COUNCIL REGULATION (EC) No 1296/2003
of 15 July 2003
on common rules for imports of footwear products originating in Vietnam

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 common commercial policy must be based on uniform principles.

(2) The Commission anti-fraud services have found evidence that consignments of footwear products were imported into the Community on the basis of fraudulent declarations of Vietnamese origin.

(3) The Community and the Government of Vietnam have negotiated a Memorandum of Understanding on the prevention of fraud in trade in footwear products ('the Memorandum') which sets out a double-checking system on the exports to the Community of footwear products falling within Chapter 64 of the Harmonised System/Combined Nomenclature ([1]).

(4) The validity of the Memorandum of Understanding was originally limited until 31 December 2002 but since the risk of fraudulent declarations of origin is still prevalent, the application of the Memorandum of Understanding has been extended through an Exchange of Letters between the Community and the Government of the Socialist Republic of Vietnam ([2]) for a further period of two years until 31 December 2004. This Exchange of Letters, which further provides for the possibility of electronic export licensing, was initialled on 28 November 2002 and adopted by the Council on 17 March 2003,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to all products falling within Chapter 64 of the Harmonised System/Combined Nomenclature originating in Vietnam and imported into the Community.

Article 2

For the purposes of this Regulation, the following definitions shall apply:

(a) 'originating products' shall be as defined by the relevant Community rules in force; the methods for verifying the origin of those products shall be understood accordingly;

(b) 'competent authorities' of the Member States shall mean those designated pursuant to Article 2(7) of Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas ([3]) and as listed in Annex I to Commission Regulation (EC) No 738/94 ([4]).

The list of the competent authorities referred to in point (b) has been last published in Annex III to Commission Regulation (EC) No 1369/1999 ([5]).

Article 3

The release for free circulation in the Community of the products referred to in Article 1 shall be subject to the presentation of an import certificate issued by the Member States' authorities referred to in Article 2(6) in accordance with the procedure set out in this Regulation.

Article 4

1. The competent Vietnamese authorities shall issue an export certificate in respect of the products referred to in Article 1.

2. The export certificate shall conform to the specimen set out in the Annex.

3. The original of the export certificate shall be presented by the importer for the purposes of issuing the import certificate referred to in Article 6.

The competent authorities of a Member State shall refuse to issue an import certificate for products which are not covered by export certificates issued in accordance with the provisions of this Regulation.

Article 5

Exports shall be recorded under the year in which the products covered by the export certificate were shipped.

Article 6

1. The forms to be used by the competent authorities of the Member States for issuing the import certificates shall conform to the specimen of the surveillance document set out in Annex I to Council Regulation (EC) No 3285/94 ([6]).

([1]) OJ L 1, 4.1.2000, p. 13.
([2]) OJ L 124, 20.5.2003, p. 34.
([3]) OJ L 66, 10.3.1994, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
([4]) OJ L 87, 31.3.1994, p. 47. Regulation as last amended by Regulation (EC) No 983/96 (OJ L 131, 1.6.1996, p. 47).
([5]) OJ L 162, 26.6.1999, p. 35.
([6]) OJ L 349, 31.12.1994, p. 53.

2. The authorities of the Member States shall notify the Commission of the requests for import certificates which they have received.

3. The Commission shall notify to the authorities of the Member States its confirmation that the data contained in the requests for import certificates are in conformity with the data received from the competent Vietnamese authorities.

4. The notifications referred to in paragraphs 2 and 3 shall be communicated electronically within the integrated network set-up for the SIGL management of the textile licences, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

Article 7

1. The competent authorities of the Member States shall issue an import certificate within a maximum of five working days from the presentation by the importer of the original of the corresponding export certificate. This presentation shall take place not later than 30 June of the year following that in which the goods covered by the certificate were shipped.

Import certificates shall be valid throughout the customs territory of the Community. Where the Vietnamese authorities have transmitted the data to the Community by electronic means this shall be regarded as substituting the requirement for presentation of the original export certificate.

2. The import certificates shall be valid for six months from the date of their issue, with the possibility of a further extension of three months by the competent authorities of the Member State concerned.

3. The request made by the importer to the competent authorities of the Member States for the purpose of obtaining the import certificate shall contain:

(a) name of the importer and full address (including any telephone and fax numbers), the identification number registered with the competent national authorities, and the VAT registration number, if that importer is liable to pay VAT;

(b) name and full address of declarant;

(c) name and full address of exporter;

(d) country of origin of the products and the country of consignment;

(e) description of the products as contained in the export certificate;

(f) quantity of each shipment;

(g) date and issue number of the export certificate;

(h) signature of importer, and date.

The competent authorities may, subject to the conditions laid down by them, allow requests to be submitted, transmitted or printed by electronic means.

However, all documents and evidence shall be made available to the competent authorities of the Member States.

4. Importers shall not be obliged to import the total quantity covered by an import certificate in a single consignment.

Article 8

The validity of import certificates issued by the authorities of the Member States shall be subject to the validity of the export certificates issued by the competent Vietnamese authorities on the basis of which the import certificates have been issued.

Article 9

Import certificates shall be issued without discrimination to any importer in the Community wherever the place of his establishment may be in the Community.

Article 10

1. Import certificate forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1 to be issued to the applicant, and the other, marked 'Copy for the competent authority' and bearing the number 2, to be kept by the authority issuing the certificate. For administrative purposes the competent authorities may add additional copies to form 2.

2. Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 grams per square metre. Their size shall be 210 mm x 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the certificate itself, shall in addition have a yellow printed guilloche-pattern background so as to reveal any falsification by mechanical or chemical means.

3. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified.

4. At the time of their issue the import certificates or extracts shall be given an issue number determined by the competent authorities of the Member State. The import certificate number shall be notified to the Commission electronically within the integrated network set up under Article 14 of Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ([1]).

([1]) OJ L 275, 8.11.1993, p. 1. Regulation as last amended by Regulation (EC) No 138/2003 (OJ L 23, 28.1.2003, p. 1).