision by the Joint Committee, set up under Article 14 of the Agreement on Mutual Recognition between the European Community and the United States of America, on adopting its rules of procedures shall be based on the draft Joint Committee decision in the annex to this Decision. Before adoption by the Joint Committee, modifications of a technical and drafting nature may be agreed without further decision by the Council.

Article 2

The Decision of the Joint Committee shall be published in the Official Journal once it has been adopted.

² OJ L 31, 4.2.1999, p.1

³ OJ C , , p. .

Done at Brussels,

*For the Council
The President*

ANNEX

Draft

Decision Nr. xx/2001 of the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America

adopting its Rules of Procedure

THE JOINT COMMITTEE,

Having regard to the Agreement on Mutual Recognition between the European Community and the United States of America, and in particular Article 14 thereof;

Whereas Article 14(3) of the Agreements provides that the Joint Committee shall determine its own rules and procedures;

HAS DECIDED AS FOLLOWS :

1. The rules of procedure for the Joint Committee, as specified in the Attachment to this Decision, are hereby adopted.
2. This Decision, done in duplicate, shall be signed by representatives of the Joint Committee who are authorised to act on behalf of the Parties for purposes of amending the Agreement. This Decision shall be effective from the date of the later of these signatures.

Signed in Washington D.C. on

Signed in Brussels on

*On behalf of the
United States of America*

*On behalf of the
European Community*

Rules of Procedure

for the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America

Article 1 Chairmanship

The Joint Committee shall be chaired jointly by a representative of the European Community and a representative of the United States.

Article 2 Meetings

1. The Joint Committee shall meet at regular intervals, and at least once a year at a mutually agreeable time. If additional meetings are deemed necessary by a Party, the other Party shall accommodate the request for a meeting to the maximum extent possible.
2. The Parties shall take turns in hosting the meeting unless otherwise agreed. Teleconferencing or videoconferencing may be used with agreement of the Parties.
3. Meetings of the Joint Committee shall be convened by the Co-Chairs.
4. The Co-Chairs shall establish a date for the meeting and exchange such documents as necessary in time to ensure adequate preparation, if possible, 3 weeks prior to the meeting.
5. The Party hosting a meeting shall arrange logistical matters. Meetings convened by videoconferencing or teleconferencing shall be arranged by the Co-Chair that requested the meeting.

Article 3 Delegations

The Parties shall notify each other at least one week before a meeting of the intended composition of their delegations.

Article 4 Agenda for the meetings

1. A provisional agenda for each meeting shall be drawn up by the Co-Chairs no later than 14 days before the meeting. The provisional agenda shall include the items in respect of which a request for inclusion in the agenda has been received by either of the Co-Chairs no later than 14 days before the meeting.
2. Either Party may add items to the provisional agenda at any time prior to the meeting if the other Party agrees. Requests to add items to the provisional agenda shall be sent in writing if possible and shall be accommodated to the extent possible.

3. The final agenda shall be adopted by the Co-Chairs at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the Parties agree and shall be accommodated to the extent possible.

Article 5 Records of the Meetings

1. A draft of the record shall be prepared as soon as possible by the Co-Chair hosting the meeting.
2. The record shall, as a general rule, indicate in respect of each item on the agenda:
 - (a) the documentation submitted to the Joint Committee;
 - (b) statements which a Party has requested to be entered; and
 - (c) decisions taken and the conclusions adopted on a specific item.
3. The record shall also indicate the individuals of the respective delegations participating with the ministry or agency each represents indicated.
4. The record shall be approved by the Joint Committee at its following meeting.

Article 6 Joint Committee Decisions

1. The Joint Committee shall take decisions by unanimous consent.
2. The Joint Committee may adopt a decision by written procedure at times other than formal Joint Committee meetings.
3. Decisions of the Joint Committee shall be entitled « Decisions » followed by a serial number, and by a description of their subject. The date the decision takes effect shall also be indicated. Decisions shall be signed by representatives of the Joint Committee who are authorised to act on behalf of the Parties. Decisions shall be drawn up in duplicate, each version being equally authentic.
4. Decisions related to the designation and listing of a Conformity Assessment Body shall be adopted by a written procedure. For this purpose, pursuant to Article 7 of the Agreement, and without prejudice to specific provisions of a Sectoral Annex of the Agreement, the following procedures shall apply:
 - (a) A Party shall forward its proposal, in the form of a draft Joint Committee decision amending the Sectoral Annex to include a Conformity Assessment Body or Bodies (a model of which is attached), to the other Party in writing, including any supporting documentation. The receiving Party shall acknowledge in writing the date of its receipt of the proposal. The Party receiving the proposal shall indicate in writing its consent or opposition within 60 days from its receipt.
 - (b) If the Party receiving the proposal requires additional information, it shall indicate in writing the information requested and the reasons for this. A request for additional information suspends the 60 day period ~~and~~ which starts running

again once the additional information has been received, unless the Party has requested in writing an additional 30 days for verifying the additional information.

