

WORLD TRADE ORGANIZATION

RESTRICTED

G/C/W/187/Add.2

14 April 2000

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Council for Trade in Goods

Original: English

EUROPEAN COMMUNITIES - THE ACP-EC PARTNERSHIP AGREEMENT

Addendum

The following communication, dated 13 April 2000, containing a Draft Decision for a waiver, has been received from the Permanent Delegation of the European Commission.

Draft Decision of [date of decision]

The General Council,

HAVING REGARD TO paragraphs 1 and 3 of Article IX of the Marrakech Agreement Establishing the World Trade Organisation (the "WTO Agreement"), the Guiding Principles to be followed in considering applications for waivers adopted on 1 November 1956 (BISD 5S/25), the Understanding in Respect to Waivers of Obligations under the General Agreement on Tariffs and Trade 1994, paragraph 3 of Article IX of the WTO Agreement, and Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93);

CONDUCTING the function of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

TAKING NOTE of the request of the European Communities (EC) and of the Governments of the ACP States which are also WTO members (hereinafter also the "Parties to the Agreement") for a waiver from the obligations of the European Communities under paragraph 1 of Article I of the General Agreement with respect to the granting of preferential treatment for products originating in ACP States as required by the relevant provisions of the ACP-EC Partnership Agreement (hereinafter also referred to as "the Agreement")¹;

CONSIDERING that, in the field of trade, the provisions of the ACP-EC Partnership Agreement requires preferential treatment by the EC of exports of products originating in the ACP States;

CONSIDERING that the Agreement is aimed at improving the standard of living and economic development of the ACP States, including the least developed among them;

CONSIDERING also that the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement is designed to promote the expansion of trade

¹ As contained in the request for a waiver submitted by the Parties to the Agreement (see documents G/C/W/187, G/C/W/187/Add. 1 and G/C/W/187/Add.3).

and economic development of beneficiaries in a manner consistent with the objectives of the WTO and with the trade, financial and development needs of the beneficiaries and not to raise undue barriers or to create undue difficulties for the trade of other members;

CONSIDERING that the Agreement establishes a preparatory period extending until 31 December 2007, by the end of which new trading arrangements shall be concluded between the Parties to the Agreement;

CONSIDERING that the trade provisions of the Agreement have been applied since 1 March 2000 on the basis of transitional measures adopted by the ACP-EC joint institutions;

NOTING the assurances given by the Parties to the Agreement that they will, upon request, promptly enter into consultations with any interested member with respect to any difficulty or matter that may arise as a result of the implementation of the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement;

NOTING that, in light of the foregoing, the exceptional circumstances justifying a waiver from paragraph 1 of Article I of the General Agreement exist;

DECIDES as follows:

1. Subject to the terms and conditions set out hereunder, Article I, paragraph 1 of the General Agreement shall be waived, until 31 December 2007, to the extent necessary to permit the European Communities to provide preferential treatment for products originating in ACP States as required by the relevant provisions of the ACP-EC Partnership Agreement,² without being required to extend the same preferential treatment to like products of any other member.
2. The Parties to the Agreement shall promptly notify the General Council of any changes in the preferential treatment to products originating in ACP States as required by the relevant provisions of the Agreement covered by this waiver.
3. The Parties to the Agreement will, upon request, promptly enter into consultations with any interested member with respect to any difficulty or matter that may arise as a result of the implementation of the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement covered by this waiver; where a member considers that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of such implementation, such consultations shall examine the possibility of action for a satisfactory adjustment of the matter.
4. Any member which considers that the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement covered by this waiver is being applied inconsistently with this waiver or that any benefit accruing to it under the General Agreement may be or is being impaired unduly as a result of the implementation of the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement covered by this waiver and that consultations have proved unsatisfactory, may bring the matter before the General Council, which will examine it promptly and will formulate any recommendations that they judge appropriate.

² Any reference to the Partnership Agreement in this Decision shall also include the period during which the trade provisions of this Agreement are applied on the basis of transitional measures adopted by the ACP-EC joint institutions.

5. The Parties to the Agreement will submit to the General Council an annual report on the implementation of the preferential treatment for products originating in ACP States as required by the relevant provisions of the Agreement covered by this waiver.
 6. This waiver shall not preclude the right of affected members to have recourse to Articles XXII and XXIII of the General Agreement.
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