



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.12.1995

COM(95) 692 final

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Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Malta concerning authorization to issue certificates of origin for certain oil products transiting the territory of Malta in place of the Form A certificates of origin issued by some countries benefiting from the Community's Generalized Scheme of Preferences

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. At its 1873rd meeting on 6 October 1995 the Council authorized the Commission to negotiate an agreement in the form of an exchange of letters between the European Community and Malta authorizing the Maltese authorities to issue certificates of origin in place of the Form A certificates of origin issued by some countries benefiting from the Community's Generalized Scheme of Preferences.
2. On the basis of this authorization, Commission departments have negotiated with Malta the wording of the letters to be exchanged, which are at Annex.

A draft was communicated to the Council when the decision of 6 October was being prepared.

3. Malta has requested some minimal changes to this wording. But what is essential is that the Maltese authorities have stated that they are prepared to cooperate wholeheartedly with the Community and Member State authorities to ensure absolute transparency of all operations carried out in Grand Harbour, Valetta.
4. The Commission has therefore drafted the following proposal for adoption by the Council.

Proposal for a Council Decision

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Malta concerning authorization to issue certificates of origin for certain oil products transiting the territory of Malta in place of the Form A certificates of origin issued by some countries benefiting from the Community's Generalized Scheme of Preferences

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas certain oil products entering the Community may be exempted totally or partially from the Common Customs Tariff duties applicable under the provisions of Council Regulation (EC) No 3281/94 of 19 December 1994 applying a four-year scheme of generalized preferences (1995-98) in respect of certain industrial products originating in developing countries;¹

Whereas, to benefit from that exemption, the said products have to comply with the provisions on origin set out in Regulation (EEC) No 2454/93 of 2 July 1993,² as amended by Regulation (EC) No 3254/94 of 19 December 1994;³ whereas the specific criteria that have to be met if the products are to benefit from these preferences include the condition that the goods have to be transported directly from the beneficiary country to the Community;

Whereas the Government of Malta has requested permission from the Community for oil products originating in Middle Eastern countries, benefiting from the Generalized Scheme of Preferences and consigned to the Community, to be exempted from the direct transport rule and, where the needs of transport or commerce so require, to be discharged, stored and reloaded in the port of Valetta without ceasing to benefit from the Generalized Scheme of Preferences;

¹ OJ L 348, 31.12.1994, p. 1.

² OJ L 253, 2.7.1993, p. 1.

³ OJ L 346, 31.12.1994, p. 1.

Whereas, in view of Malta's geographical position, of the special nature of the market in oil products and reasons inherent in the carriage of such products, the Maltese Government's request may be granted initially for a period of 18 months; whereas the Maltese authorities should therefore be authorized to issue certificates of origin in place of the Form A certificates of origin which have accompanied the products in question from the beneficiary country; whereas at the same time agreement has to be reached with the said authorities about the conditions that have to be met to ensure that there are no disturbances in this sector,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters between the European Community and Malta concerning authorization to issue certificates of origin for certain oil products transiting the territory of Malta in place of the Form A certificates of origin issued by Middle Eastern countries benefiting from the Community's Generalized Scheme of Preferences is hereby approved on behalf of the Community.

The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council is authorised to designate the persons empowered to sign the Agreement and bind the Community.

AGREEMENT

In the form of an exchange of letters between the European Community and Malta, concerning the authorisation granted by the Community to issue, for certain petroleum products transiting through the territory of Malta, certificates to replace Form A certificates delivered by *certain* Generalised System of Preferences beneficiary countries in the Middle East.

