



COMMISSION OF THE EUROPEAN COMMUNITIES

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2006/0119 (ACC)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 1207/2001 as regards the consequences of the introduction of the system of Pan–Euro-Mediterranean cumulation of origin

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) Context of the proposal

- **Grounds for and objectives of the proposal**

Council Regulation (EC) No 1207/2001 lays down provisions and procedures to allow exporters establishing the originating status of products, which they received from their suppliers in the Community, before exporting them from the EC under preferential arrangements, in the same state or after further processing.

For that purpose, Community suppliers shall provide Community exporters with declarations informing them about the status of the products with regard to the rules of origin laid down in the preferential arrangement(s) concerned. This 'supplier's declaration' shall be used as a supporting document with a view to establishing the proofs of preferential origin.

The introduction of Pan-Euro-Med cumulation implies to show in the '*supplier's declarations for products having preferential originating status*' (Annexes I and II of the Regulation) - as far as preferential relations within the Pan-Euro-Med zone are concerned - whether the products supplied acquired this status thanks to this system of diagonal cumulation.

- **General context**

At the Palermo Conference in March 2002, the Euromed Trade Ministers had agreed to the extension of the pan-European system of cumulation of origin to all the Mediterranean partners, subject to intensive efforts being undertaken at expert level to elaborate the measures required and to ensure smooth implementation of the extension.

Further to the outcome of the EC – Faroe Islands/Denmark Joint Committee of the 28 November 2003, it has been agreed to also include the Faeroe Islands in the system of pan-Euro-Mediterranean cumulation of origin.

This extension basically required a network of Free Trade Agreements (FTAs) with identical rules of origin between, on the one hand, the Mediterranean partners and the pan-European countries, and on the other hand, between the Mediterranean partners themselves, thus promoting regional co-operation and economic integration between all countries concerned. For the application of this Pan-Euro-Mediterranean cumulation, a flexible approach (referred to as "variable geometry") was agreed, meaning that the system can be applied between three countries as soon as the condition with regard to the FTA containing identical rules of origin is fulfilled between the countries concerned.

The application of this system of diagonal cumulation of origin and of 'variable geometry' implies using new types of proof of preferential origin, movement certificates EUR-MED and invoice declarations EUR-MED, showing whether diagonal cumulation has been applied and with what countries of the zone.

On 11 October 2005, the EU adopted the text of the new Pan-Euro-Mediterranean protocols, and all legal acts required for their formal adoption by either the respective Association Council or the Joint Committee have been submitted to the approval of the partner countries. In the meantime, some partner countries have responded positively, which has allowed the formal adoption of the new Pan-Euro-Med protocols on rules of origin with these countries.

At present, the Community applies these new rules with Morocco, Israel, Egypt, the EFTA States (including the EEA – European Economic Area) and the Faroe Islands. These countries will thus be in position to actually implement Pan-Euro-Mediterranean cumulation of origin in their trade relations with the Community and to retrieve the benefits from it, provided they have put in place identical rules of origin in their relations with the partner countries concerned.

To achieve this, the Community exporters shall be in a position to determine whether the goods they have bought from suppliers in the Community meet or not the conditions to be considered as originating, in order to support the establishment of a proof of origin. They are using for that purpose a 'supplier's declarations' as defined by Council Regulation (EC) No 1207/2001, showing the originating status of the goods supplied. However, because of 'variable geometry', this document shall also show, for goods to be exported in the context of pan-Euro-Mediterranean cumulation, if such cumulation was applied and with what countries of the zone.

It has to be highlighted that provisions similar to the ones subject to this proposal will also be introduced in the context of the customs union between the Community and Turkey. In that context, supplier's declarations are also used to support the establishment of proofs of origin in the Community or in Turkey, with a view to allowing each party to apply pan-Euro-Mediterranean cumulation of origin with their common trade partners. A new Decision of the EC-Turkey Customs Co-operation Committee ('Bridging-Legislation') will incorporate the provisions on supplier's declaration, currently laid down in Decision 1/1999 of the EC-Turkey Customs Co-operation Committee of 28 May 1999 (OJ L 204 of 4.8.1999, p. 43) and adapt them for the purpose of pan-Euro-Mediterranean cumulation. The Commission will propose that the Council adopts a Community position on this draft new Decision of the EC-Turkey Customs Co-operation Committee.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue of movement certificates EUR.1, the making-out of invoice declarations and forms EUR.2 and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries and repealing Regulation No 3351/83 (OJ L 165, 21.6.2001, p. 1 - corrigendum in OJ L 170, 29.6.2002, p. 88).

