

REGULATION (EEC) No 802/68 OF THE COUNCIL

of 27 June 1968

on the common definition of the concept of the origin of goods

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 111, 113, 155, 227 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas Member States have to determine or verify the origin of imported goods whenever application of the Common Customs Tariff, of quantitative restrictions or of any other provisions applicable to trade so requires.

Whereas Member States have to certify the origin of exported goods in all cases where such certification is required by the authorities of the importing countries, in particular where advantages derive from that certification;

Whereas, in either case, in the absence of any international definition of the concept of the origin of goods, Member States at present apply their own rules for the determination, verification and certification of origin; whereas the differences between such national rules are likely to lead to differences in applying the Common Customs Tariff, quantitative restrictions and other provisions applicable to trade with third countries, and also in the preparation and issue of certificates of origin for goods exported to third countries;

Whereas, it is therefore necessary to draw up on the subject rules common to all the Member States;

Whereas goods produced wholly in a particular country and not containing products imported from other countries are to be considered as originating in that country, and the goods belonging to this category must accordingly be specified;

Whereas, as a result of the development of international trade and of greater international division of labour, the manufacture of any one product tends increasingly to be carried out by undertakings

located in different countries; whereas it must therefore be determined which of those countries is to be considered as the country of origin of the product in question;

Whereas there are good grounds for accepting as the country of origin that in which the last substantial process or operation that was economically justified was performed;

Whereas it is impossible at present to define the concept of origin in respect of petroleum products;

Whereas the origin of a product is usually established by means of a certificate of origin prepared and issued by an authority or agency duly authorised for this purpose; the conditions with which the certificate is required to comply, so that it may be used as evidence, must therefore be specified;

Whereas the concept of Community origin should be defined, but where the needs of the export trade so require, the certificate of origin may specify that the goods in question originated in a particular Member State;

Whereas uniform application of the provisions of this Regulation should be ensured and it is essential to provide for a Community procedure for adopting the necessary implementing provisions; whereas, for this purpose and with the object of organising close and effective co-operation between the Commission and the Member States, a committee should be set up;

Whereas the provisions of this Regulation relate both to commercial policy with regard to third countries and to free movement of goods within the Community, and in particular to uniform application of the Common Customs Tariff; whereas, with regard to the latter, the relevant Articles of the Treaty do not confer on the institutions of the Community the power to adopt binding provisions with regard to a common definition of the concept of the origin of goods; the provisions of this Regulation must therefore also be based on Article 235;

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation defines the concept of the origin of goods for purposes of:

- (a) the uniform application of the Common Customs Tariff, of quantitative restrictions, and of all other measures adopted, in relation to the importation of goods, by the Community or by Member States;
- (b) the uniform application of all measures adopted, in relation to the exportation of goods, by the Community or by Member States;
- (c) the preparation and issue of certificates of origin.

Article 2

The provisions of this Regulation shall not affect the special rules concerning trade between the Community or Member States, on the one hand, and the countries to which the Community or Member States are bound by agreements which derogate from the most-favoured-nation clause, on the other, and in particular those establishing a customs union or a free-trade area.

Article 3

This Regulation shall not apply to the petroleum products listed in Annex I. The concept of origin in respect of those products will be defined later.

Article 4

1. Goods wholly obtained or produced in one country shall be considered as originating in that country.
2. The expression 'goods wholly obtained or produced in one country' means:
 - (a) mineral products extracted within its territory;
 - (b) vegetable products harvested therein;
 - (c) live animals born and raised therein;
 - (d) products derived from live animals raised therein;
 - (e) products of hunting or fishing carried on therein;
 - (f) products of sea-fishing and other products taken from the sea by vessels registered or recorded in that country and flying its flag;
 - (g) goods obtained on board factory ships from the products referred to in (f) originating in that country, if such factory ships are registered or recorded in that country and flying its flag;
 - (h) products taken from the sea-bed or beneath the sea-bed outside territorial waters, if that country has, for the purposes of exploitation, exclusive rights to such soil or subsoil;
 - (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are only fit for the recovery of raw materials;

- (j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

Article 5

A product in the production of which two or more countries were concerned shall be regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture.

Article 6

Any process or work in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to circumvent the provisions applicable in the Community or the Member States to goods from specific countries shall in no case be considered, under Article 5, as conferring on the goods thus produced the origin of the country where it is carried out.

Article 7

Accessories, spare parts or tools delivered with any piece of equipment, machine, apparatus or vehicle which form part of its standard equipment shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle.

The circumstances in which the presumption of origin referred to in the preceding paragraph shall also apply to essential spare parts for use with any piece of equipment, machine, apparatus or vehicle dispatched beforehand, shall be determined in accordance with the procedure laid down in Article 14.

Article 8

For purposes of application of Article 4 to 7, the Member States shall be considered as constituting a single territorial unit.

Article 9

1. When the origin of a product has to be proved on importation by the production of a certificate of origin, that certificate shall fulfil the following conditions:

- (a) It must be prepared by a reliable authority or agency duly authorised for that purpose by the country of issue;
- (b) It must contain all the particulars necessary for identifying the product to which it relates, in particular

- the number of packages, their nature, and the marks and numbers they bear,
- the kind of product, and its gross and net weight,
- the name of the consignor;

(c) It must certify unambiguously that the product to which it relates originated in a specific country.

2. Notwithstanding the production of a certificate of origin which fulfils the conditions prescribed by paragraph 1, the competent authorities may, if there is cause for serious doubt, demand any additional proof with the object of ensuring that the indication of origin conforms to the rules laid down in this Regulation and to the provisions adopted for its implementation.