A. Letter of the Community

Dear Sir,

- "1. During 1993 and 1994, your country requested authorisation from the European Community to issue certificates to replace certificates Form A delivered by, amongst others, the Generalised System of Preferences beneficiary countries in the Middle East for certain petroleum products transiting through Maltese territory.
2. The European Community is disposed to granting you such an authorisation under the following conditions:
 - 2.1 That authorisation is limited to the petroleum products which appear in the following list and originate in the countries bordering the Mediterranean and Black Seas and the Persian Gulf (Algeria, Morocco, Tunisia, Egypt, Saudi Arabia, Oman, the United Arab Emirates, Qatar, Bahrain, Kuwait, Syria, Lebanon, Iran, Russia, Ukraine and Georgia) insofar as they are not the subject of a suspension from tariff preferences in application of the provisions set out in Council Regulation No. 3281/94 of 19 December 1994; the said petroleum products must arrive in your country accompanied by a Form A certificate, and be destined for a European Community country and which figure on the following list :

<u>HS Code</u>	<u>Description of the goods</u>
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels.
ex 2709	Crude oils obtained from bituminous minerals.
2710 to 2712	Petroleum oils and oils obtained from bituminous materials, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous materials, these oils being the basic constituents of the preparations.

Petroleum gases and other gaseous hydrocarbons.

Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes and similar products obtained by synthesis or by other processes, whether or not coloured.

2713 to 2715

Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous materials.

Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks.

Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch.

- 2.2 Before being conveyed totally or partly to one or more countries of the European Community under the cover of one or more replacement certificates, the products referred to above may only be subjected to unloading, storage or loading operations in the harbour facilities of your country.
- 2.3 In application of the preceding points concerning the petroleum products mentioned in the first paragraph reference is made, especially in the field of administrative co-operation, to the pertinent provisions of the following regulations:
- Council Regulation (EEC) No. 3281/94 of 19 December 1994 applying Generalized Tariff Preferences for the period 1995-1998 in respect of certain industrial products originating in developing countries.
 - Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementing of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code, as last amended by Regulation (EC) No. 3254/94.
- 2.4 Your country must commit itself to ensuring the correct implementation of the present agreement especially with regard to the respect of the following provisions:
- 2.4.1 All operations referred to at 2.2 carried out in the harbour installations of Malta are carried out under the control of the customs authorities of your country. Those authorities shall also be competent to establish replacement certificates (Form A).

2.4.2 The storage of the products in the harbour facilities of your country is carried out in accordance with the "accounting segregation" method (1). Every three months the Maltese authorities shall send to the Commission services of the European Community a statistical statement containing the products by category and by country of origin, with reference to the certificate Form A issued by those countries, the quantities which have arrived, which are in storage and which have been re-exported. In the latter instance, an indication must be made to the country or countries of destination along with a reference to the replacement certificate.

The first communication will be effected within the first fifteen days of the fourth month following the date of entry into force of this agreement.

2.4.3 The replacement certificates will be accompanied by a photocopy of the initial certificate and will clearly indicate, in box 4, the state of attribution of the last. They must also be accompanied by the bill of loading or by another corroborating document delivered in the GSP beneficiary country in order to assure that the goods covered by the replacement certificate are of the same quality as those originally imported initially in Malta.

2.4.4 At the request of the Commission services, a Member State of the Community or on the initiative of the competent Maltese authorities, joint missions will be carried out to assure the correct operation of the present agreement.

3. The European Community can immediately suspend the application of the present arrangement in the case where there are serious doubts as to its correct operation. However, the competent authorities of your country shall be informed as a preliminary.
4. This agreement shall be valid for an initial period of 18 months from the date of its entry into force.
5. The Community would be grateful to your country for kindly confirming in writing that it accepts the preceding conditions".

We have the honour Sir, to assure you of our highest consideration

On behalf of the Council
of the European Union

- (1) Accounting segregation: procedure permitting effective verification by customs services, by written controls, that the quantity of reexported products corresponds to the quantity of products initially imported.

