COUNCIL REGULATION (EEC) No 2955/85

of 22 October 1985

derogating in respect of the countries of the Association of South-East Asian Nations, of the countries of the Central American Common Market and the countries which have signed the Cartagena Agreement (Andean Group) from Regulation (EEC) No 3749/83 on the defintion 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 COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3562/84 of 18 December 1984 applying generalized tariff preferences for 1985 in respect of certain industrial products originating in developing countries (1), and in particular Article 1 hereof,

Having regard to Council Regulation (EEC) No 3563/84 of 18 December 1984 applying generalized tariff preferences for 1985 to textile products originating in developing countries (2), and in particular Article 1 thereof,

Having regard to Council Regulation (EEC) No 3564/84 of 18 December 1984 applying generalized tariff preferences for 1985 in respect of certain agricultural products originating in developing countries (3), and in particular Article 1 thereof,

Having regard to the proposal from the Commission,

Whereas Decision 84/637/ECSC of the representatives of the Governments of the Member States of the European Coal and Steel Community, meeting within the Council, of 18 December 1984 applying for 1985 the generalized tariff preferences for certain steel products originating in developing countries (4) provides that the definition of the origin of products is to be determined under the procedure laid down in Article 14 of Council Regulation (EEC) No 802/68 of 27 June 1968 concerning the common definition of the concept of the origin of goods (5); whereas the rules to be applied for this purpose should be the same as those laid down for other products;

Whereas, for the purposes of implementation of the provisions concerning the tariff preferences granted by the European Economic Community for certain products originating in developing countries, rules of origin are laid down by Commission Regulation (EEC) No 3749/83 (6), hereinafter referred to as 'the basic Regulation', 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 (hereinafter referred to as the ASEAN) has established close economic cooperation between Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand;

Whereas the Central American Common Market (hereinafter referred to as the CACM) has established close economic cooperation between Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua;

Whereas, within the framework of the Cartagena Agreement (Andean Group), close economic cooperation has been established between Bolivia, Colombia, Ecuador, Peru and Venezuela (hereinafter referred to as the 'Andean Group');

Whereas the provisions on the acquisition of the status of originating products laid down in Article 1 of the basic Regulation may, with the necessary adaptations, help to facilitate this cooperation and encourage the use in one country abelonging to a regional group of products originating in other countries of the same group; whereas the said provisions should be adapted accordingly and special rules as to the mode of proof and verification of the status of originating products should be laid down;

Whereas the Committee on Origin set up by Regulation (EEC) No 802/68 has not given a favourable opinion,

(1) OJ No L 338, 27. 12. 1984, p. 1.
(2) OJ No L 338, 27. 12. 1984, p. 98.
(3) OJ No L 338, 27. 12. 1984, p. 183.
(4) OJ No L 338, 27. 12. 1984, p. 225.
(5) OJ No L 148, 28. 6. 1968, p. 1.
(6) OJ No L 372, 31. 12. 1983, p. 1.

HAS ADOPTED THIS REGULATION :

TITLE I

REGIONAL CUMULATION AND ALLOCATION OF ORIGIN

Article 1

Purpose and scope

1. Three separate but identical systems of regional cumulation are hereby set up by way of derogation from certain of the provisions of the basic Regulation.

2. Regional cumulation shall apply to three separate regional groups of countries :

(a) the ASEAN ;

(b) the CACM ;

(c) the Andean Group.

3. The expression 'regional group' shall be taken to mean the ASEAN or, the CACM or the Andean Group as appropriate.

Article 2

Regional cumulation

1. For the purposes of determining whether a producta manufactured in a country of a regional group originates therein within the meaning of Article 1 of the basic Regulation, products originating in any of the other countries of that regional group and used in further manufacture shall be treated as if they originated in the country of further manufacture.

The country of origin of the final product shall be determined in accordance with Article 3 of this Regulation.

2. Article 6 (1) (b) of the basic Regulation shall not apply to products originating in any of the countries of the regional group when they pass through the territory of any of the other countries of the regional group whether or not further working or processing takes place there.

