

Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)

PART I

GENERAL IMPLEMENTING PROVISIONS

TITLE IV

ORIGIN OF GOODS

CHAPTER 2

Preferential origin

Section 3

Republics of Bosnia-Herzegovina, Croatia, Slovenia and the territory of the former Yugoslav Republic of Macedonia

Subsection 1

Definition of the concept of originating products

Article 120

For the purposes of the provisions concerning tariff preferences granted by the Community to certain products originating in the Republics of Bosnia-Herzegovina, Croatia, Slovenia and the territory of the former Yugoslav Republic of Macedonia, hereinafter referred to as a 'beneficiary Republic', the following products, on condition that they were transported direct within the meaning of Article 125, shall be considered as:

1. products originating in a beneficiary Republic:
 - (a) products wholly obtained in a beneficiary Republic;
 - (b) products obtained in a beneficiary Republic in the manufacture of which products other than those wholly obtained in that Republic are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 122. This condition shall not apply, however, to products which, within the meaning of this subsection, originate in the Community, providing they have undergone, in the beneficiary Republic concerned, working or processing exceeding the insufficient working or processing referred to in Article 122 (3);
2. products originating in the Community:

- (a) products wholly obtained in the Community;
- (b) products obtained in the Community, in the manufacture of which products other than those wholly obtained in the Community are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 122. This condition shall not apply, however, to products which, within the meaning of this subsection originate in a beneficiary Republic, providing they have undergone, in the Community, working or processing exceeding the insufficient working or processing referred to in Article 122 (3).

Article 121

1 The items referred to in Article 67 (1) (a) to (k) shall be considered as wholly obtained either in a beneficiary Republic or in the Community.

2 The term 'its vessels' in Article 67 (1) (f) shall apply only to vessels:

- which are registered or recorded in a Member State or in the beneficiary Republic concerned,
- which sail under the flag of a Member State or of the beneficiary Republic concerned,
- which are at least 50 %-owned by nationals of the Member States or the beneficiary Republic concerned or by a company with its head office in a Member State or in a beneficiary Republic, of which the manager, managers, Chairman of the board of directors or of the supervisory board, and the majority of the members of such a board, are nationals of the Member States or the beneficiary Republic and of which in addition, in the case of partnerships or limited companies, at least half the capital belongs to the Member States or the beneficiary Republic concerned or to public bodies or nationals of the Member States or of a beneficiary Republic,
- of which the captain and officers are all nationals of the Member States or of the beneficiary Republic concerned, and
- of which at least 75 % of the crew are nationals of the Member States or of the beneficiary Republic concerned.

3 The terms 'Community' and 'beneficiary Republic' shall also cover their territorial waters. Sea-going vessels, including factory ships, on which the fish caught is worked or processed, shall be considered as part of the territory of the State to which they belong, provided that they satisfy the conditions set out in paragraph 2.

Article 122

1 For the purposes of Article 120, non-originating materials shall be considered to be sufficiently worked or processed when the product obtained is classified in a heading different from those in which all the non-originating materials used in its manufacture are classified, subject to the provisions of paragraphs 2 and 3.

The provisions of the second, third and fourth subparagraphs of Article 68 (1) shall apply.

2 For a product mentioned in columns 1 and 2 of the list in Annex 20, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rule in paragraph 1.

- a Where in the list in Annex 20 a percentage rule is applied in determining the originating status of a product obtained in the Community or in a beneficiary Republic, the value added by the working or processing shall correspond to the ex-works price of the

product obtained, less the customs value of third-country materials imported into the Community or a beneficiary Republic.

- b The term 'value' in the list in Annex 20 shall mean the customs value at the time of the import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory concerned.

Where the value of the originating materials used needs to be established, the preceding subparagraph shall be applied *mutatis mutandis*.

- c The term 'ex-works price' in the list in Annex 20 shall mean the price paid for the product to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used in manufacture, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

3 For the purposes of paragraphs 1 and 2, the operations referred to in Article 68 (3) (a) to (h) shall be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading.

