

HILLMAN

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 417 final

Brussels, 25 July 1975

COMMISSION COMMUNICATION TO THE COUNCIL

DRAFT

DECISION OF THE JOINT COMMITTEE

modifying Article 23 of Protocol No 3 on the
definition of originating products
and methods of administrative cooperation

COM(75) 417 final

COMMISSION COMMUNICATION TO THE COUNCIL

The present provisions of Article 23 paragraph 1 of Protocol No 3 annexed to the agreements concluded with the EFTA-countries stipulate that products not originating in contracting States which are used in the manufacture of originating products benefiting under the agreements may not be granted drawback or remission of customs duty in any form as from the date on which the duty applicable to originating products of the same kind as the products used in manufacture has been reduced to 40 % of the basic duty.

Application of this rule - generally known as the "no-drawback rule" - which was to come into operation for most products on 1 January 1975, has been suspended for one year by Decision No 4/74 of the Joint Committees dated 2 December 1974 (1), to allow time for drawing up a new and improved text eliminating certain difficulties liable to arise in practical application of the rule.

This new version is the subject of the annexed draft decision of the EEC-Austria Joint Committee ; it was prepared as a model and will be equally suitable, mutatis mutandis, for the other agreements.

The new text proposed eliminates the principal difficulty likely to arise in implementing the former text wherein the attainment of a certain level of tariff dismantling was the determinant of the date of application of the rule. This requirement would, in fact, give rise to quite serious practical problems where differences existed between the tariff provisions applicable on the one hand to the finished products and on the other hand to the originating products of the same kind as those used in manufacture.

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(1) Put into effect in the Community by Regulations (EEC) Nos 3278/74, 3303/74, 3304/74, 3305/74, 3306/74 and 3307/74 of the Council of 19 December 1974, published in the OJ No L 355 of 31 December 1974.

The proposed solution consists, therefore, in laying down a single date of application of the no-drawback rule for the whole of the products used in manufacture.

Apart from the foregoing, it also became apparent when the new text was being drawn up that it would be equally possible to simplify the special rule laid down in the present Article 23 paragraphs 2 and 3. This special rule prohibits drawback for products - especially those from the Community as originally constituted and Ireland - used in the manufacture of originating products benefitting from the tariff provisions in force in respect of trade between the former EFTA countries by virtue of Article 3 paragraph 1 of the trade agreements.

It transpires that the date of expiration of this rule for originating products from the Community as originally constituted and Ireland - which would ordinarily be the date on which the tariff provisions in force in respect of trade between the former EFTA countries became identical with the normal tariff provisions of the agreements - could be standardised, in the interest of simplification, as 1 July 1977, the date on which the two systems will be identical for the majority of goods.

Those are the principal elements of the annexed draft decision.

It should be added that, as regards the basis of the no-drawback rule, there has been no modification of Article 23 in its old form, especially with reference to the products to which the prohibition of drawback applies. The rule is therefore still confined, as in the past, to non-originating products of the same kind as those covered by the agreements. As a result, products not covered by the agreements and especially basic agricultural products may continue to be used under the inward processing arrangements.

Accordingly, it is proposed that the Council adopt this draft decision as representing the common position of the Community in the Joint Committees of the EFTA agreements, so that the new Article 23 of Protocol No 3 can enter into force on 1 January 1976.

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EEC-AUSTRIA AGREEMENT

- Joint Committee -

Draft

DECISION No 4/75 OF THE JOINT COMMITTEE

modifying Article 23 of Protocol No 3
on the definition of originating products
and methods of administrative cooperation

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 originating products and methods of administrative cooperation (hereinafter referred to Protocol No 3) in particular Article 28 thereof,

Whereas the present provisions of Article 23 (1) of Protocol No 3, suspended by decision No 4/74 of the Joint Committee of 2 December 1974 until 31 December 1975, stipulate that the prohibition on the benefit of the repayment of customs duty or exemption from customs duty in whatever form, for non-originating products used in the manufacture of originating products, applies as from the date when the duty applicable to originating products of the same kind as the products used was, in the Community or in Austria, reduced to 40 % of the basic duty ;

Whereas the reference to a certain level of tariff in order to determine the date of applicability of these provisions is likely to create practical difficulties, in particular because of the differences in tariff regimes applicable both to the finished products and to the originating products of the same kind as the products used ;

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Whereas it is consequently appropriate to provide for a uniform date of applicability for the whole of the products concerned; whereas that date may be the date of the entry into force of this decision ;

Whereas, in addition, the present provisions of Article 23 (2) and (3), stipulate that, for the application of the tariff regime in force by virtue of Article 3 (1) of the agreement, in trade between the former EFTA countries, only those products referred to in Article 25 (1) of Protocol No 3 may benefit from a repayment of customs duty whatever the form in which it is made ;

Whereas in practice it is a consequence of these provisions that the benefit of the repayment of customs duty or the exemption from customs duty in whatever form it takes, is prohibited for products originating in the Community in its original composition or Ireland, used in the manufacture of products which may benefit from the tariff regime resulting from Article 3 (1) of the agreement ;

Whereas this prohibition must continue for as long as the tariff regime resulting from Article 3 (1) of the agreement is not identical to that resulting from Article 3 (2) of the agreement ;

Whereas however for the majority of the products concerned, this prohibition will continue only until 1 July 1977 ; whereas it is appropriate in a desire for simplification, to provide the same date for the whole of the products in question,

HAS DECIDED :

Article 1

The text of Article 23 of Protocol No 3 shall be replaced by the following :

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"Article 23

1. Without prejudice to Article 1 of Protocol No 2 products of the kind to which the agreement applies, used in the manufacture of products for which a movement certificate EUR.1 or a form EUR.2 is issued or established, only be the subject of a repayment of customs duty or benefit from an exemption of customs duty of whatever kind when products originating in the Community, Austria or one of the six countries mentioned in Article 2 of this Protocol are concerned.
2. Without prejudice to the provisions of Article 1 of Protocol No 2, products originating in the Community in its original composition or Ireland, used in the manufacture of products obtained in accordance with the conditions provided for by Article 25 (1), may not be the subject in the Member State where such manufacture took place, of repayment of customs duties or benefit from an exemption of customs duties of whatever kind until 1 July 1977.
3. The term "customs duty", when used in this and subsequent Articles, shall also include taxes of equivalent effect to customs duties."

Article 2

This decision shall enter into force on 1 January 1976.

Done at

By the Joint Committee

The President

The Secretaries

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