COMMISSION REGULATION (EEC) No 3609/82

of 23 December 1982

derogating in respect of the countries which have signed the Cartagena Agreement (Andean Group) from Articles 1, 6 and 12 of Regulation (EEC) No 3606/82 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 3606/82 [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 under the Cartagena Agreement (Andean Group), close economic cooperation has been established between Bolivia, Colombia, Ecuador, Peru and Venezuela (hereinafter referred to as Andean Group 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 Andean Group country of products originating in other Andean Group 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 necessary to provide for requests for verification to be centralized with a joint administrative body of the aforesaid group;

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 Bolivia, Colombia, Ecuador, Peru or Venezuela 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 Andean Group 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 Andean Group 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 Andean Group 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

[1] See page 1 of this Official Journal.

originating in the first Andean Group country of exportation unless the value of the products worked or processed in that country represents the highest percentage of the value of the products obtained. If this is not so, the latter products shall be considered as originating in the Andean Group 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 Andean Group country and exported to another Andean Group 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 Andean Group countries or have undergone there no processing other than as specified in that Article and have been exported from that country to another Andean Group 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 Andean Group 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 Andean Group country in which the goods originate together with one of the following phrases:

'CUMUL GROUPE ANDIN'

'CUMULATION ANDEAN GROUP'

— 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 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 Andean Group country undertakes to the Commission of the European Communities, through the 'Junta del Acuerdo de Cartagena', hereinafter referred to as 'the Junta', that it will 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 Andean Group 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 the Junta 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 12 of the basic Regulation. However, by way of derogation from the provisions of paragraph 2 of that Article, the relevant customs authorities in the Community shall return the certificate of origin Form A to the Junta.

2. The Andean Group countries shall communicate to the Commission the address of the Junta. 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 1983.

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

Done at Brussels, 23 December 1982.

For the Commission

Karl-Heinz NARJES

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.