

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 344 final

Brussels, 23 September 1991

Proposal for a

COUNCIL REGULATION (EEC)

establishing provisions for the implementation of the Joint Declaration annexed to Decision No. 1/89 of the EEC-Malta Association Council

Draft

DECISION OF THE EEC-MALTA ASSOCIATION COUNCIL

amending Annex III of Protocol No. 2 concerning the definition of the concept of "originating products" and methods of administrative cooperation

(presented by the Commission)

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Explanatory Memorandum

1. The rules of origin set out in Protocol 2 to the EEC-Malta Association Agreement were amended by Decision No. 1/89 of the EEC-Malta Association Council following the introduction of the Harmonized System. This decision was made applicable in the Community by Council Regulation (EEC) No. 2229/89 of 18 July 1989 (1), with effect from 1.1.1990.
2. Decision No. 1/89 is accompanied by a Joint Declaration concerning the review of the changes to the origin rules as a result of the introduction of the Harmonized System. The Declaration states that the Association Council shall, as a matter of urgency, make an examination of the need to restore the substance of any rule of origin as it was before Decision No. 1/89, where it appears that an alteration results in a situation prejudicial to the interest of the sectors concerned. In such cases the Association Council must take a decision within a period of three months of the request being made to it by either of the parties to the Agreement.
3. On 26 April 1991 Malta raised a practical problem which it has encountered concerning embroidered aprons and overalls falling under HS heading No. ex 6211.

Before the Harmonized System was introduced, women's aprons and overalls were classified under CCCN heading No. 61.02, "Women's, girls' and infants' outer garments". For embroidered products of that heading, the origin rule which applied at that time was "Manufacture from fabrics, not embroidered, the value of which does not exceed 40% of the value of the finished product"

In the HS, CCCN heading No. 61.02 was split up into various headings, and the "embroidery" origin rule is taken up in the HS transposition of the origin rules in relation to headings ex 6202, ex 6204, ex 6206, ex 6209 and ex 6217.

However, certain items covered by the definition "women's and girls' outerwear" of CCCN heading 61.02 fall, in the HS, under heading No. 6211; but that HS heading was not included in the list of headings to which the "embroidery" origin rule applies. This has the effect of making the general rule for ex Chapter 62 applicable to these products, which requires manufacture from the yarn stage. Consequently, embroidered aprons and overalls which used to acquire originating status now do not.

The problem raised by Malta shows that there are practical cases where the result of Decision 1/89 is a situation prejudicial to the interest of the sectors concerned. The Committee on Origin is therefore unanimously in favour of restoring the substance of the rule in question as it was before Decision No. 1/89.

(1) OJ No. L 217, 27.7.1989, p. 1

- 4. The practical example given above already shows that it is not really possible to comply with the three-month period laid down in the Joint Declaration.

The first requirement in such cases is an in-depth discussion by the Committee on Origin, based on working documents prepared by the Commission departments. The Commission's proposal then has to be formally adopted and transmitted to the Council for discussion. The Council then has to adopt a common position and the Association Council has to adopt the decision (but it is no longer necessary to also adopt an implementing regulation).

As there are already other cases up for review, which have been raised either by Member States or by EFTA countries in the context of other Agreements but for products which have identical origin rules in the EEC-Malta Agreement, it would seem that the decision-making process should be speeded up by giving the Commission authority to adopt the common position in these cases, which are of a technical nature, with no political implications.

Moreover Council Regulations to this effect (1) have already been adopted in the context of the EEC-EFTA Free Trade Agreements, for the reasons set out above.

- 5. Consequently, the following measures are proposed:
 - (i) a Decision of the EEC-Malta Association Council amending Annex III to Protocol No. 2 of the Agreement;
 - (ii) a Council Regulation conferring on the Commission the power to adopt the common position on cases submitted under the Joint Declaration annexed to Decision 1/89 of the EEC-Malta Association Council.

