COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.11.1999
COM(1999) 588 final

1999/0239 (ACC)

Proposal for a

COUNCIL DECISION

authorising the provisional application of the memorandum of understanding between the european community and the government of Vietnam on the prevention of fraud in trade of footwear products

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 21 February 1999 the Council approved directives authorising the Commission to open negotiations with Vietnam for the establishment of a double-checking system covering the imports into the European Community of footwear products originating in the Socialist Republic of Vietnam. On 4 August 1999, the Commission and a representative of the Vietnamese government initialled the enclosed Memorandum of Understanding between the European Community and the Government of Vietnam on the Prevention of Fraud in Trade of Footwear Products ("the Memorandum").

Consequently, it is proposed that the Council decides the provisional application of the above mentioned Memorandum of Understanding pending the completion of the procedures for its formal conclusion on behalf of the Community. Such provisional application shall be subject to reciprocity.

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Proposal for a

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authorising the provisional application of the memorandum of understanding between the european community and the government of Vietnam on the prevention of fraud in trade of footwear products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof;

Having regard to the proposal from the Commission;

Whereas:

(1) The Commission has negotiated on behalf of the European Community with the Socialist Republic of Vietnam a Memorandum of Understanding on the prevention of fraud in trade of footwear products.

(2) This Memorandum of Understanding has been initialled on 4 August 1999.

(3) It is necessary to apply this agreement on a provisional basis from 1 January 2000, pending the completion of the relevant procedures for its formal conclusion, subject to reciprocity.

HAS DECIDED AS FOLLOWS:

Article 1

The Memorandum of Understanding on prevention of fraud in trade of footwear products with the Socialist Republic of Vietnam shall be applied on a provisional basis from 1 January 2000, subject to reciprocity.[1]

[1] The Commission shall publish in the *Official Journal of the European Communities*, C Series, the date from which the this Memorandum of Understanding shall be effectively applied pursuant to this Article.

Article 2

The text of the Memorandum of Understanding is attached to this decision.

Done at Brussels,

For the Council
The President

ANNEX

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE EUROPEAN COMMUNITY

AND THE GOVERNMENT OF VIETNAM

ON THE PREVENTION OF FRAUD IN TRADE OF FOOTWEAR PRODUCTS

THE EUROPEAN COMMUNITY

Of the one part, and

THE GOVERNMENT OF VIETNAM

OF THE OTHER PART

Hereinafter referred to as 'the Parties'

DESIRING to promote, with a view to permanent co-operation and in conditions providing for predictability of trade, the orderly and equitable development of trade in footwear products between the European Community (hereinafter the « Community ») and the Government of Vietnam (hereinafter « Vietnam).

Recognising the importance of exports of footwear to the continued development of the economy of Vietnam and the need to ensure that the benefits of unrestricted access to the European Community market and, where applicable, of the EC's Generalised Scheme of Preferences is reserved for footwear originating in Vietnam ;

Resolved to take appropriate action to prevent fraudulent declarations of origin by third parties which effectively reduce the export potential, employment and added value of Vietnamese footwear producers ;

HAVING REGARD to the objectives and provisions of the Co-operation Agreement between the European Community and Vietnam which was signed in Brussels on 17 July 1995,

HAVE AGREED AS FOLLOWS :

Article 1

This Memorandum of Understanding shall apply to products falling under chapter 64 of the harmonized system, hereinafter referred to as "footwear products", exported from Vietnam into the Community.

Article 2

Imports into the Community of the products referred to in Article 1 which are of Vietnamese origin in accordance with the rules of origin laid down by the relevant Community legislation and which comply with the terms of this Memorandum of Understanding shall not be subject to quantitative limits.

Article 3

In order to combat fraud, the parties have agreed upon the following administrative arrangements.

1. Vietnam shall issue automatically export certificates according to the relevant Vietnamese legislation in respect of exports of the footwear products referred to in Article 1. Such products must be of Vietnamese origin according to the rules of origin laid down by the relevant Community legislation.The format of the export certificates shall conform to that in Annex I, to be filled out in accordance with

Appendix A to Annex I. Each export certificate shall be signed in original by a representative appointed by the Government of Vietnam.

2. Vietnam shall supply the Commission of the European Communities with the names and addresses of the authorities competent to issue the export certificates , together with specimens of the stamp impressions and signatures used by them. Vietnam shall inform the Commission of all changes made to the above information.

3. For the products referred to in Article 1 the competent authorities of the European Community shall issue automatically an import certificate for the release of the goods in question for free circulation, upon presentation of the original export certificates issued by the competent Vietnamese authorities. Such import certificates shall be issued within five working days of the submission of the application.

4. Vietnam undertakes to transmit, within six working days from the issuance of each export certificate, the information on products contained by the export certificates referred to above. This shall be carried out by way of an electronic linkage between the competent Vietnamese authorities and the Système Intégré de Gestion de Licenses (hereinafter referred to as 'SIGL') as established by the Community.

5. In case of significant and unjustified discrepancies between the information received through the electronic linkage with SIGL and the export certificates submitted to the competent authorities of the European Community, either Party may request consultations under Article 6 of this Memorandum of Understanding in order to identify the reasons for the discrepancies. Should these discrepancies be due to fraudulent transhipment of products not originating in Vietnam the Parties will agree appropriate measures in order to avoid their recurrence.

