



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.10.2000
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Proposal for a

COUNCIL DECISION

on a Community position on an amendment to Protocol 4 on the definition of the concept of 'originating products' and methods of administrative cooperation set out in the Europe Agreement between the European Communities and the Republic of Poland

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. GENERAL

- 1.1. Rules of origin are essential to the correct functioning of the free trade agreements between the Community and its trading partners. Differences in origin rules in the various agreements signed by the Community, in fact, constitute a barrier to trade.
- 1.2. Following the conclusions of the European Council meeting in Essen, in December 1994, a programme was initiated aiming at applying identical origin rules in the framework of the EEA Agreement, the agreements with the EFTA-countries and the agreements with the countries of Central and Eastern Europe (CEEC), the three Baltic States and Slovenia (14 agreements).
- 1.3. A standard origin protocol was developed and was included in the 14 agreements concerned and entered into force on 1st January 1997. As a result, trade between all countries concerned was put on the same footing. The system is known as the 'Pan-European cumulation system'. On 1st January 1999, Turkey was included in this system, but only insofar as industrial products are concerned.
- 1.4. Origin rules must always be adaptable to the technical, political and economical requirements of the free trade area in which they apply. Since 1st January 1997 some amendments have been deemed necessary; several such amendments have been adopted and entered into force on 1st January 1999 and 1st January 2000 respectively.

2. AMENDMENTS TO THE RULES OF ORIGIN IN THE EEA AGREEMENT, THE EC-EFTA AGREEMENTS AND THE AGREEMENTS WITH THE CEEC, THE BALTIC STATES AND SLOVENIA

- 2.1. Since the entry into force of the standard origin protocol the interpretation and implementation of Article 7 ('insufficient working or processing') has given rise to difficulties. Therefore a new, clearer, text is proposed, based on the present wording and taking into account the need to include some operations not covered previously by the Article. The impact of the amendment on determining whether or not a given product has originating status is negligible; it mostly concerns the allocation of the originating status to a particular country. The amendment has no impact on preferential treatment for most sectors. The economic consequences for the Community are therefore negligible, while the proposal provides for improved clarity for both customs authorities and economic operators.
- 2.2. The origin rules in the agreements with the CEEC, the Baltic States and Slovenia, provide that until 31 December 2000 flat rates may be used in cases where drawback is prohibited or exemptions from customs duties are granted. Bulgaria and Hungary have asked for this option to be extended for a further year. It is proposed to grant the request and to apply the prolongation to all agreements. This will not give rise to any economic difficulties for the Community and will not concern the EC-EFTA and the EEA Agreements.
- 2.3. Although the legal text does not clearly say so, it is a generally accepted principle that identical originating and non-originating materials, to be included in a product,

should be segregated physically. However, considerable cost or material difficulties in keeping separate stocks may arise, and it is therefore proposed that under certain conditions customs authorities may authorise the use of the so-called 'accounting segregation' method. This has no economic impact on the Community, but represents a facilitation for the economic operators concerned.

- 2.4. The origin rules include several amounts expressed in euro. Article 30 refers to equivalents in national currencies and the way they are fixed by the exporting country and communicated to the Commission. A new wording is proposed for this Article, clarifying some questions that have arisen in the interpretation and implementation, and introducing measures to enable countries to round-off the result of the conversion in their national currency.

The proposal will also result in countries not having to amend the equivalents in national currencies where changes remain within a certain range. This will reduce the administrative burden on the national administrations involved and provide greater stability for the level of the amounts in national currencies for the economic operators.

- 2.5. Some technical amendments to Article 1 and Article 22 are proposed. These amendments are intended to correct some anomalies between the different language versions of the articles in question.
- 2.6. As an amendment to Annex II it is proposed for HS heading 5309 to 5311 that non-originating jute yarn may be used in the manufacture of the products covered by those headings. As there is no production of such yarn within the Community or any of the other countries concerned by these agreements, allowing non-originating jute yarn to be used is beneficial to the economic operators involved in the manufacture of the products concerned.

3. CONCLUSIONS

The annexed proposal is one of a series of 14 proposals intended to further improve the functioning of the common system of origin rules. These 14 proposals should be taken as a single package. If the current arrangements allowing Pan-European cumulation of working and processing are to remain in force, it is essential that they enter into force at the same time, i.e. on 1 January 2001.

The Commission therefore calls on the Council to draw up a common position for presentation to the committees provided for in each of the relevant Agreements.

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(Text with EEA relevance)

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(2), second subparagraph thereof,

Having regard to the proposal from the Commission,

Whereas Article 38 of Protocol 4 to the said Europe Agreement provides that the Association Council may amend the provisions of the Protocol;

HAS DECIDED AS FOLLOWS:

The position to be adopted by the Community within the Association council created by virtue of Article 102 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, on an amendment of Protocol 4 on the definition of the concept of 'originating products' and methods of administrative cooperation set out in the Agreement shall be based on the draft Association Council decision annexed to this Decision.

