

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 138/2003
of 21 January 2003
amending Regulation (EEC) No 3030/93 on common rules for imports of certain textile products
from third countries

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 application of Regulation (EEC) No 3030/93 ⁽¹⁾ has raised questions with regard to textile products that are imported under special circumstances, and in particular when imported as commercial samples or in consignments of negligible value.
- (2) Regulation (EEC) No 3030/93 does not contain provisions exempting imported textile products from the application of its rules, such as quantitative restrictions, licensing and other administrative requirements.
- (3) It is appropriate to provide for an exemption from these measures for samples of textile products under certain conditions.
- (4) Council Regulation (EC) No 1541/98 ⁽²⁾ lays down the general rules concerning the proof of origin for textile and clothing products falling within Section XI of the Combined Nomenclature, listed in Annex I to Regulation (EEC) No 3030/93. According to Articles 2 and 3 of that Regulation, the release for free circulation in the Community of textile products listed in groups IA, IB, IIA and IIB of Annex I to Regulation (EEC) No 3030/93 requires a certificate of origin while for products listed in other groups of Annex I, i.e. groups IIIA, IIIB, IV and V, a declaration of origin is sufficient.
- (5) Some bilateral agreements, protocols or other arrangements between the Community and supplier countries go beyond these general provisions, namely by requiring a certificate of origin for groups of products other than IA, IB, IIA and IIB of Annex I to Regulation (EEC) No 3030/93 or by requesting the use of specific forms of certification of origin while Regulation (EC) No 1541/98 only specifies the general conditions with which the certificates used should comply.
- (6) It seems desirable, in the interest of administrative simplification, to work towards a single regulatory system for proof of origin in respect of imports of textile and clothing products from all countries. It is advisable, in this regard, to follow the general provisions contained in Regulation (EC) No 1541/98.
- (7) It is appropriate, therefore, to establish that, in addition to the specific requirements provided for in bilateral agreements with third countries, the origin of textile and clothing products can be proved in accordance with the general requirements contained in Regulation (EC) No 1541/98.
- (8) The People's Republic of China became a Member of the World Trade Organisation on 11 December 2001.
- (9) As part of the terms and conditions for China's accession to the WTO, Paragraph 242 of the Report of the Working Party, which forms an integral part of the Protocol on the Accession of China to the WTO, sets out a specific safeguard clause applicable until 31 December 2008 concerning imports of textiles and apparel products, covered by the (ATC) of Chinese origin, to a WTO Member.
- (10) The safeguard provisions of Regulation (EEC) No 3030/93 should be brought into conformity with Paragraph 242 and establish that it should remain applicable to China for the purposes of the specific safeguard clause.
- (11) Regulation (EEC) No 3030/93 should therefore be amended accordingly,

⁽¹⁾ OJ L 275, 8.11.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2344/2002 (OJ L 375, 31.12.2002, p. 91).

⁽²⁾ OJ L 202, 18.7.1998, p. 11.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3030/93 is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. This Regulation applies to:

- imports of textile products listed in Annex I, originating in third countries with which the Community has concluded bilateral agreements, protocols or other arrangements as listed in Annex II,
- imports of textile products, as listed in Annex X, which, so far as the Community is concerned, have not been integrated into GATT 1994 within the meaning of Article 2(6) or (8) of the WTO Agreement on (ATC) Textiles and Clothing and which originate in third countries, Members of the World Trade Organisation (WTO). By derogation to this provision, Article 10a shall be applicable to textile products listed in Annex I under the conditions stipulated in that Article.’

(b) paragraph 6 shall be replaced by the following:

‘6. The requirements regarding proof of origin of the products referred to in paragraph 1 shall be as laid down in Annex III and in the relevant Community legislation in force. However, proof of origin presented in accordance with the provisions of Regulation (EC) No 1541/98 may also be accepted in place of the proof of origin required by bilateral agreements, protocols or other arrangements which lay down more stringent requirements.

The procedures for verification of the origin of those products shall be as laid down in Annex IV and in the relevant Community legislation in force.’

(c) the following paragraph shall be added:

‘8. By way of derogation from this Regulation, the import of the following textile products shall not be subject to quantitative restrictions, licensing or requirements regarding proof of origin:

- (a) Samples of textile products which are of negligible value and can be used only to solicit orders for goods of the type they represent with a view to their being imported into the customs territory of the Community. The competent authorities may require that certain articles, to qualify for the exemption, be rendered permanently unusable by being torn, perforated, or clearly and indelibly marked, or by any other process, provided such operation does not destroy their character as samples. “Samples of textile products” means any article representing a type of goods whose manner of presentation and quantity, for goods of the same type or quality, rule out its use for any purpose other than that of seeking orders.

(b) Representative samples of textile products manufactured outside the customs territory of the Community intended for a trade fair or similar event, provided that they

- are identifiable as advertising samples of low unitary value;
- are not easily marketable; or
- in their total value and quantity, are appropriate to the nature of the exhibition, the number of visitors and the extent of the exhibitor's participation.’

2. The following Article shall be inserted:

‘Article 10a

Special safeguard provisions for China

1. Should imports into the Community of textiles and apparel products originating in China and covered by the (ATC) threaten to impede, owing to market disruption, the orderly development of trade in those products, such imports may, during the period ending on 31 December 2008, be made subject to specific safeguard measures under the following conditions:

- (a) The Commission — acting at the request of a Member State or on its own initiative — shall open consultations with China with a view to easing or avoiding such market disruption. The request for consultation shall provide China with a detailed factual statement of reasons and justifications for the request, with current data showing the existence or threat of market disruption and the role of products of Chinese origin in that disruption. Consultations shall be commenced within 30 days of receipt of the request, the consultation period lasting 90 days from such receipt, unless extended by mutual agreement.

Upon receipt of the request for consultations China shall, during the period of consultation, hold its shipments to the Community of textile or textile products in the category or categories subject to the consultations, at a level no greater than 7,5 % (6 % for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the month in which the request for consultations was made.

- (b) The Commission may, if no mutually satisfactory solution is reached during the 90-day consultation period, establish a quantitative limit for the category or categories subject to the consultations. The quantitative limit shall be set up on the basis of the level at which China held its shipments upon receipt of the Community's request for consultation. The term of this quantitative limit shall be effective for a period ending on 31 December of the year in which consultations were requested, or, where three months or less remained in the year at the time of the request for consultations, for a period ending 12 months after the request for consultations. Consultations with China shall be continued during the term of the quantitative limit set up under this provision.

(c) No action taken under this paragraph shall remain in effect beyond one year without reapplication, unless otherwise agreed between the Community and China. Measures shall not be applied to the same product at the same time under this paragraph and the provisions of Section 16 of the Protocol on the Accession of China to the WTO. Measures taken pursuant to point (b) shall be the subject of a Commission communication published without delay in the *Official Journal of the European Communities*.

2. The quantitative limits established pursuant to this Article shall not apply to products which have already been dispatched to the Community provided that they were

shipped from the supplier country in which they originate for export to the Community before the date of notification of the request for consultations.

3. The measures provided for in this Article, including opening of consultations as provided for in paragraph 1(a), shall be adopted and implemented in accordance with the procedure laid down in Article 17.'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 21 January 2003.

For the Council

The President

N. CHRISTODOULAKIS
