



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.4.2005  
COM(2005) 142 final

2005/0054 (ACC)

Proposal for a

**COUNCIL DECISION**

**on a Community position within the Association Council on a derogation from the provisions concerning the definition of the concept of "originating products" and methods of administrative co-operation laid down in the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### **1. BACKGROUND**

In the context of the Barcelona process, the Commission has made a proposal to the Council for the extension of the pan-European cumulation of origin to the Mediterranean countries, which will contribute to the creation of the Euro-Med free trade area by 2010.

The pan-Euro-Mediterranean cumulation of origin will allow, amongst other, that garments manufactured in Tunisia will be conferred preferential origin for export to the Community if they are made up from fabrics originating in the other pan-Euro-Mediterranean countries, such as Turkey.

A basic condition for the application of pan-Euro-Mediterranean cumulation is the existence of free trade agreements with identical rules of origin, between the countries of the zone. Tunisia has recently signed a free trade agreement with Turkey. The pan-Euro-Mediterranean cumulation also requires that the rules of origin of the EC-Tunisia Euro-Mediterranean Agreement be amended. A proposal to that effect is currently being discussed by the Council.

### **2. NATURE OF THE PROBLEM**

The rule of origin applicable to the garments for which the derogation is requested is that all the fabrics used must be manufactured from already originating yarn. In other words, it does not allow for the use of non-originating fabrics in the manufacture of these garments.

Based upon the Joint Declaration on Article 39 of Protocol No. 4 to the EC-Tunisia Agreement, on 16 February 2005, Tunisia requested a derogation which will allow the manufacture in Tunisia of originating garments from fabrics originating in Turkey for export to the EU. This derogation aims at anticipating the effects of pan-Euro-Mediterranean cumulation of origin among Tunisia, Turkey and the EU.

### **3. STRUCTURE OF THE PROPOSED DEROGATION**

The proposal lays down that the derogation shall be granted:

- in respect of garments falling under chapters 61 and 62 of the Harmonized Commodity Description and Coding System;
- for a quantity of 8.040 tons of trousers and for a quantity of 1.855 of other garments (detailed table enclosed in Annex 1);
- until the entry into force of the Pan-Euro-Mediterranean protocol on rules of origin among the Parties concerned, namely Tunisia, Turkey and the EU but, in any event, for no longer than a period of one year;
- provided that Tunisia carries out quantitative checks on the exports of the products concerned and supplies statements of the quantities in respect of which movement certificates have been issued;

- provided that Turkey and Tunisia, pending the entry into force of the Free Trade Agreement they recently signed, agree to start implementing its rules of origin, including the provision on administrative co-operation.

#### **4. CONCLUSION**

The Council is invited to adopt the proposed Community position for the adoption by the EC-Tunisia Association Council of the decision derogating from the current rules of origin.

Proposal for a

**COUNCIL DECISION**

**on a Community position within the Association Council on a derogation from the provisions concerning the definition of the concept of "originating products" and methods of administrative co-operation laid down in the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300 paragraph 2, second subparagraph,

Having regard to the proposal from the Commission,

Whereas Article 78 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia, signed on 26 January 1998, establishes an Association Council,

Whereas Article 39 of Protocol No 4 to the Euro-Mediterranean Agreement, concerning the definition of the concept of "originating products" and methods of administrative co-operation, provides that the Association Council may decide to amend the provisions of this Protocol,

Whereas the Joint Declaration on Article 39 in Annex VIII to Protocol No 4 states that the Community is prepared to examine any request from Tunisia for derogations from the rules of origin;

HAS DECIDED AS FOLLOWS:

*Sole Article*

The position to be adopted by the Community within the Association Council established by virtue of the Euro-Mediterranean Agreement on the derogation from the rules of origin laid down in Protocol No 4, concerning the definition of the concept of "originating products" and methods of administrative co-operation, is that defined in the attached draft decision of the EC-Tunisia Association Council.

Done at Brussels,

*For the Council  
The President*

**DECISION No. 1/2005 OF THE EC-TUNISIA ASSOCIATION COUNCIL**

**derogating from the provisions concerning the definition of the concept of "originating products" and methods of administrative co-operation laid down in the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia**

THE EC-TUNISIA ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia<sup>1</sup> signed at Brussels on 26 January 1998, and in particular to Article 39 of Protocol No. 4 concerning the definition of the concept of originating products and methods of administrative co-operation thereof,

Whereas:

- (1) The Joint Declaration on Article 39 states that the Community is prepared to examine any request from Tunisia for derogations from the rules of origin after signature of the Euro-Mediterranean Agreement;
- (2) On 16 February 2005, Tunisia submitted a request for a derogation from the rules of origin for a quantity of 8.040 tons of trousers and for a quantity of 1.855 of other garments falling under chapters 61 and 62 of the Harmonized Commodity Description and Coding System;
- (3) Pending the entry into force of the Tunisia-Turkey Free Trade Agreement signed on 25 November 2004 and pending the amendment of the EC-Tunisia protocol on rules of origin for the purpose of pan-Euro-Mediterranean cumulation, the derogation would allow the manufacture in Tunisia of originating garments from fabrics originating in Turkey for export to the EU;
- (4) For the purpose of this derogation, Tunisia and Turkey need to implement identical rules of origin, including the provision on administrative co-operation;
- (5) The derogation can be granted until the entry into force of the Pan-Euro-Mediterranean protocol on rules of origin among the three Parties concerned, namely Tunisia, Turkey and the EU but, in any event, for no longer than a period of one year.