- **Consistency with the other policies and objectives of the Union**

The proposal aims at supporting the preferential trade relations between the Community and its partners in the system of pan-Euro-Mediterranean cumulation of origin.

2) **Consultation of interested parties and impact assessment**

- **Consultation of interested parties**

None

- **Collection and use of expertise**

None

- **Impact assessment**

The amendment proposed is a legal instrument necessary for the implementation within the Community of the system of pan-Euro-Mediterranean cumulation of origin, which results from a commitment of the Community in the context of the Euro-Mediterranean Barcelona process. The setting up of this system is widely supported and claimed by the Member States, the partner countries and the trade community.

3) **Legal elements of the proposal**

- **Summary of the proposed action**

The application of a system of diagonal cumulation of origin with the Faroe Islands or any country which is a participant in the Euro-Mediterranean partnership, based on the Barcelona Declaration adopted at the Euro-Mediterranean Conference held on 27 and 28 November 1995, other than Turkey, implies to use new types of proof of preferential origin, movement certificates EUR-MED and invoice declarations EUR-MED.

Regulation (EC) No 1207/2001 shall therefore be amended in order to cover all kind of proofs of preferential origin.

To allow a correct determination of the originating status of products and properly support the establishment of the proofs of origin in that new context, the supplier's declaration for products having preferential originating status shall incorporate an additional statement showing whether diagonal cumulation has been applied and with which countries

- **Legal basis**

Article 133 EC

- **Subsidiarity principle**

Not relevant. Community exclusive competence.

- **Proportionality principle**

The measure proposed is necessary and adequate for the proper implementation of pan-Euro-Mediterranean cumulation.

- **Choice of instruments**

The proposal concerns the amendment of an existing instrument

4) **Budgetary implication**

No implication

5) **Additional information**

- **Simulation, pilot phase and transitory period**

Not relevant

- **Recasting**

The amendment is not so deep that it may justify recasting Council Regulation (EC) 1207/2001.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue of movement certificates EUR.1, the making-out of invoice declarations and forms EUR.2 and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries and repealing Regulation No 3351/83², lays down provisions to support the correct issue or making out of proofs of origin in relation to exports of products from the Community in the context of its preferential trade relations with certain third countries.
- (2) A pan-European system of diagonal cumulation of origin has been put in place in 1997 between the Community, Bulgaria, Poland, Hungary, the Czech Republic, the Slovak Republic, Romania, Lithuania, Latvia, Estonia, Slovenia, Iceland, Norway and Switzerland (including Liechtenstein) and extended in 1999 to Turkey. On 1 May 2004, Poland, Hungary, the Czech Republic, the Slovak Republic, Lithuania, Latvia, Estonia and Slovenia have acceded to the European Union.
- (3) At the Euro-med Trade Ministerial Meeting in Toledo of March 2002, Ministers agreed upon the extension of this system of pan-European cumulation of origin to the Mediterranean countries, other than Turkey, which participate in the Euro-Mediterranean partnership, based on the Barcelona Declaration adopted at the Euro-Mediterranean Conference held on 27 and 28 November 1995. At the Euro-med Trade Ministerial Meeting in Palermo, on 7 July 2003, the Ministers, with a view to allowing such an extension, endorsed a new pan-Euro-Mediterranean model of Protocol to the Euro-Mediterranean Agreements, concerning the definition of the concept of 'originating products' and methods of administrative co-operation. Further to the outcome of the EC – Faroe Islands/Denmark Joint Committee of the 28 November

¹ OJ C , , p. .

² OJ L 165, 21.6.2001, p. 1.

2003, it has been agreed to also include the Faroe Islands in the system of pan-Euro-Mediterranean cumulation of origin.

