



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.01.1996
COM(96) 18 final

96/0020 (CNS)

Proposal for a Council Decision laying down the procedure
for adopting the Community's position in the Customs Union Joint Committee
set up by Decision No 1/95 of the EC-Turkey Association Council
on implementation of the final phase of the Customs Union

(presented by the Commission)

Explanatory Memorandum

The entry into force of the EC-Turkey Association Council Decision on implementation of the final phase of the Customs Union, (hereinafter referred to simply as "the basic Decision") makes it necessary to establish a procedure for the formulation by the Community of its agreed positions on acts to be adopted by the CUJC.

We have opted for a procedure based partly on that applying to the adoption of Community positions in the EEA Joint Committee and partly on that for the Association Council, as laid down in the 1964 Agreement on measures and procedures required for the implementation of the Agreement establishing an Association between the EEC and Turkey.

This is because the appropriate procedure depends on the content and purpose of the particular CUJC measure envisaged. Under the basic Decision the Committee is essentially called on to act whenever unilateral measures adopted by either Party affect, or might affect, free trade within the Customs Union.

Thus the CUJC's responsibilities, both in terms of subject matter and the intended purpose of the measures it may adopt, fall within the scope of Article 113 of the EC Treaty. Community positions on measures to be taken by the CUJC will therefore as a rule be adopted by a qualified majority on the basis of a proposal from the Commission.

However, where the CUJC is dealing with competition issues, a streamlined procedure will be used, involving only the Commission, since the Treaty gives the Commission discretion to rule on anti-competitive behaviour and appropriate remedies. The same would apply where the CUJC was asked to decide on technical adjustments by Turkey to bring its legislation into line with Community law.

The Commission accordingly transmits to the Council, for adoption, the attached proposal for a decision laying down the procedure for adopting the Community's position in the Customs Union Joint Committee.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof, in conjunction with the second sentence of Article 228(2), the first subparagraph of Article 228(3) and Article 228(4),

Having regard to the Opinion of the European Parliament,

Having regard to the proposal from the Commission,

Whereas Decision 1/95 of the EC-Turkey Association Council established a Customs Union Joint Committee; whereas that Committee is empowered to frame recommendations to the Association Council and has decision-making powers in the cases provided for by the said Decision;

Whereas for the purposes of Joint Committee proceedings it is necessary to lay down rules for adoption of common positions on the basis of which the Community, represented on the Committee by the Commission, can enter into commitments vis-à-vis Turkey;

Whereas the Joint Committee's task is to ensure the proper functioning of the Customs Union and freedom of trade between the Parties; whereas common positions to be adopted by the Community accordingly fall within the scope of Article 113 of the Treaty establishing the European Community, and the procedure provided for by that Article should as a rule apply;

Whereas it is necessary, however, to provide that common positions relating to the application of Community legislation and any associated technical adjustments or to the assessment of anti-competitive behaviour should be adopted by the Commission,

HAS ADOPTED THIS DECISION

Article 1

Subject to Article 2, the position to be taken by the Community in the Customs Union Joint Committee shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.

Article 2

The position to be taken by the Community in the Customs Union Joint Committee shall be adopted by the Commission where the said position relates to the simple transposition into the Customs Union of acts of Community law, if necessary by means of technical adjustments, or to the assessment of anti-competitive behaviour.

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