- (c) Upon consent of the proposal, the receiving Party will sign and date the Joint Committee decision and forward it to the other Party. The listing of the proposed Conformity Assessment Body or Bodies is effective from the date indicated in the Joint Committee decision.
 - (d) If the Party receiving a proposal for designation fails to indicate its consent or opposition within the 60 day time limit, and has not requested an additional 30 days, the matter shall be referred to the Joint Committee.
 - (e) If a Party contests on the basis of documented evidence the technical competence or compliance of a proposed Conformity Assessment Body, that body shall not be listed in the applicable Sectoral Annex. The Joint Committee can decide that the Conformity Assessment Body be verified. Verification shall be carried out in a timely manner by the Party in whose territory the Body is located, but may be carried out jointly by the Parties in justified cases. After the completion of such verification, the proposal to list the conformity assessment body in the Sectoral Annex may be re-submitted according to these rules of procedure.
 - (f) In the event a Party or the Conformity Assessment Body in question opposes a verification, the Conformity Assessment Body shall not be listed in the applicable Sectoral Annex. However, a Party may at a later date submit a new proposal for listing of that Conformity Assessment Body on the basis of new evidence.
5. For a decision related to the suspension of a Conformity Assessment Body listed in a Sectoral Annex, the procedures in Article 8 of the Agreement apply. The Joint Committee shall give effect to the suspension by taking a decision by written procedure in accordance with paragraph 3.
6. For a decision related to the withdrawal of a Conformity Assessment Body listed in a Sectoral Annex, the procedures in Article 9 of the Agreement apply. The Joint Committee shall give effect to the suspension by taking a decision by written procedure in accordance with paragraph 3.

Article 7 The Joint Committee and Joint Sectoral Committees

The Joint Sectoral Committees shall keep the Joint Committee informed and provide reports of their work, deliberations, and conclusions in relation to implementation of the Sectoral Annexes. Each Party on the Joint Committee shall ensure that its representatives in the Joint Sectoral Committees are kept fully informed of the matters discussed in and positions adopted by the Joint Committee. The Joint Committee may delegate specific tasks to the Joint Sectoral Committees.

Article 8 Consultation of Experts

The Committee may consult experts on particular issues if both Parties agree.

Article 9 Expenses

1. Each Party shall be responsible for the expenses they incur by reason of their participation in the meetings of the Joint Committee, including staff, travel and subsistence expenditure and postal or telecommunications expenditure.
2. Other expenses arising from the organisation of the meetings shall generally be covered by the Party hosting the meeting.

Article 10 Administrative Procedures

1. Unless otherwise decided, the meetings of the Joint Committee shall not be open to the public.
2. Records and other documents of the Joint Committee shall be considered information exchanged under Article 17 of the Agreement for purposes of confidentiality.
3. Participants other than officials of the Parties may be invited by agreement of both Co-Chairs and shall be subject to the same confidentiality requirements in accordance with Article 17 of the Agreement
4. The Parties may organise public briefings or otherwise inform interested members of the public of the results of the Joint Committee meetings.

Attachment to the Rules of Procedure of the Joint Committee

Model Joint Committee decision for the listing of Conformity Assessment Bodies under a written procedure

Decision No x/2001 of the Joint Committee established under the Agreement on Mutual Recognition between the European Community and the United States of America related to the listing of Conformity Assessment Bodies under the Sectoral Annex on [to be specified]

THE JOINT COMMITTEE,

Having regard to the Agreement on Mutual Recognition between the European Community and the United States of America and in particular Article 7 and 14;

Whereas the Joint Committee is to take a decision to list a Conformity Assessment Body or Bodies under a Sectoral Annex;

HAS DECIDED AS FOLLOWS:

1. The Conformity Assessment Bodies in Attachment A are added to the list of Conformity Assessment Bodies under column “US access to the EC market” in Section V of the Sectoral Annex [to be specified].
2. The Conformity Assessment Bodies in Attachment B are added to the list of Conformity Assessment Bodies under column “EC access to the US market” in Section V of the Sectoral Annex on [to be specified].

[additional Attachments with Sectoral Annexes can be included].

3. The specific scope of listing, in terms of products and conformity assessment procedures, of the Conformity Assessment Bodies indicated in Attachments A and B have been agreed by the Parties and will be maintained by them.
4. This Decision, done in duplicate, shall be signed by representatives of the Joint Committee who are authorized to act on behalf of the Parties for purposes of amending the Agreement. This Decision shall be effective from the date of the later of these signatures.

On behalf of the

United States of America

Signed in Washington D.C. on

On behalf of the

European Community

Signed in Brussels on

Attachment A

US Conformity Assessment added to the list of Conformity Assessment Bodies under column “US access to the EC market” in Section V of the Sectoral Annex on [to be specified]

[name and contact details of listed Conformity Assessment Bodies]

Attachment B

EC Conformity Assessment Bodies added to the list of Conformity Assessment Bodies under column “EC access to the US market” in Section V of the Sectoral Annex on [to be specified

[name and contact details of listed Conformity Assessment Bodies]