Article 123

In order to determine whether goods originate in a beneficiary Republic or in the Community it shall not be necessary to establish whether the electrical power, fuel, plant and equipment, and machines and tools used to obtain such goods or any materials or products used in the course of production which do not enter and which were not intended to enter into the final composition of the goods originate in third countries or not.

Article 124

The provisions of Articles 73 and 74 shall apply to this section.

Article 125

1 The tariff preferences referred to in Article 120 shall apply only to originating products or materials which are transported between the territory of a beneficiary Republic and that of the Community without entering any other territory. However, goods originating in a beneficiary Republic or in the Community and constituting a single consignment may be transported through territory other than that of a beneficiary Republic or the Community with or without transshipment or temporary warehousing in such territory, provided that the goods have remained under the supervision of the customs authorities in the country of transit or of warehousing, and have not undergone operations other than unloading, reloading or any other operation designed to preserve them in good condition.

Products originating in the beneficiary Republic or in the Community may be transported by pipeline across territory other than that of the Community or of the beneficiary Republic.

2 Evidence that the conditions referred to in paragraph 1 have been fulfilled shall be supplied to the competent customs authorities by the production of:

- a a single transport document issued in the exporting country or territory covering the passage through the country of transit; or
- b a certificate issued by the customs authorities of the country of transit:
 - giving an exact description of the goods,
 - stating the dates of unloading and reloading of the goods or of their embarkation or disembarkation, identifying the ships used,

- certifying the conditions under which the goods remained in the transit country; or
- c failing these, any substantiating documents.

Article 126

The conditions set out in this subsection concerning the acquisition of originating status shall be fulfilled without interruption in the Community or a beneficiary Republic.

If originating goods exported from the Community or a beneficiary Republic to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authorities that:

- the goods returned are the same goods as those exported, and
- they have not undergone any operation beyond that necessary to preserve them in good condition while in that country.

Subsection 2

Proof of origin

(a)

Movement certificate EUR.1

Article 127

Evidence of originating status of products, within the meaning of this section, shall be given by a movement certificate EUR.1, a specimen of which appears in Annex 21.

Article 128

1 A movement certificate EUR.1 shall be issued on written application by the exporter or, under the exporter's responsibility, his authorized representative. Such application shall be made on a form, a specimen of which appears in Annex 21, which shall be completed in accordance with the provisions of this subsection.

Applications for movement certificates EUR.1 must be kept for at least two years by the customs authorities of the exporting Member State or beneficiary Republic.

2 The provisions of Article 106 (2) shall apply.

3 A movement certificate EUR.1 may be issued only where it can serve as the documentary evidence required for the purpose of implementing the tariff preferences referred to in Article 120.

4 The movement certificate EUR.1 shall be issued by the customs authorities of the exporting Member State or beneficiary Republic, if the goods can be considered originating products within the meaning of this section.

5 In cases where the goods are considered originating products within the meaning of Article 120 (1) (b), last sentence, or (2) (b), last sentence, the movement certificates EUR.1 shall be issued subject to the presentation of the proof of origin previously issued or made out. This proof of origin must be kept for at least two years by the customs authorities of the exporting Member State or beneficiary Republic.

6 Since the movement certificate EUR.1 constitutes the documentary evidence for the application of the tariff preferences referred to in Article 120, it shall be the responsibility of the customs authorities of the exporting Member State or beneficiary Republic to take any steps necessary to verify the origin of the goods and to check the other statements on the certificate.

7 For the purpose of verifying whether the conditions stated in paragraphs 4 and 5 have been met, the customs authorities of the exporting Member State or beneficiary Republic shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.

8 It shall be the responsibility of the customs authorities of the exporting Member State or beneficiary Republic to ensure that the form referred to in Article 127 is duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions. To this end, the description of the products must be indicated without leaving any blank lines. Where the space is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

9 The date of issue of the movement certificate must be indicated in the part of the certificate reserved for the customs authorities.

10 A movement certificate EUR.1 shall be issued by the customs authorities of the exporting Member State or beneficiary Republic when the products to which it relates are exported. It shall be made available to the exporter as soon as export has actually been carried out or ensured.