(1) OJ L 278, 27.9.1989, pp. 1, 5, 9, 13, 17 and 21.

establishing provisions for the implementation of the Joint Declaration annexed to Decision no. 1/89 of the EEC-Malta Association Council

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 the proposal from the Commission

Whereas the Agreement establishing an Association between the European Economic Community and Malta⁽¹⁾ was signed on 5 December 1970;

Whereas the Joint Declaration annexed to Decision No. 1/89 of the EEC-Malta Association Council implemented in the Community by Regulation (EEC) No. 2229/89 of 18 July 1989⁽²⁾ provides, under certain conditions, for a review of the changes made to the rules of origin following the introduction of the Harmonized System; whereas, by virtue of that Joint Declaration, the Association Council must take a decision within a period of three months of a request being made to it by either of the parties to the Agreement;

Whereas this review concerns cases where the transposition of the existing rules of origin into the Harmonized System was not entirely neutral and where it is necessary to restore the substance of previous rules of origin;

(1) OJ No. L 61, 14.3.1971, p. 2
(2) OJ No. L 217, 27.7.1989, p. 2

Whereas for the purposes of the Decisions to be taken by the Association Council, a common position has to be reached by the Community;

Whereas this decision-making process makes it impossible to comply with the three-month time limit laid down in the Joint Declaration; whereas the procedure should therefore be speeded up and the Community's common position should be adopted by the Commission according to the procedure set out in Article 14 of Council Regulation (EEC) No. 802/68 of 27 June 1968 on the common concept of the origin of goods⁽³⁾, as last amended by Council Regulation (EEC) No. 456/91⁽⁴⁾;

HAS ADOPTED THIS REGULATION

Article 1

The Community's common position for the purposes of the Decisions of the EEC-Malta Association Council concerning a review of the changes made to the rules of origin following the introduction of the Harmonized System pursuant to the Joint Declaration annexed to Decision No. 1/89 of the said Association Council shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No. 802/68.

Article 2

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

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

Done at Brussels,

For the Council

The President

(3) OJ No. L 148, 28.6.1968, p. 1

(4) OJ No. L 54, 28.2.1991, p. 4

DECISION NO. /91 OF THE EEC-MALTA ASSOCIATION COUNCIL

of 1991

amending Annex III of Protocol No. 2 concerning the
definition of the concept of "originating products"
and methods of administrative cooperation

THE ASSOCIATION COUNCIL,

Having regard to the Agreement creating an Association between the European Economic Community and Malta, signed on 5 December 1970,

Having regard to Protocol No. 2 concerning the definition of the concept of "originating products" and methods of administrative cooperation, and in particular Article 25 thereof,

Whereas the Joint Declaration annexed to Decision No. 1/89 of the Association Council provides for a review of the changes made to the rules of origin following the introduction of the Harmonized System where the amendments result in a situation prejudicial to the interest of the sectors concerned; whereas it also provides for the substance of the rule of origin concerned to be restored as from 1 January 1990;

Whereas the rule of origin concerning "other garments, women's or girls", embroidered, which was established by Decision No. 1/89 of the Association Council, should be amended to restore the substance of this rule as it was before the introduction of the Harmonized System,

HAS DECIDED AS FOLLOWS:

Article 1

In Annex III to Protocol No. 2 to the Agreement between the European Economic Community and Malta the wording of the entry relating to HS headings Nos. ex 6202, ex 6204, ex 6206, ex 6209 and ex 6217 is hereby replaced by that set out in the Annex to this Decision;

Article 2

This Decision shall enter into force on 1 January 1990.

Done at Brussels,

For the Association Council

The President

ANNEX

HS Heading No.	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 6202 ex 6204 ex 6206 ex 6209 ex 6211 and ex 6217	Women's, girls' and babies' clothing and "other made-up clothing accessories", embroidered	Manufacture from yarn (1) or Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex works price of the product (1)

(1) See Introductory Note 7 for the treatment of textile trimmings and accessories

ISSN 0254-1475

COM(91) 344 final

DOCUMENTS

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Catalogue number : CB-CO-91-393-EN-C

ISBN 92-77-75697-7