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<sup>1</sup> OJ no L 97 of 30.03.1998, p. 2.

HAS DECIDED AS FOLLOWS:

*Article 1*

By way of derogation from the special provisions in the list in Annex II to Protocol No. 4 of the EC-Tunisia Agreement, the garments listed in Annex I and obtained in Tunisia from fabric originating in Turkey shall be considered as originating in Tunisia in accordance with the terms of this Decision.

*Article 2*

The derogation provided for in Article 1 may only be applied provided that preferential rules of origin identical to the rules of origin contained in Protocol No. 4 of the EC-Tunisia Agreement are in force between Turkey and Tunisia in order to determine the originating status of the fabrics sourced in Turkey.

*Article 3*

The quantity referred to in Annex I shall be managed by the Commission, which shall take all administrative actions it deems advisable for their efficient management. 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.

*Article 4*

The customs authorities of Tunisia 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. The competent authorities of Tunisia 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 movement certificates EUR.1 issued pursuant to this Decision shall contain the following indication, in one of the languages in which the Agreement is drawn up:

"Derogation – Decision No. 1/2005

*Article 6*

Tunisia and the Member States of the European Community shall take the measures necessary on their part to implement this Decision.

*Article 7*

This Decision shall enter into force on the day of its adoption and be applicable as soon as the conditions of Article 2 are fulfilled.

This Decision shall apply until the entry into force of the pan-Euro-Mediterranean cumulation of origin among Tunisia, Turkey and the EU but, in any case, for no longer than a period of one year.

Done at Brussels,

*For the Association Council  
The President*



**ANNEX I**

**LIST AS REFERRED TO IN ARTICLE 1**

**(product benefiting from the derogation)**

<b>HS heading No.</b>	<b>Description</b>	<b>Quantities (tons)</b>
ex 620342 and ex 620462	Men's or boys' trousers of cotton Women's or girls' trousers of cotton	6.505
ex 620343	Men's or boys' trousers of synthetic fibres	674
ex 620341, ex 620349, ex 620461, ex 620463 and ex 620469	Men's or boys' trousers of wool or fine animal hair Men's or boys' trousers of other textile materials Women's or girls' trousers of wool or fine animal hair Women's or girls' trousers of synthetic fibres Women's or girls' trousers of other textile materials	861
6208 and  6212	Women's or girls' singlets and other vests, slips, petticoats, briefs, panties, nightdresses, pyjamas, négligés, bathrobes, dressing gowns and similar articles of man-made fibres  Brassières, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted	646
. 6205 and . 6206	Men's or boys' shirts Women's or girls' blouses, shirts and shirt- blouses	663
611231 to 611239 and  611241 to 611249	Men's or boys' swimwear of synthetic fibres Men's or boys' swimwear of other textile materials Women's or girls' swimwear of synthetic fibres Women's or girls' swimwear of other textile materials	105
620451 to 620459	Women's or girls' skirts and divided skirts	441
	TOTAL	9.895

## LEGISLATIVE FINANCIAL STATEMENT

### 2.5. FINANCIAL IMPACT ON REVENUE:

Proposal has financial impact – the effect on revenue is as follows:

(€ million to one decimal place)

Budget line	Revenue	Prior to action [Year n-1]	Situation following action					
			[Year n]	[n+1 ]	[n+2 ]	[n+3 ]	[n+4]	[n+5]
120	<i>a) Revenue in absolute terms</i>							
	<i>b) Change in revenue</i>	$\Delta$	p.m.					

It is impossible to determine exactly the loss to the Community budget. Without a derogation permitting duty-free importation into the Community, it is not certain that Tunisian production would interest Community importers if they had to pay the import duty.

Nevertheless, it may be mentioned as an indication that the minimum customs duty rate applicable to the products in question when originating in third countries is 12%.

### 4. LEGAL BASIS

EC-Tunisia Euro-Mediterranean Agreement signed on 26 January 1998 – Joint Declaration on Article 39 in Annex VIII to Protocol No. 4.

### 5. DESCRIPTION AND GROUNDS

Decision of the EC-Tunisia Association Council derogating from the provisions concerning the definition of the concept of originating products laid down in the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States and the Republic of Tunisia.

Granting Tunisia a derogation from the rules of origin for certain textiles products for a period of 1 year or until the entry into force of the pan-euro-med protocol on rules of origin among the three Parties concerned, namely Tunisia, Turkey and the EU.

#### **Methods of implementation**

The management of quantitative control will be carried out by the Commission in accordance with the quota allocation procedure. All certificates issued by the Tunisian authorities pursuant to this Decision shall bear a reference to it. The customs authorities of Tunisia shall carry out quantitative checks on the exports of the products and they shall forward to the Commission information on the EUR .1

movement certificates issued. The competent authorities of Tunisia shall send to the Commission statistics on the import and export of the textile products concerned.

## **9. ANTI-FRAUD MEASURES**

Title V of Protocol No. 4 to the EC-Tunisia Euro-Mediterranean Agreement, and more in particular Articles 33, 34 and 35, deals with the arrangements for administrative co-operation between the Parties in relation to the verification procedures of the proofs of origin.

The same provisions will have to be applied between Tunisia and Turkey for the implementation of the present derogation.