11 In the cases of the Republic of Bosnia-Herzegovina and the territory of the former Yugoslav Republic of Macedonia, the references to the 'customs authorities' in this and the following articles shall be understood as referring to the Chambers of Economy for as long as the Chambers of Economy of those republics perform the functions in question.

Article 129

The provisions of Articles 107 to 109 shall apply to this section.

Article 130

1 A movement certificate EUR.1 shall be submitted within five months of the date of issue by the customs authorities in the exporting Member State or beneficiary Republic, to the customs authorities of the importing Member State or beneficiary Republic where the products are entered.

2 A movement certificate EUR.1 which is submitted to the customs authorities of the importing Member State or beneficiary Republic after the final date of presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit the certificate by the final date set is due to force majeure or exceptional circumstances.

3 In other cases of belated presentation, the customs authorities of the importing Member State or beneficiary Republic may accept the certificates where the products have been submitted to them before the said final date.

Article 131

1 Products sent from the Community or from a beneficiary Republic for exhibition in another country and sold after the exhibition for importation into the Community shall benefit on importation from the tariff preferences referred to in Article 120 on condition that the goods

meet the requirements of subsection 1 entitling them to be recognized as originating in the Community or in a beneficiary Republic and provided that it is shown to the satisfaction of the customs authorities that:

- a an exporter has consigned these products from the Community or from a beneficiary Republic to the country in which the exhibition is held and has exhibited them there;
- b the products have been sold or otherwise disposed of by that exporter to a person in a beneficiary Republic or in the Community;
- c the products have been consigned during the exhibition or immediately thereafter to a beneficiary Republic or to the Community in the state in which they were sent for exhibition;
- d the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2 The provisions of Article 111 (2) and (3) shall apply.

Article 132

Movement certificates EUR.1 shall be submitted to the customs authorities in the importing Member State or beneficiary Republic, in accordance with the procedures laid down by that Member State or by that beneficiary Republic. The said authorities may require a translation of a certificate.

They may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the tariff preferences referred to in Article 120.

Article 133

Without prejudice to Article 122 (3), where, at the request of the declarant, an unassembled or disassembled article falling within Chapter 84 and 85 of the Harmonized System is imported in several consignments on the conditions laid down by the customs authorities, it shall be considered to be a single article and a movement certificate may be submitted for the whole article upon import of the first consignment.

Article 134

Movement certificates EUR.1 shall be kept by the customs authorities of the importing Member State or beneficiary Republic in accordance with the rules in force in the Community or that beneficiary Republic.

(b)

Form EUR.2

Article 135

1 Notwithstanding Article 127, in the case of consignments containing only originating products whose value does not exceed ECU 3 000 per consignment, the evidence of originating status within the meaning of subsection 1 shall be given by a form EUR.2, a specimen of which appears in Annex 22.

2 Form EUR.2 shall be completed and signed by the exporter or, under the exporter's responsibility, by his authorized representative. If the goods contained in the consignment have already been subject to verification in the exporting Member State or territory by reference to the definition of the concept of originating products, the exporter may refer to this check in the 'remarks' box of form EUR.2.

3 A form EUR.2 shall be completed for each consignment.

4 These provisions do not exempt exporters from complying with any other formalities required by customs or postal regulations.

5 The exporter who made out the form EUR.2 shall submit at the request of the customs authorities of the exporting Member State or beneficiary Republic all supporting documents concerning the use of this form.

Article 136

The following originating products within the meaning of subsection 1, shall be eligible on importation into the Community or into a beneficiary Republic, for the tariff preferences referred to in Article 120 without it being necessary to produce the documents referred to in Article 127 or in Article 135:

- (a) products sent as small packages from private persons to private persons, provided that the value of the products does not exceed ECU 215;
- (b) products contained in travellers' personal luggage, provided that the value of the products does not exceed ECU 600.

The provisions of Article 117(2) and (3) shall apply to this section.