Article 4

The Vietnamese certificate of origin for the purpose of the Communities' Generalized Scheme of Preferences shall be issued by Vietnamese competent governmental authoritiy in accordance with the relevant Community legislation.

Article 5

1. With a view to ensuring the effective functioning of this Memorandum of Understanding, the Community and Vietnam agree to cooperate fully in order to prevent, to investigate and to take any necessary legal and/or administrative action against fraud by transhipment, re-routing, false declaration concerning the country or place of origin, falsification of documents, false declaration concerning quantities, description or classification of merchandise and by whatever other means. Accordingly, Vietnam and the Community agree to establish the necessary legal provisions and administrative procedures permitting effective action to be taken against such fraud, which shall include the adoption of legally binding corrective measures against exporters and/or importers involved.

2. Should the Community believe on the basis of information available that fraud has occurred, the Community will consult with Vietnam with a view to reaching a mutually satisfactory solution. These consultations will be held following the procedure laid down in Article 6.

3. In accordance with the relevant Community legislation, when evidence of fraud has been provided, the Community shall have the right to refuse the import of the products in question.

4. Consultations held under this article shall not prevent free circulation of goods except when evidence of fraud has been provided.

5. The Parties agree to establish a system of administrative cooperation to prevent and to address effectively all problems arising from fraud in accordance with the provisions of this Memorandum of Understanding.

Article 6

1. Save where it is otherwise provided, the special consultation procedures referred to in this Memorandum of Understanding shall be governed by the following rules:

   – Any request for consultations shall be notified in writing to the other Party.

   – The request for consultation shall be followed within 15 days of the notification by a statement setting out the reasons and circumstances which, in the opinion of the requesting Party, justify the submission of such a request.

   – The Parties shall enter into consultations within one month of notification of the request at the latest, with a view to reaching agreement or a mutually acceptable conclusion within one further month at the latest.

2. If necessary, at the request of either of the Parties, consultations shall be held on any problems arising from the application of this Memorandum of Understanding. Any consultations held under this Article shall take place in a spirit of co-operation and with a desire to reconcile the differences between the Parties.

Article 7

1. This Memorandum of Understanding shall enter into force on the first day of the month following the day on which both Parties have notified each other that the legal procedures necessary to this end have been completed.

   In the meantime, it shall be applied provisionaly from 1 January 2000 on condition of reciprocity, unless it enters into force before that date.

2. This memorandum shall apply for a period of two years. Thereafter its application shall be automatically extended for a period of one year, unless either Party notifies in writing the other six months before the expiry of this Memorandum of Understanding that it does not agree to the extension.

3. Either Party may at any time propose to hold consultations in accordance with Article 6 with a view to agreeing amendments to this Memorandum of Understanding.

4. Either Party may, at any time, denounce this Memorandum of Understanding by notifying the other Party in written form. This Memorandum of Understanding shall cease to apply six months after the date of such notification.

5. Annex I and Appendix A to Annex I attached to this Memorandum of Understanding shall form an integral part thereof.

Article 8

This Memorandum of Understanding shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Vietnamese language, each of these texts being equally authentic.

Done in …on ……

For the European Community

For the Government of Vietnam

ANNEX I

<table>
<tr><td>1. Goods consiged from (exporter's business name, address, country)</td><td colspan="3" rowspan="2">EXPORT CERTIFICATE FOR PRODUCTS UNDER CHAPTER 64 OF HARMONIZED SYSTEM

ORIGINAL

(Footwear Products)</td></tr>
<tr><td>2. Goods consigned to (consignee's name, address, country)</td></tr>
<tr><td rowspan="2">3. Means of transport and route (as far as known)</td><td colspan="3">4. Issue Number</td></tr>
<tr><td colspan="3">5. Export year</td></tr>
<tr><td colspan="2">6. Description of goods</td><td>7. Quantity</td><td>8. FOB/ Contract value</td></tr>
<tr><td colspan="4">9. Certification by the competent authority

I, the undersigned, certify that the goods described above originate in Vietnam according to the rules of origin laid down by the relevant Community legislation.</td></tr>
<tr><td>10. Competent authority (name, full address, country)</td><td colspan="3">At ……..
On ……..

(signature) (stamp)</td></tr>
</table>

Appendix A to Annex I

Explanatory note concerning item 4 (issue number)

of the Export Certificate

The issue number shall consist of the following elements:

– 2 letters identifying Vietnam as follows: VN;

– 2 letters identifying the Member State foreseen as the country of destination as follows,

AT = Austria

BL = Benelux

DE = Germany

DK = Denmark

EL = Greece

ES = Spain

FI = Finland

FR = France

GB = United Kingdom

IE = Ireland

IT = Italy

PT = Portugal

SE = Sweden

– one number indicating the year of issue, for example 9 for 1999;

– two numbers, from 01 to 99, indicating the issuing office for the export certificate;

– a number with five digits between 50000 and 99999 allocated to the Member States foreseen as the country of destination.