COMMISSION REGULATION (EEC) No 149/79

of 26 January 1979

derogating in respect of the countries of the Association of South East Asian Nations from Articles 1, 6 and 13 of Commission Regulation (EEC) No 148/79 of 26 January 1979 on the definition of the concept of originating products for purposes of the application of tariff preferences granted by the European Economic Community in respect of certain products from developing countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas, for the purposes of implementation of the provisions concerning the tariff preferences granted by the Community for certain products originating in developing countries, rules of origin are by Commission Regulation (EEC) No 148/79 of 26 January 1979 (1), hereinafter called the 'basic Regulation', laid down concerning the conditions under which these products acquire the status of originating products and the mode of proof and verification of their status;

Whereas the Association of South East Asian Nations has established close economic cooperation between Indonesia, Malaysia, the Philippines, Singapore and Thailand (hereinafter referred to as ASEAN countries); whereas the provisions relative to the acquisition of the status of originating products laid down in Article 1 of the basic Regulation may, with the necessary adaptations, help facilitate this cooperation and encourage the use in one ASEAN country of products originating in other ASEAN countries; whereas the said provisions should be amended accordingly and special rules as to the mode of proof and verification of the status of originating products should be laid down; whereas to this end it is necesseary to provide for requests for verification to be centralized with a joint administrative body of the aforesaid association;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Origin,

HAS ADOPTED THIS REGULATION:

Article 1

1. Notwithstanding the provisions of Article 1 of the basic Regulation, there shall also be considered as products originating in Indonesia, Malaysia, the Philippines, Singapore or Thailand (hereinafter referred to as ASEAN countries) those products which have in accordance with those provisions acquired in one of those countries the status of originating products and which after being exported from that country have undergone no working or processing in any other ASEAN country or have not undergone sufficient working or processing in any such other country to confer on them by virtue of the said provisions the status of products originating in that other country, provided that:

(a) only products originating in an ASEAN country have been used in the course of such working or processing;

(b) where a percentage rule limits, in Lists A and B referred to in Article 3 of the Regulation referred to above, the proportion in value of non-originating products that can be incorporated under certain circumstances, the added value has been acquired in each of the countries in accordance with the said percentage rule and with the other rules contained in the said lists without any possibility of cumulation from one country to another.

2. For the purposes of paragraph 1 (a), the fact that products other than those referred to therein have been used in a proportion not exceeding in total value 5% of the value of the products obtained and imported into the Community shall not affect the determination of origin of the latter products, provided that the products so used would not have caused such latter products to lose the status of products originating in the ASEAN country from which they were first exported, had the products used been incorporated in that first country.

3. In the cases referred to in paragraph 1 (b) no non-originating product may be incorporated if it undergoes only working or processing as specified in Article 3 (2) of the basic Regulation.

4. Notwithstanding the provisions of paragraph 1 and provided that all the conditions laid down in that paragraph are nevertheless fulfilled, the products obtained shall not continue to be considered as products originating in the first ASEAN country of exportation unless the value of the products worked or processed in that country represents the highest percentage of the

(1) See page 1 of this Official Journal.

value of the products obtained. If this is not so, the latter products shall be considered as originating in the ASEAN country where the added value acquired represents the highest percentage of their value.

Article 2

1. For the purposes of implementation of the provisions of Article 1, the provisions of Article 4 of the basic Regulation shall apply.

2. In Article 1 (1) (b) and (4), 'added value' means the difference between the ex-works price of the goods obtained, less internal taxes refunded or refundable on exportation from the country concerned, and the customs value of all the products imported into and worked or processed in that country.

Article 3

1. For the purposes of Article 1, proof of status as originating products within the meaning of Article 1 of the basic Regulation shall, in the case of products obtained in one ASEAN country and exported to another ASEAN country, be established by production of a certificate of origin Form A, a specimen of which is given in the Annex to the basic Regulation. This certificate shall be issued by the governmental authorities of the country of export competent to issue certificates of origin for the purposes of the basic Regulation.

2. For the purposes of Article 1, proof of status as originating products within the meaning of that Article shall, in the case of products that have merely remained in one of the ASEAN countries or have undergone there no processing other than as specified in that Article and have been exported from that country to another ASEAN country, be established by production of a certificate as referred to in paragraph 1 issued as provided in that paragraph on the basis of the certificates of origin Form A issued previously.

Article 4

Notwithstanding the provisions of Article 6 of the basic Regulation, the products mentioned in Article 1 shall on importation into the Community benefit from the provisions on tariff preferences referred to in that Article upon production of a certificate of origin Form A issued, on the basis of the certificates of origin Form A issued previously, by the authority in the ASEAN country from which the products are exported to the Community.

Article 5

The certificates referred to in Articles 3 and 4 must contain:

— in box 4 'For official use' the name of the ASEAN country in which the goods originate together with one of the following phrases:

'CUMUL ANASE'

'CUMULATION ASEAN'

— in box 12 'Declaration by the exporter' a statement to the effect that the products satisfy the conditions of origin required by the generalized system of preferences in order to be exported to the European Economic Community.

Article 6

1. The provisions of Articles 1 to 5 above shall apply only in so far as the rules regulating trade in the context of this Regulation between each of the countries hereinbefore specified are identical to the provisions laid down in the basic Regulation and in this Regulation.

2. In addition, each ASEAN country undertakes to the Commission of the European Communities that it will, through the Special Coordinating Committee of ASEAN (hereinafter referred to as SCCAN), comply or ensure compliance with the rules concerning the preparation and issue of certificates of origin Form A and with those relative to administrative cooperation contained in Articles 7 and 8 below.

Article 7

1. Retrospective verifications of the certificates Form A mentioned in Article 3 shall be carried out at random or whenever the authorities as referred to in that Article of any ASEAN country where the products have either remained before their re-exportation in the same state or have undergone working or processing as specified in Article 1 have reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the products in question.

2. For the purpose of applying the provisions of paragraph 1, the authorities mentioned in that paragraph shall send the certificate of origin Form A to SCCAN, indicating where appropriate the reasons of form or substance for an enquiry. They shall forward any available information which tends to show that the particulars on the said certificate are inaccurate.

Article 8

1. Retrospective verification of the certificates Form A mentioned in Article 4 shall be carried out in the circumstances specified in Article 13 of the basic Regulation. However, by way of derogation from the provi-

sions of paragraph 2 of that Article, the relevant customs authorities in the Community shall return the certificate of origin Form A to SCCAN.

2. The ASEAN countries shall communicate to the Commission the address of SCCAN. The Commission shall communicate this information to the customs authorities of the Member States.

Article 9

The Explanatory Note annexed to this Regulation forms an integral part thereof.

Article 10

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall be applicable from 1 January 1979.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 January 1979.

For the Commission

Etienne DAVIGNON

Member of the Commission

ANNEX

Explanatory Note to Article 1

For the purposes of Article 1 (1) (b), the percentage rule must be observed by referring as regards the added value acquired to the provisions contained in Lists A and B referred to in Article 3 of the basic Regulation. Where the products obtained appear in List A, the percentage rule therefore constitutes a criterion additional to that of change of tariff heading for any non-originating product used.