

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (74) 1749 final.

Brussels, 30 October 1974

Draft of

## JOINT COMMITTEE DECISION

suspending the application of the provisions of  
Article 23 (1) of Protocol No 3 concerning the  
definition of the concept of "originating products"  
and methods of administrative cooperation

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(submitted to the Council by the Commission)

COM (74) 1749 final.

COMMUNICATION OF THE COMMISSION TO THE COUNCIL

The present rule contained in Article 23 of the Protocols No 3 to the Agreements EEC - EFTA countries sets out the principle according to which the third country products used in the obtention of an "originating product" benefiting from preferences may not be the subject of a remission of customs duties or repayment of customs duties of any form ("drawback") from the moment when the duty applicable in the context of the agreement concerned to originating products of the same kind has been reduced to 40 % of the basic duty.

This rule was inserted, in its time, in the Protocol No 3 with the aim of preventing third country products used being able indirectly to benefit from a substantial reduction in duty, a reduction which they would have no right to if directly imported into the country of destination.

The system chosen seemed, at the time, logical and appropriate to its objective.

But the feeling has arisen, since then, in the minds of numerous delegations of the Member States and EFTA countries, as well as in that of the Commission, that it involves major inconveniences that it is necessary to eliminate at the approach of the effective date for putting the system into force, 1 January 1975 (because for the majority of products the reduction at that date will be 40 % of the basic duty).

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The inconveniences spotlighted at present are of two types : one kind affecting the base of the rule, the other one of a more formal and practical kind.

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Concerning the basic criticisms, these bear on the fact that the banning of "drawback" is applicable by reference to the duty applicable to the product used and not by reference to the final product. This causes the following anomalies:

- (a) The run-down is longer for the products said to be "sensitive", these being able to be subject to "drawback" after 1 January 1975 even though the final product in which they are incorporated is itself the subject of a normal reduction.

Example:

A manufacturer produces playing cards from non-originating paper, and exports the finished cards to an EFTA country. Given that paper is a "sensitive" product in the Community, the manufacturer may benefit from the remission of duty in the Community until 1 January 1981 and, at the same time, the normal reduction in the EFTA country (free from 1 July 1977).

- (b) In the opposite case, the products benefiting from a normal reduction may not be the subject of drawback from 1 January 1975, while the final product in which they are incorporated itself is the subject of a larger run-down period.

Example:

A paper maker in an EFTA country may not ask for remission of duty from 1 January 1975 for the chemical products used for paper making at the time of export of paper to the Community while at that moment the Customs duty in the Community has only been reduced to 85 % of the basic duty.

- (c) The right to benefit from remission of duty continues to exist without limit for all the products used which are not covered by the

Free Trade Agreements, notably agricultural products, given that there do not exist originating products of the same kind for which the customs duty will have been reduced to 40 % of the basic duty.

Concerning the inconveniences of the practical kind, these stem directly from the basic observations made above. It is not, in effect, doubted that the running down of the tariffs on the products used and the differences of treatment between them will result in extra administration and investigation work both for the customs administrations and traders.

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Taking into account the implications of the problems described above, the Commission feels that it is necessary to continue the consideration of the possibilities of introducing a new provision on this question, especially in the Customs Committees.

This necessity leads the Commission, in accordance with the wishes expressed by the EFTA countries in the Customs Committees and with the unanimous feeling of the Community's Customs experts, to propose the suspension for one year of the provisions of Article 23 of Protocol No 3.

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It is therefore proposed that the Council adopts the annexed draft as the common position of the Community for use in the different Joint Committees EEC - EFTA countries. This draft, prepared for Austria, serves as a model for the others and will be identical for all the other agreements.

Additionally, it should be noted that this decision should enter into force on 1 January 1975 at the latest and that therefore it is absolutely necessary that the Community can present its official viewpoint to the EFTA countries very soon, which takes into account the administrative delays involved in putting the text into force.

EEC-AUSTRIA AGREEMENT

- The Joint Committee -

Draft of

JOINT COMMITTEE DECISION

suspending the application of the provisions of  
Article 23 (1) of Protocol No 3 concerning the  
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THE JOINT COMMITTEE,

Having regard to the Agreement between the European Economic Community  
and the Republic of Austria, signed in Brussels on 22 July 1972;

Having regard to Protocol No 3 on the definition of the concept of  
"originating products" and methods of administrative cooperation (hereafter  
referred to as "Protocol No 3"), and in particular Article 28 thereof;

Whereas the present text of Article 23 (1) of Protocol No 3 provides that  
with effect from the date on which the duty applicable to originating  
products of the relevant kind has been reduced in the Community and in  
Austria to 40% of the basic duty, no drawback or remission of any kind may  
be granted from customs duties in respect of the non-originating products  
used in the manufacture of those originating products;

Whereas, by reason principally of differences in the tariff regimes applied  
to the various products used in manufacture, the application of these pro-  
visions, which for most products would be on 1 January 1975, would result  
in considerable difficulties as well as adding to the tasks of the Customs  
administrations;

Whereas it is consequently desirable to suspend for one year the application  
of these provisions;

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HAS DECIDED :

Article 1

The application of Article 23 (1) of Protocol No 3 is suspended until 31 December 1975.

Article 2

This Decision shall enter into force on 1 January 1975.

Done at Brussels,

For the Joint Committee,

The Chairman,

The Secretaries