Article 3

Allocation of origin

1. Products having originating status by virtue of Article 2 of this Regulation shall have the origin of the country of the regional group where the last working or processing was carried out provided that :

— the value added there, as defined in paragraph 3 of this Article, is greater than the highest customs value of the products used originating in any one of the other countries of the regional group,

— the working or processing carried out there exceeds that set out in Article 3 (3) of the basic Regulation and in the case of textile products, also those operations referred to in Annex II.

2. In all other cases products shall have the origin of the country of the regional group which accounts for the highest customs value of the originating products used coming from the other countries of the regional group.

3. 'Value added' shall be taken to be the ex-works price minus the customs value of each of the products incorporated which originated in another country of the regional group.

TITLE II

ADMINISTRATIVE PROVISIONS

Article 4

Proof of originating status

1. Proof of the originating status of products exported from a country of a regional group to another country of the same group to be used in further working or processing, or to be re-exported where no further working or processing takes place, shall be established by a certificate of origin Form A issued or a Form APR made out in the first country.

2. Proof of originating status, acquired or retained under the terms of this Regulation, of products exported from a country of a regional group to the Community shall be established by a certificate of origin Form A issued or a Form APR made out in that country on the basis of a certificate of origin Form A issued or a Form APR made out in accordance with paragraph 1.

3. The country of origin shall be marked in box 12 of the certificate of origin Form A or box 8 of Form APR, that country being :

— in the case of products exported without further working or processing, the country of manufacture,

— in the case of products exported after further working or processing, the country of origin as determined in accordance with Article 3.

Article 5

Verification procedures

Articles 13 and 27 of the basic Regulation shall apply as between the countries of the same regional group for the purposes of subsequent verification of certificates of origin Form A issued or Form APR made out in accordance with Article 4 (1) of this Regulation.

Article 6

Conditions for the application of regional cumulation

1. This Regulation shall apply only where :

(a) the rules regulating trade in the context of regional cumulation, as between the countries of the regional group, are identical to those laid down in the basic Regulation subject to the adaptations laid down in this Regulation ;

(b) each country of the regional group has undertaken to comply or ensure compliance with the terms of this Regulation and to provide the administrative cooperation necessary both to the Community and to the other countries of the regional group in order to ensure the correct issue of certificates of origin Form A and the verification of certificates of origin Form A and Form APR.

This undertaking shall be transmitted to the Commission through the Secretariat of the regional group.

The Secretariats are as follows :

— the ASEAN General Secretariat,

— the Permanent Secretariat of the Central American Common Market,

— the Junta del Acuerdo de Cartagena ;

as appropriate.

2. The Commission shall inform the Member States when the conditions set out in paragraph 1 have been complied with in the case of each regional group.

Article 7

Entry into force

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

It shall apply from 1 January 1986.

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

Done at Luxembourg, 22 October 1985.

For the Council

The President

J. F. POOS

ANNEX I

EXPLANATORY NOTE

1. This cumulation system is based on the principle that products which have achieved originating status under the basic Regulation, either by being wholly obtained or by having undergone sufficient working or processing, will then be treated anywhere in the regional group in the same way as products which have achieved originating status locally. The converse is that products which have not achieved originating status in a country of the regional group, although processed there, are treated as third country products in all further working or processing carried out in another country of the group.

2. This cumulation system also permits originating products from one country in the regional group to pass through another country in the group and to be re-exported in the same state with a certificate of origin Form A being issued or a Form APR being made out in the country of final export ; irrespective as to whether the conditions laid down in Article 6 (1) (b) of the basic Regulation have been met there.

ANNEX II

WORKING MENTIONED IN ARTICLE 3

Working such as :

— fitting of buttons and/or other types of fastenings,

— making of button-holes,

— finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses etc.,

— hemming of handerkerchiefs, table linen, etc.,

— fitting of trimmings and accessories such as pockets, labels, badges, etc.,

— ironing and other preparations of garments for sale 'ready made',

— or any combination of such working.
