DECISION NO 2/86 OF THE EEC-SWITZERLAND JOINT COMMITTEE

of 28 May 1986

amending, on account of the accession of Spain and Portugal to the European Communities, Protocol No 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Economic Community and the Swiss Confederation, signed in Brussels on 22 July 1972,

Having regard to the Additional Protocol annexed to the aforesaid Agreement following the accession of Spain and Portugal to the European Communities, and in particular Article 16 thereof,

Having regard to the Agreement between the Member States of the European Coal and Steel Community and that Community on the one hand, and the Swiss Confederation, on the other hand, signed in Brussels on 22 July 1972,

Having regard to the Additional Protocol annexed to the said Agreement following the accession of Spain and Portugal to the European Communities, and in particular Article 8 thereof,

Whereas Protocol No 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation needs amending, consequent upon the accession of Spain and Portugal to the European Communities, in respect of both technical amendments and transitional arrangements in order correctly to implement the trade regime contained in the Protocols consequent on the said accession;

Whereas the transitional arrangements should ensure the correct implementation of this trade regime between the Community as constituted on 31 December 1985 and Spain and Portugal on the one hand and the Swiss Confederation, on the other hand,

HAS DECIDED AS FOLLOWS:

Article 1

The provisions of Protocol No 3 indicated below shall be amended as follows:

1. In Articles 2 (1), 7, 9 (3) first subparagraph and 26, 'Portugal' shall be deleted.

2. In Articles 2(1), 2 (1) A and B, 23(1) and 27(1) and (2), 'six countries' shall be replaced by 'five countries'.

3. The third subparagraph of Article 9 (5) shall be replaced by the following:

   'EUR 1 certificates issued retrospectively must be endorsed with one of the following phrases: "délivré a posteriori", "udstedt efterfolgende", "nachträglich ausgestellt", "εκδοθέν εκ των υστέρων", "issued retrospectively", "expedido a posteriori", "rilasciato a posteriori", "afgegeven a posteriori", "emitido a posterior", "annettu jälkikateen", "utgefid eftira", "utstedt senere", "utfärdat i efterhand".

4. The first subparagraph of Article 9 (6) shall be replaced by the following:

   '6. In the event of the theft, loss or destruction of an EUR 1 certificate, the exporter may apply to the customs authorities which issued it for a duplicate to be made out on the basis of the export documents in their possession. The duplicate issued in this way must be endorsed with one of the following words: "duplicata", "duplicaat", "duplikat", "αντίγραφο", "duplicado", "duplicato", "duplicate", "segunda via", "kaksoiskappale", "samrit".'

5. Article 13(5) shall be replaced by the following:

   '5. In the cases referred to in paragraph 4 (a), one of the following phrases shall be entered in box 7, "Remarks", of the EUR 1 certificate: "Procédure simplifiée", "Forenklet procedure", "Vereinfachtes Verfahren", "απλουστευμένη δια οικασία", "Simplified procedure", "Procedimiento simplificado", "Procedura semplificata", "Vereenvoudigde procedure", "Procedimento simplificado", "Yksinkertaistettu menettely", "Einföldun afgreidslu", "Forenklet prosedyre", "Förenklad procedur".'

Article 2

The following Article shall be inserted in Protocol No 3:

'*Article 24*

1. (a) Any product accompanied by a certificate EUR 1 or form EUR 2 issued or made out in Spain shall, for the application of the Additional Protocol to the Agreement, be considered as originating in Spain;

(b) However, the provisions of subparagraph (a) shall not apply to certificates EUR 1 issued in Spain for products originating in the rest of the Community or Switzerland and which have not undergone any working or processing in Spain or which have only been subject to operations designed to preserve them in good condition during transport or storage. Such products shall benefit on import from treatment identical to that which they would have received had they been sent directly from the rest of the Community or Switzerland;

(c) For the application of subparagraph (b), in the case of products originating in the rest of the Community, the exporter or his authorized representative shall enter "Article 24 (1) — Re-exported in the same state" in box 7, "Remarks", of the certificate EUR 1. This entry shall be authenticated by means of the stamp used by the appropriate customs office. The customs authorities of Spain shall carry out appropriate controls in order to ensure the correct application of this provision;

(d) For the application of the provisions of subparagraph (b), in the case of products originating in Switzerland, the provisions of Article 9 (8) shall apply.

2. The following products exported to Switzerland from a Member State of the Community other than Spain shall benefit on import into Switzerland only from a treatment identical to that which they would have received had they been imported directly from Spain:

— products originating in the Community by virtue of working or processing carried out wholly or partly in Spain,

— products which, after having acquired originating status in the rest of the Community, are subject in Spain to operations other than those designed to preserve them in good condition during transport or storage.

For the application of the preceding subparagraph, the exporter or his authorized representative shall enter the symbol "ES" in box 7, "Remarks", of certificate EUR 1 or form EUR 2 issued or made out in such other Member State of the Community.