- (4) Decisions of the respective Association Council or Joint Committee introducing the new pan-Euro-Mediterranean Protocol in the Euro-Mediterranean Agreements and in the Agreement between the EC and the Faroe Islands/Denmark have already been or will be adopted.
- (5) The application of that new system of diagonal cumulation implies to use new types of proof of preferential origin, consisting in movement certificates EUR-MED and invoice declarations EUR-MED. Regulation (EC) No 1207/2001 should therefore cover also those types of proofs of preferential origin.
- (6) To allow a correct determination of the originating status of products and properly support the establishment of the proofs of origin in that new context, the supplier's declaration for products having preferential originating status should incorporate an additional statement showing whether diagonal cumulation has been applied and with what countries.
- (7) Regulation (EC) No 1207/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1207/2001 is amended as follows:

- (1) The title is replaced by the following:

'Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries'
- (2) In Article 1, point (a) is replaced by the following:

'(a) the issue or the making out in the Community of proofs of origin under the provisions governing preferential trade between the Community and certain countries;'
- (3) Article 2(2) is replaced by the following:

'2. Supplier's declarations shall be used by exporters as evidence, in particular in support of applications for the issue or the making out in the Community of proofs of origin under the provisions governing preferential trade between the Community and certain countries;'
- (4) Article 10(5) is replaced by the following:

'5. Where there is no reply within five months of the date of the verification request or where the reply does not contain sufficient information to demonstrate the

real origin of the products, the customs authorities of the country of export shall declare invalid the proof of origin established on the basis of the documents in question.'

- (5) Annex I is replaced by the text set out in Annex I to this Regulation.
- (6) Annex II is replaced by the text set out in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

*For the Council
The President*

ANNEX I

“ANNEX I

Supplier's declaration for products having preferential origin status

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

DECLARATION

I, the undersigned, declare that the goods listed on this document⁽¹⁾
originate in⁽²⁾ and satisfy the rules of origin governing preferential trade
with⁽³⁾:

I declare that⁽⁴⁾:

- Cumulation applied with(name of the country/countries)
- No cumulation applied

I undertake to make available to the customs authorities any further supporting documents they require:

.....⁽⁵⁾

.....⁽⁶⁾

.....⁽⁷⁾

-
- (1) If only some of the goods listed on the document are concerned, they shall be clearly indicated or marked and this marking entered in the declaration as follows:
"..... listed on this invoice and marked originate in"
 - (2) The Community, country, group of countries or territory, from which the goods originate.
 - (3) Country, group of countries or territory concerned.
 - (4) To be completed only for goods having preferential origin status in the context of preferential trade relations with one of the countries referred to in Articles 3 and 4 of the relevant origin Protocol, with which pan-Euro-Mediterranean cumulation of origin is applicable.
 - (5) Place and date.
 - (6) Name and position in the company.
 - (7) Signature."

ANNEX II

“ANNEX II

Long-term supplier's declaration for products having preferential origin status

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

DECLARATION

I, the undersigned, declare that the goods described below:

.....⁽¹⁾
.....⁽²⁾

which are regularly supplied to⁽³⁾, originate in⁽⁴⁾ and satisfy the rules of origin governing preferential trade with⁽⁵⁾.

I declare that ⁽⁶⁾:

- Cumulation applied with(name of the country/countries)
- No cumulation applied

This declaration is valid for all further shipments of these products dispatched from: to⁽⁷⁾.

I undertake to inform immediately if this declaration is no longer valid.

I undertake to make available to the customs authorities any further supporting documents they require.

.....⁽⁸⁾
.....⁽⁹⁾
.....⁽¹⁰⁾

(1) Description.
(2) Commercial designation as used on the invoices, e.g. model No.
(3) Name of company to which goods are supplied.
(4) The Community, country, group of countries or territory, from which the goods originate.
(5) Country, group of countries or territory concerned.
(6) To be completed only for goods having preferential origin status in the context of preferential trade relations with one of the countries referred to in Articles 3 and 4 of the relevant origin Protocol, with which pan-Euro-Mediterranean cumulation of origin is applicable.
(7) Give the dates. The period shall not exceed 12 months.
(8) Place and date.
(9) Name and position, name and address of company.
(10) Signature."