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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2913/90

of 8 October 1990

derogating from the definition of the concept of 'originating products' to take account of the special situation of the Netherlands' Antilles with regard to cigarettes falling within CN code 2402 20 00

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to Council Decision 86/283/EEC of 30 June 1986 on the association of the overseas countries and territories with the European Economic Community (1), as last amended by Decision 90/146/EEC (2),

Having regard to the proposal from the Commission,

Whereas Article 28 of Annex II to the said Decision, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, provides that derogations from the rules of origin may be adopted by the Council where the development of existing industries or the creation of new industries in a country or territory justifies them;

Whereas the Dutch Government has requested, on behalf of the Netherlands' Antilles, a derogation from the rules of origin for cigarettes manufactured there, which, for a temporary period, cannot satisfy the rules of origin laid down in the abovementioned Annex II;

Whereas the said Article 28 sets out the conditions which must be fulfilled in order for a derogation to be granted; whereas the derogation requested is not likely to cause serious injury to an established Community industry;

Whereas the percentage of raw materials used, originating in the African, Caribbean and Pacific States (the ACP States), in the overseas countries and territories (OCT) or in the Community, would confer originating status on the final product, except for one processing operation being carried out in a third country for technical, financial and geographical reasons;

Whereas a derogation is indispensable for the realization of an important investment programme and to enable the company concerned to investigate diversification possibilities in the near future; whereas the relevant conditions of Article 28 are therefore respected in the present case,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from the provisions of Annex II to Decision 86/283/EEC, cigarettes falling within CN code 2402 20 00 shall be considered as originating in the Netherlands' Antilles when they are manufactured there, subject to the conditions set out in this Regulation.

Article 2

1. The derogation provided for in Article 1 shall relate to an annual global quantity of 216 million cigarettes, exported from the Netherlands' Antilles during the period from 1 January 1991 to 31 December 1993 and obtained from tobacco processed in Brazil.

2. The derogation shall be granted subject to the condition that, on an annual basis, at least 70 % in weight of the tobacco manufactured originates in the ACP States, in the OCT or in the Community.

3. For the purpose of implementing paragraphs 1 and 2, a proof of origin shall be submitted on import into Brazil by means of a movement certificate EUR. 1 drawn up by the competent authorities of the exporting state for tobacco intended to be processed in Brazil prior to its manufacture as such in the Netherlands' Antilles.

4. For each re-export to the Netherlands' Antilles of tobacco processed in Brazil, the exporter shall draw up a declaration in accordance with the layout in the Annex.

The declaration shall be authenticated by the 'Carteira de Comercio Exterio do Banco do Brasil SA' subject to compliance with the conditions laid down in paragraphs 2 and 3,

(1) OJ No L 175, 1. 7. 1986, p. 1.
(2) OJ No L 84, 30. 3. 1990, p. 108.

This declaration shall be submitted to the authorities in the Netherlands' Antilles which are competent for issuing movement certificates EUR. 1.

Article 3

1. The competent authorities of the Netherlands' Antilles shall carry out quantitative checks on exports as referred to in Article 2 (1) and shall forward to the Commission every three months a statement of the quantities in respect of which movement certificates EUR. 1 have been issued on the basis of this Regulation.

2. Not later than three months after the end of each year of application of the derogation, the aforementioned authorities shall also forward to the Commission a statement of the quantities of tobacco imported, with the references to the EUR. 1 certificates presented in Brazil and to the declarations referred to respectively in Article 2 (3) and (4).

Article 4

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

2. It shall apply only where the government of the Netherlands' Antilles and the 'Carteira de Comercio Exterior do Banco do Brasil SA' have undertaken to comply with the terms of this Regulation and to provide the administrative cooperation between themselves and with the Community in order to ensure the correct issue and verification of the relevant documentation.

3. Notwithstanding Article 2, this Regulation shall cease to apply at the latest on the date of expiry of Decision 86/283/EEC or of any equivalent trade provisions which may replace that Decision.

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

Done at Luxembourg, 8 October 1990.

For the Council

The President

E. RUBBI

ANNEX

DECLARATION REFERRED TO IN ARTICLE 2 (4)

I, the undersigned, exporter of the tobacco covered by this invoice (1), declare that this tobacco was processed in Brazil in conformity with the provisions of Article 2 (2) and (3) of Regulation (EEC) No 2913/90 of 8 October 1990.

I undertake to make available to the competent authorities any evidence they may judge necessary in support of this declaration.

..... (2) ..... (3)

..... (4)

ENDORSEMENT BY THE CARTEIRA DE COMÉRCIO EXTERIOR DO BANCO DO BRASIL SA

Declaration certified

..... (2) (5)

..... (4)

(1) If a document other than the invoice or an annex to the invoice is used, the name of the document shall be mentioned instead of the word 'invoice'.
(2) Place and date.
(3) Name and function in the company.
(4) Signature.
(5) Stamp.