3. For the application of the last sentence of Article 1 (2) (b), products originating in Spain or products accompanied by a certificate EUR 1 or form EUR 2 with the symbol "ES" entered in box 7, "Remarks", imported into Switzerland and exported to a Member State of the Community other than Spain shall benefit in that Member State from a treatment identical to that provided for in the Act of Accession of Spain and Portugal to the European Communities which they would have received had they been sent directly from Spain to the rest of the Community.

For the application of the first subparagraph, the exporter or his authorized representative shall enter the symbol "ES" in box 7, "Remarks", of certificates EUR 1 or forms EUR 2 issued or made out in Switzerland.

4. For the application of Article 2, products originating in Spain or products accompanied by a certificate EUR 1 or form EUR 2 with the symbol "ES" entered in box 7, "Remarks", imported into Switzerland and exported under the conditions set out in Article 2 to one of the five countries listed there may benefit, on import into one of these five countries, only from a treatment identical to that which they would have received had they been imported directly from Spain.

For the application of the first subparagraph, the exporter or his authorized representative shall enter the symbol "ES" in box 7, "Remarks", of certificates EUR 1 or forms EUR 2 issued or made out in Switzerland.

5. (a) Originating products for which the appropriate certificate or form has been issued or made out before 1 March 1986 in the framework of the Agreement between the EFTA countries and Spain signed on 26 June 1979, the Convention establishing EFTA signed on 4 January 1960 by Portugal, the 1970 Agreement between the European Economic Community and Spain, the 1972 Agreement between the European Economic Community and the Portuguese Republic, shall be deemed to be originating products within the meaning of this Protocol;

(b) Certificates EUR 1 or forms EUR 2 carrying the entry "EFTA-SPAIN-TRADE" used in the framework of direct trade between Spain and Switzerland or one of the five other countries mentioned in Article 2 may continue to be used in such trade until stocks are exhausted. If certificates EUR 1 and forms EUR 2 are used, as provided for hereunder, it is not necessary to insist on the entry of the symbol "ES" as provided for in Paragraphs 2, 3 and 4.'

Article 3

The following Articles shall be inserted in the Protocol No 3:

'Article 25

For the application of the provisions of the Additional Protocol concerning products originating in the Canary Islands, Ceuta and Melilla, this Protocol shall apply *mutatis mutandis* subject to the particular conditions set out in Articles 25a to 25d.

Article 25a

The term "Community" used in this Protocol does not cover the Canary Islands, Ceuta or Melilla. The term "products originating in the Community" does not cover products originating in the Canary Islands, Ceuta and Melilla.

Article 25b

1. The following paragraphs shall apply instead of Article 1, 2 and 3 and references to those Articles shall apply *mutatis mutandis* to this Article.

2. The following shall be considered as:

(a) products originating in the Canary Islands, Ceuta and Melilla:

(i) products wholly obtained in the Canary Islands, Ceuta and Melilla;

(ii) products obtained in the Canary Islands, 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 5 (1). This condition shall not apply, however, to products which, within the meaning of this Protocol, originate in Switzerland, Iceland, Austria, Finland, Norway or Sweden or the Community provided they undergo, in the Canary Islands, Ceuta and Melilla, working or processing which exceeds the insufficient working or processing set out in Article 5 (3);

(b) products originating in Switzerland:

(i) products wholly obtained in Switzerland;

(ii) products wholly obtained in Switzerland 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 5 (1). This condition shall not apply, however, to products which, within the meaning of this Protocol, originate in the Canary Islands, Ceuta and Melilla, Switzerland, Iceland, Austria, Finland, Norway or Sweden or the Community provided they undergo working or processing which exceeds the insufficient working or processing set out in Article 5 (3).

3. The Canary Islands, Ceuta and Melilla shall be considered as a single territory.

4. The exporter or his authorized representative shall enter "Switzerland" and "Canary Islands, Ceuta and Melilla" in box 2 of certificates EUR 1 and box 1 of forms EUR 2. In addition, in the case of products originating in the Canary Islands, Ceuta and Melilla, this shall be indicated in box 4 of certificates EUR 1 and box 8 of forms EUR 2.

5. The products in List C shall be temporarily excluded from the scope of this Protocol. Nevertheless, the arrangements regarding administrative cooperation shall apply *mutatis mutandis* to these products.

Article 25c

The Spanish customs authorities shall be responsible for the application of this Protocol in the Canary Islands, Ceuta and Melilla.

Article 25d

Article 23 shall not apply to trade between the Canary Islands, Ceuta and Melilla, on the one hand, and Switzerland on the other.'

Article 4

This Decision shall enter into force on 1 March 1986.

Article 24, as it appears in Article 2, shall apply until 31 December 1992.

Done at Brussels, 28 May 1986.

For the Joint Committee

The Chairman

C. JAGMETTI