Subsection 3

Methods of Administrative Cooperation

Article 137

The beneficiary Republics shall send the Commission specimens of the stamps used together with the addresses of the customs authorities competent to issue movement certificates EUR.1 and carry out the subsequent verification of these certificates and of forms EUR.2. The Commission shall forward this information to the customs authorities of the Member States.

Article 138

1 Subsequent verifications of EUR.1 certificates or of forms EUR.2 shall be carried out at random or whenever the customs authorities of the importing Member State or beneficiary Republic have reasonable doubts as to the authenticity of the document or the accuracy of the information regarding the true origin of the goods in question.

2 In order to ensure the proper application of these provisions, the beneficiary Republic and the Member States of the Community shall assist each other, through their respective customs authorities, in checking the authenticity of movement certificates EUR.1 and forms EUR.2 and the accuracy of the information concerning the true origin of the products concerned.

3 For the purposes of paragraph 1, the customs authorities of the importing Member State or beneficiary Republic shall return the EUR.1 certificate or form EUR.2 or a copy thereof to the customs authorities of the exporting country, giving, where appropriate, the reasons of substance or form for an inquiry.

The requesting authorities shall attach to the certificate EUR.1 or form EUR.2 the invoice or a copy thereof, if it has been produced, and shall forward any documents and

information that have been obtained suggesting that the particulars given on the said certificate or the said form are inaccurate.

If the customs authorities of the importing Member State decide to suspend the tariff preferences specified in Article 120 while awaiting the results of the verification, they shall grant release of the products subject to any precautionary measures considered necessary.

4 The customs authorities of the importing Member State or of the beneficiary Republic shall be informed of the results of the verification within a maximum of six months. These results must make it possible to determine whether the documents returned under paragraph 3 apply to the products actually exported, and whether these products were, in fact, eligible for the tariff preferences referred to in Article 120.

If in cases of reasonable doubt there is no reply within six months of the date of the verification request, or if the reply does not contain sufficient information to determine the authenticity of the document in question or the true origin of the products, the requesting authorities shall refuse, except in the case of *force majeure* or exceptional circumstances, refuse entitlement to the preferential treatment.

5 For the purpose of the subsequent verification of EUR.1 certificates, the customs authorities of the exporting country shall keep copies of the certificates, as well as any export documents referring to them, for at least two years.

Subsection 4

Ceuta and Melilla

Article 139

1 The term 'Community' used in this section does not cover Ceuta or Melilla. The term 'products originating in the Community' does not cover products originating in these areas.

2 Subsections 1 to 3 of this section shall apply *mutatis mutandis* to products originating in Ceuta and Melilla, subject to the particular conditions set out in Article 140.

Article 140

1 The following paragraphs shall apply instead of Article 120 and references to that Article shall apply *mutatis mutandis* to this Article.

2 Providing they have been transported direct in accordance with the provisions of Article 125, the following shall be considered as:

- a products originating in Ceuta and Melilla:
 - (i) products wholly obtained in Ceuta and Melilla;
 - (ii) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in (i) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 122. This condition shall not apply, however, to products which, within the meaning of subsection 1, originate in the Community or in a beneficiary Republic, provided they undergo, in Ceuta and Melilla, working or processing which exceeds the insufficient working or processing set out in Article 122 (3);

- b products originating in a beneficiary Republic:
 - (i) products wholly obtained in a beneficiary Republic;
 - (ii) products obtained in a beneficiary Republic in the manufacture of which products other than those referred to in (i) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 122. This condition shall not apply, however, to products which, within the meaning of subsection 1, originate in Ceuta and Melilla or the Community provided they undergo working or processing which exceeds the insufficient working or processing set out in Article 122 (3).

3 Ceuta and Melilla shall be considered as a single territory.

4 The exporter or his authorized representative shall enter the name of the beneficiary Republic concerned and 'Ceuta and Melilla' in box 2 of the movement certificate EUR.1.

In addition, in the case of products originating in Ceuta and Melilla, the originating status shall be indicated in box 4 of the movement certificate EUR.1.

5 The Spanish customs authorities shall be responsible for the application of these provisions in Ceuta and Melilla.