

COUNCIL REGULATION (EEC) No 1681/81

of 11 June 1981

amending Regulation (EEC) No 616/78 on proof of origin for certain textile products falling within Chapter 51 or Chapters 53 to 62 of the Common Customs Tariff and imported into the Community, and on the conditions for the acceptance of such proof

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 arrangements applied since 1 January 1978 to certain textile products falling within Chapters 51 and 53 to 62 of the Common Customs Tariff and imported into the Community include quantitative limits established or agreed with certain third countries which supply the Community; whereas, in addition, all imports of the said textile products are subject to a system of surveillance;

Whereas in order to prevent any deflection of trade or abuse which could be detrimental to the application of these arrangements, the Community has adopted in Regulation (EEC) No 616/78⁽¹⁾ a system for the control of the origin of certain textile products imported into the Community, based on the requirement of a certificate of origin, or in the case of less sensitive products, a declaration of origin;

Whereas, although the control of origin thus created has in general proved to be satisfactorily effective, it has not prevented a certain number of cases of fraud from taking place, in particular with regard to falsification of certificates of origin; whereas it is consequently necessary to reinforce the methods available to the Community to prevent fraud with regard to the origin of textile products;

Whereas prevention of fraud can only be effectively carried out within the framework of well defined administrative cooperation; whereas it is necessary to create an appropriate procedure for exchanges of information between Member States on cases of fraud and between them and the Commission;

Whereas such exchanges of information should enable Member States to coordinate their activities, particularly in cases where fraudulent traffic may have ramifications in several Member States, and the Commission to ensure that measures of commercial

policy provided for in the textile sector are correctly applied,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 616/78 shall be amended as follows :

1. Article 4 shall be replaced by the following :

'Article 4

1. In order to enable the Commission to ensure that measures of commercial policy provided for in the textile sector are correctly applied, each Member State shall work together with the Commission in the framework of Council Regulation (EEC) No 1468/81 of 19 May 1981 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters⁽¹⁾. To this end each Member State shall communicate all the useful information in its possession concerning important cases of abuses or irregularities which come to its notice or which it has valid reason to presume exist with regard to origin, should the case arise, with copies of all documentation, possibly in the form of an extract, necessary to determine the facts fully and to establish proof of abuses or irregularities with regard to the third countries concerned. The Commission shall inform the other Member States thereof.

2. At the request of a Member State or on the initiative of the Commission, the Committee on Origin shall, at the earliest opportunity and pursuant to the procedure laid down in Article 13 of Regulation (EEC) No 802/68, examine all questions relating to the application of paragraph 1, and proceed with exchanges of views which will enable Member States and the Commission to complete their information and to present any possible observations on cases concerning the application of paragraph 1.

⁽¹⁾ OJ No L 84, 31. 3. 1978, p. 1.

3. When paragraph 1 has been applied to the products provided for in Article 3, the Committee on Origin shall, pursuant to the procedure laid down in paragraph 2, examine whether to require that a certificate of origin be produced for the products concerned and with regard to the third countries concerned in accordance with Article 2.

The decision shall be taken in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 802/68.

(¹) OJ No L 144, 2. 6. 1981, p. 1.

2. The following Article shall be inserted:

Article 4a

1. Information communicated in whatever form pursuant to Article 4 shall be of a confidential nature. It shall be covered by the obligation of professional and commercial secrecy and shall enjoy the protection extended to like information under both the national law of the Member State which received it and the corresponding provisions applying to the Community authorities.

2. The information obtained pursuant to Article 4 may, following concertation with the Member State which supplied it, be communicated to third countries in order to ensure that measures of

commercial policy provided for in the textile sector are correctly applied. In cases of such communication, protection equivalent to that provided for in paragraph 1 shall be assured by appropriate means.

3. The information referred to in paragraph 1 may not, in particular, be sent to persons other than those whose duties require that they have access to it, nor may it be used for purposes other than those provided for in this Regulation.

4. The terms of this Regulation shall not bind the administrative authorities of a Member State to communicate information where to do so would be likely to prejudice public policy or any other fundamental interests of the State where such authorities are established.

5. The terms of this Regulation shall not bind the administrative authorities of a Member State to communicate information which is covered by the confidentiality of judicial proceedings without the prior consent of the judicial authority concerned.

6. Reasons shall be stated for any refusal to communicate such information.

Article 2

This Regulation shall enter into force on 1 July 1981.

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

Done at Luxembourg, 11 June 1981.

For the Council

The President

L. GINJAAR