B. Letter from Malta

Dear Sir,

I have the honour to acknowledge receipt today of your letter reading as follows:

- "1. During 1993 and 1994, your country requested authorisation from the European Community to issue certificates to replace certificates Form A delivered by the Generalised System of Preferences beneficiary countries in the Middle East for certain petroleum products transiting through Maltese territory.
2. The European Community is disposed to granting you such an authorisation under the following conditions:
 - 2.1 That authorisation is limited to the petroleum products which appear in the following list and which are accompanied by a Form A certificate delivered in the countries bordering the Mediterranean and Black Seas and the Persian Gulf (Algeria, Morocco, Tunisia, Egypt, Saudi Arabia, Oman, the United Arab Emirates, Qatar, Bahrain, Kuwait, Syria, Lebanon, Iran, Russia, Ukraine and Georgia) insofar as they are not the subject of a suspension from tariff preferences in application of the provisions set out in Council Regulation No 3281/94 of 19 December 1994; the said petroleum products must arrive in your country accompanied by a Form A certificate, and be destined for a European Community country:

<u>HS Code</u>	<u>Description of the goods</u>
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels.
ex 2709	Crude oils obtained from bituminous minerals.
2710 to 2712	Petroleum oils and oils obtained from bituminous materials, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous materials, these oils being the basic constituents of the preparations. Petroleum gases and other gaseous hydrocarbons. Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes and similar products obtained by synthesis or by other processes, whether or not coloured.

2713 to 2715

Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous materials.

Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks.

Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch.

2.2 Before being conveyed totally or partly to one or more countries of the European Community under the cover of one or more replacement certificates, the products referred to above may only be subjected to unloading, storage or loading operations in the harbour facilities of your country.

2.3 In application of the preceding points concerning the petroleum products mentioned in the first paragraph reference is made, especially in the field of administrative co-operation, to the pertinent provisions of the following regulations:

- Council Regulation (EEC) No. 3281/94 of 19 December 1994 applying Generalized Tariff Preferences for the period 1995-1998 in respect of certain industrial products originating in developing countries.
- Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementing of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code, as last amended by Regulation (EC) No. 3254/94.

2.4 Your country must commit itself to ensuring the correct implementation of the present arrangement especially with regard to the respect of the following provisions:

2.4.1 All operations referred to at 2.2 which carried out in the harbour installations of Malta are carried out under the control of the customs authorities of your country. Those authorities shall also be competent to establish replacement certificates (Form A).

2.4.2 The storage of the products in the harbour facilities of your country is carried out in accordance with the "accounting segregation" method (1). Every three months the Maltese authorities shall send to the Commission services of the European Community a statistical statement containing the products by category and by country of origin, with reference to the certificate Form A issued by those countries, the quantities which have arrived, which are in storage and which have been re-exported. In the latter instance, an indication must be made to the country or countries of destination along with a reference to the replacement certificate.

The first communication will be effected within the first fifteen days of the fourth month following the date of entry into force of this agreement.

- 2.4.3 The replacement certificates will be accompanied by a photocopy of the initial certificate and will clearly indicate, in box 4, the state of attribution of the last. They must also be accompanied by the bill of loading or by another corroborating document delivered in the GSP beneficiary country in order to assure that the goods covered by the replacement certificate are of the same quality as those originally imported initially in Malta.
- 2.4.4 At the request of the Commission services, a Member State of the Community or on the initiative of the competent Maltese authorities, joint missions will be carried out to assure the correct operation of the present agreement.
3. The European Community can immediately suspend the application of the present arrangement in the case where there are serious doubts as to its correct operation. However, the competent authorities of your country shall be informed as a preliminary.
 4. This agreement shall be valid for a period of 18 months from the date of its entry into force.
 5. The Community would be grateful to your country for kindly confirming in writing that it accepts the preceding conditions".

I have the honour to confirm the agreement of my government to the above.

I have the honour Sir, to assure you of my highest consideration

For the Government of Malta

- (1) Accounting segregation: procedure permitting effective verification by customs services, by written controls, that the quantity of reexported products corresponds to the quantity of products initially imported.

FINANCIAL STATEMENT

The agreement is neutral in financial terms. It makes no new concessions. It consists simply of an arrangement by which certain oil products will continue to benefit from the generalized tariff preferences even if the products are stored in Malta whilst in transit to the Community.

Information regarding existing or planned prevention and protection measures:

- operations will be strictly limited to storage-related handling (paragraph 2.2 of the agreement);
- the arrangement provided for in paragraph 2.4.3 of the agreement has been included to make it possible to check that the quantities and qualities of products entering Malta correspond to the quantities and qualities exported to the Community.

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DOCUMENTS

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