Done at Brussels,

*For the Council
The President*

EUROPE AGREEMENT

Establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part

DECISION No/.... of the ASSOCIATION COUNCIL

amending Protocol 4 on the definition of the concept of 'originating products' and methods of administrative cooperation

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, signed in Brussels on 16 December 1991 and in particular Article 38 of Protocol 4 thereof;

Whereas:

- (1) Some technical amendments are in order to correct anomalies between the different language versions of the text.
- (2) The list of insufficient working and processing needs to be amended to ensure proper interpretation and to take account of the need to include some operations not covered previously by this list.
- (3) The provisions for the temporary use of flat rates in cases where drawback is prohibited or exemptions from customs duties are granted need to be prolonged until 31 December 2001.
- (4) The need has arisen to provide for a system of accounting segregation of originating and non-originating materials, subject to authorisation by customs authorities.
- (5) The provisions concerning the amounts expressed in euro need to be revised in order to clarify the procedure and to provide greater stability for the level of the amounts in national currencies.
- (6) To take account of the lack of production of a certain material within the countries concerned, a correction must be made to the list of working and processing requirements which non-originating materials have to fulfil to qualify for originating status,

HAS DECIDED AS FOLLOWS:

Article 1

Protocol 4 on the definition of the concept of 'originating products' and methods of administrative cooperation is hereby amended as follows:

1. Article 1 (i) shall be replaced by:

'(i) 'added value' shall be taken to be the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries referred to in Article 3 and 4 or, where the customs value is not known or cannot be ascertained, the first verifiable price paid for the materials in the Community or Poland.

2. Article 7 shall be replaced by:

'Article 7

Insufficient working or processing

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 6 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (g) operations to colour sugar or form sugar lumps;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

- (m) simple mixing of products, whether or not of different kinds,
 - (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
 - (o) a combination of two or more operations specified in subparagraphs (a) to (n);
 - (p) slaughter of animals.
2. All operations carried out either in the Community or in Poland on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.'
3. In Article 15, the final sentence in paragraph 6 shall be replaced by:
'The provisions of this paragraph shall apply until 31 December 2001.'
4. The following article shall be inserted after Article 20:
'Article 20a

Accounting segregation

1. Where considerable cost or material difficulties arise in keeping separate stocks of originating and non-originating materials which are identical and interchangeable, the customs authorities may, at the written request of those concerned, authorise the so-called "accounting segregation" method to be used for managing such stocks.
2. This method must be able to ensure that, for a specific reference-period, the number of products obtained which could be considered as "originating" is the same as that which would have been obtained if there had been physical segregation of the stocks.
3. The customs authorities may grant such authorisation, subject to any conditions deemed appropriate.
4. This method is recorded and applied on the basis of the general accounting principles applicable in the country where the product was manufactured.
5. The beneficiary of this facilitation may issue or apply for proofs of origin, as the case may be, for the quantity of products which may be considered as originating. At the request of the customs authorities, the beneficiary shall provide a statement of how the quantities have been managed.
6. The customs authorities shall monitor the use made of the authorisation and may withdraw it at any time whenever the beneficiary makes improper use of the authorisation in any manner whatsoever or fails to fulfil any of the other conditions laid down in this Protocol.

5. In Article 22, paragraph 1, first sentence, the following shall be inserted after 'exporter':
 'hereinafter referred to as "approved exporter",'

6. Article 30 shall be replaced by:

'Article 30

Amounts expressed in euro

1. For the application of the provisions of Article 21(1)(b) and Article 26(3) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the countries referred to in Articles 3 and 4 equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.
2. A consignment shall benefit from the provisions of Article 21(1)(b) or Article 26(3) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the country concerned.
3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by 15 October and shall apply from 1 January the following year. The European Commission shall notify all countries concerned of the relevant amounts.
4. A country may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 per cent. A country may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 per cent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.
5. The amounts expressed in euro shall be reviewed by the Association Committee at the request of the Community or Poland. When carrying out this review, the Association Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.'

7. Annex II shall be amended as follows:

the entry for HS heading 5309 to 5311 shall be replaced by:

5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn: - Incorporating	Manufacture from	
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	<p>rubber thread</p> <p>- Other</p>	<p>single yarn (1)</p> <p>Manufacture from (1):</p> <ul style="list-style-type: none"> - coir yarn, - jute yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric does not exceed 47,5% of the ex-works price of the product</p>	
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(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5

Article 2

This Decision shall enter into force on the day of its adoption.

It is applicable from 1 January 2001.

Done at Brussels,

*For the Association Council
The President*

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Proposal for an amendment to the definition of the concept of 'originating products' and the methods of administrative cooperation set out in Protocol 4 to the Agreement on the European Economic Area and to the different Europe Agreements between the EC and the CEEC, the Baltic States and Slovenia, and in Protocol 3 to the free trade agreements between the EC and the EFTA-countries

2. BUDGET HEADING(S) INVOLVED

Chapter 12, Article 120 (zero-rated duty)

3. LEGAL BASIS

Article 133 of the Treaty

4. OBJECTIVE

The objectives of the operation are the following:

- 4.1. To ensure proper interpretation of the list of insufficient working and processing, and to include some operations not covered previously;
- 4.2. To prolong the possible use of flat rates in cases where drawback is prohibited or exemptions from customs duties are granted; (*not applicable to the EEA and the EC-EFTA agreements*)
- 4.3. To introduce a system of accounting segregation of originating and non-originating materials, subject to authorisation by customs authorities;
- 4.4. To clarify the provisions concerning the amounts expressed in euro and to provide greater stability for the level of the amounts in national currencies;
- 4.5. To correct anomalies between the different language versions of the text;
- 4.6. To revise, in a single case, the rule concerning the working or processing of non-originating materials that confer originating status;

5. FINANCIAL IMPACT

The proposal has no financial implications.