Article 10

1. Certificates of origin for goods originating in and exported from the Community must comply with the conditions prescribed by Article 9 (1) (a) and (b).

2. Such certificates of origin shall certify that the goods originated in the Community.

However, when the needs of the export trade so require, they may certify that the goods originated in a particular Member State.

If the conditions of Article 5 are fulfilled only as a result of a series of operations or processes carried out in different Member States, the goods may only be certified as being of Community origin.

3. Member States shall take the requisite steps to ensure that by the end of the transitional period at the latest the certificates of origin issued by their authorities or authorised agencies are prepared and issued in accordance with the provisions of Annex II, in so far as the needs of the export trade do not otherwise require.

Article 11

Each Member State shall inform the Commission of the steps taken by its central administration for the purposes of applying this Regulation, and of any problems which have arisen in connection with its application. The Commission shall forthwith communicate this information to the other Member States.

Article 12

1. A Committee on Origin (hereinafter called the 'Committee') shall be set up and shall consist of representatives of the Member States, with a representative of the Commission acting as Chairman.

2. The Committee shall draw up its own rules of procedure.

Article 13

The Committee may examine all questions relating to the application of this Regulation referred to it by its Chairman, either on his own initiative or at the request of a representative of a Member State.

Article 14

1. The provisions required for applying Articles 4 to 7, 9 and 10 shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3 of this Article.

2. The representative of the Commission shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an Opinion on the draft within a time limit set by the Chairman having regard to the urgency of the matter. Decisions shall be taken by a majority of twelve votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. (a) The Commission shall adopt the envisaged provisions if they are in accordance with the Opinion of the Committee.

(b) If the envisaged provisions are not in accordance with the Opinion of the Committee, or if no Opinion is delivered, the Commission shall without delay submit to the Council a proposal with regard to the provisions to be adopted.

The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

Article 15

If the provisions in force in a Member State for the issue of certificates of origin for exports are so altered by the provisions referred to in Article 14 that an economic activity is affected, the Commission may authorise the Member State in question at the request thereof to defer the application of the provisions referred to in Article 14 in respect of a specific product for a period not exceeding one year from the entry into force of those provisions.

This Article shall remain in force for a period of five years from the date of entry into force of this Regulation.

Article 16

This Regulation shall be applicable in the French overseas departments.

Article 17

This Regulation shall enter into force on 1 July 1968.

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

Done at Luxembourg, 27 June 1968.

For the Council

The President

E. FAURE

ANNEX I

List of Petroleum Products (Article 3)

| CCT heading No | Description of goods |
|----------------|---|
| ex 27.07 B I | Aromatic oils as defined in Note 2 to Chapter 27, of which more than 65% by volume distils at temperatures up to 250° C (including mixtures of petroleum spirit and benzole) for use as power or heating fuels |
| 27.09 | Petroleum oils and oils obtained from bituminous minerals, crude |
| 27.10 | Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing not less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations |
| 27.11 | Petroleum gases and other gaseous hydrocarbons |
| 27.12 | Petroleum jelly |
| 27.13 | Paraffin wax, micro-crystalline wax, slack wax, ozokerite, lignite wax, peat wax and other mineral waxes, wheter or not coloured |
| 27.14 | Petroleum bitumen, petroleum coke and other residues of petroleum oils or of oils obtained from bituminous minerals |
| 27.15 | Bitumen and asphalt, natural; bituminous shale, asphaltic rock and tar sands |
| 27.16 | Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs) |
| 29.01 A I | Hydrocarbons, acyclic, for use as power or heating fuels |
| 29.01 B II (a) | Cyclanes and cyclenes, other, for use as power or heating fuels |
| 29.01 D I (a) | Benzene, toluene, xylenes, for use as power or heating fuels |
| ex 34.03 A | Lubricating preparations containing less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals |
| ex 34.04 | Artificial waxes (including water-soluble waxes); prepared waxes, not emulsified or containing solvents, with a basis of paraffin wax, micro-crystalline wax, slack wax, or other mineral waxes |
| 38.14 B I (a) | Anti-knock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and similar prepared additives for mineral oils, other, for lubricants containing petroleum oils or oils obtained from bituminous minerals |
| 38.19 E | Mixed alkylenes |

ANNEX II

Provisions concerning the preparation and issue of certificates of origin

1. The certificate of origin shall be issued upon written request of the applicant.
If the circumstances justify it, in particular where the applicant maintains a regular flow of exports, Member States may decide not to require a request for each export operation, on condition that the provisions of this Regulation are complied with.
 2. The application form shall be printed in the official language or in one or more of the official languages of the exporting Member State. The form of certificate of origin shall be printed in one or more of the official languages of the Community or, depending on the practice and requirements of trade, in any other language.
 3. The application form and the certificate of origin shall be completed in typescript or by hand, in an identical manner, in one of the official languages of the Community or, depending on the practice and requirements of trade, in any other language. Where forms are completed by hand, they shall be written in block letters in ink.
 4. The format of the certificate shall be 21×30 cm. The paper used shall be free of mechanical pulp, dressed for writing purposes and weigh at least 64 grammes per square metre. It shall have printed on it a sepia-coloured guilloche pattern that will reveal any forgery by mechanical or chemical means.
 5. Member States may print the forms of certificate of origin themselves, or have them produced by printers whom they have duly appointed. In the latter case, each form shall make reference to the appointment, and bear the printer's distinguishing mark.
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