

**REGULATION (EEC) No 2860/71 OF THE COUNCIL****of 20 December 1971****concerning the application of Decision No 40/71 of the Council of Association provided for by the Convention of Association between the European Economic Community and the African States and Madagascar associated with the Community**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof;

Having regard to the Internal Agreement<sup>1</sup> on the measures to be taken and the procedures to be followed for purposes of application of the Convention of Association between the European Economic Community and the African States and Madagascar associated with the Community, and in particular Article 2 thereof;

Having regard to the proposal from the Commission;

Whereas a Convention of Association between the European Economic Community and the African States and Madagascar associated with the Community<sup>2</sup> was signed on 29 July 1969 and entered into force on 1 January 1971;

Whereas Council Regulation (EEC) No 1251/71<sup>3</sup> brought into effect Decision No 36/71 of the Council of Association on the definition of the concept of 'originating products' for the application of Title I of the

Convention of Association and on methods of administrative cooperation;

Whereas the Committee of Association provided for by that Convention adopted Decision No 40/71 of the Council of Association amplifying and amending Decision No 36/71 of the Council of Association;

Whereas, in accordance with Article 46 of that Convention, measures should be taken to implement that Decision,

HAS ADOPTED THIS REGULATION:

*Article 1*

Decision No 36/71 of the Council of Association, annexed to Regulation (EEC) No 1251/71, shall be supplemented and amended in accordance with Decision No 40/71 of the Council of Association annexed to this Regulation.

*Article 2*

This Regulation shall enter into force on 1 January 1972.

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

Done at Brussels, 20 December 1971.

*For the Council*

*The President*

M. PEDINI

<sup>1</sup> OJ No L 282, 28.12.1970, p. 44.

<sup>2</sup> OJ No L 282, 28.12.1970, p. 2.

<sup>3</sup> OJ No L 135, 21.6.1971, p. 1.

### DECISION No 40/71

of the Council of Association amplifying and amending Decision No 36/71 of the Council of Association on the definition of the concept of 'originating products' for the application of Title I of the Convention of Association and on methods of administrative cooperation

THE COMMITTEE OF ASSOCIATION,

Having regard to the Convention of Association between the European Economic Community and the African States and Madagascar associated with the Community, signed at Yaoundé on 29 July 1969, and in particular Article 10 thereof;

Having regard to Decision No 36/71 of the Council of Association on the definition of the concept of 'originating products' for the application of Title I of the Convention of Association and on methods of administrative cooperation;

Having regard to Decision No 37/71 of the Council of Association authorizing the Committee of Association to amend or supplement Decision No 36/71;

Having regard to the draft from the Commission of the European Communities;

Whereas an agreement relating to products within the province of the European Coal and Steel Community was signed at the same time as the Convention of Association;

Whereas Decision No 36/71 defines the concept of 'originating products' for the application of Title I of the Convention of Association and lays down the methods of administrative cooperation;

Whereas when it adopted Decision No 36/71 the Council of Association left open for the time being various special provisions concerning in particular certain products and certain special systems;

Whereas an agreement has been reached within the Committee of Association on the problems left open and whereas consequently it is necessary to supplement or amend Decision No 36/71 and List B annexed thereto;

Whereas in accordance with Article 35 of Decision No 36/71, A.Y.1 movement certificates which conform to the specimen annexed to Decision No 5/66 of 22 April 1966 on the definition of the concept of 'originating products' for the application of Title I of the Convention of Association and on methods of administrative cooperation may, as a temporary measure up to and including 31 December 1971, be endorsed by the customs authorities of the exporting Member State or the Associated State and used in manner provided in Decision No 36/71; whereas this time limit appears to be insufficient and should be extended for a period of 12 months,

HAS DECIDED:

#### Article 1

The following shall be substituted for Article 6 of Decision No 36/71:

"Originating products' within the meaning of this Decision shall be accepted as coming under Title I of the Convention in the importing Member State or Associated State on production of a movement certificate A.Y.1 endorsed by the customs authorities of the exporting Member State or Associated State.

However, for the purposes of this Decision 'originating products' which form part of postal packets (including parcel post), in so far as they contain only 'originating products' and in so far as the value does not exceed 600 units of account per packet, shall be accepted as coming under Title I of the Convention in the importing Member State or Associated State, on production of form A.Y.2'.

#### Article 2

The following Article shall be added to Decision No 36/71:

##### 'Article 11a

Form A.Y.2, of which a specimen is shown in Annex VI, shall be completed by the exporter. It shall be in one of the official languages in which the Convention is drawn up, and shall comply with the internal laws of the exporting Member State or Associated State. It shall be typed or handwritten; if the latter it shall be completed in ink in block letters.

Form A.Y.2 shall consist of two parts, each measuring 210 x 148 mm. White paper shall be used, free of mechanical pulp, dressed for writing purposes and shall weigh at least 64 g/m<sup>2</sup>. The front of Part 1 and the label in Part 2 shall bear a band consisting of three blue stripes, each 3 mm wide, running diagonally from the lower left to the top right corner.

For A.Y.2 may be perforated by machine so that the two parts and the label of Part 2 may be detachable. The reverse of the label may be gummed.

The Member States and Associated States may themselves print the forms or may entrust the work to printers appointed by them. In the latter case, reference to the appointment must appear on each form. Each form shall bear the name and address of the printer or a mark enabling the printer to be identified. It shall also bear an individual serial number.'

#### Article 3

The following shall be added to Decision No 36/71:

*Article 11b*

A form A.Y.2 shall be made out for each postal packet. After completing and signing both parts of the form, the exporter shall place his declaration (Part 1) inside the parcel and glue the label from Part 2 on to the outer wrapping of the packet. However, in the case of postal packets to the AAMS, the exporter shall address his declaration (Part 1) separately to the addressee.'

*Article 4*

The following Article shall be added to Decision No 36/71:

*Article 11c*

Unless improper use is suspected, the customs authorities of the importing Member State or Associated State shall accept as coming under Title I of the Convention to the goods contained in a parcel bearing a label A.Y.2.'

*Article 5*

The following shall be substituted for Article 12 of Decision No 36/71:

1. The Member States and Associated States shall, without requiring production of a movement certificate A.Y.1 or completion of form A.Y.2, accept as 'originating products' coming under Title I of the Convention, goods sent in small parcels to individuals or contained in the personal luggage of travellers, if the goods imported have no commercial character, provided they are declared to comply with the conditions required for the application of these provisions and the accuracy of this declaration is not in doubt.

2. Importations shall be treated as having no commercial character if they take place occasionally and consist exclusively of goods for the personal or family use of the consignees or travellers; the nature or quantity of such goods must not be such as might indicate that they are being imported for commercial reasons. Moreover, the total value of these goods must not exceed 60 units of account for small parcels or 200 units of account for the contents of the personal luggage of travellers.'

*Article 6*

The following shall be substituted for Article 13 of Decision No 36/71:

'The competent authorities of the Member States and Associated States shall afford each other assistance through their respective customs authorities in verifying the authenticity and accuracy of the movement certificates A.Y.1 and the exporter's declaration on the forms A.Y.2 in order to ensure correct application of this Title.'

*Article 7*

The following shall be substituted for the headings of Title III of Decision No 36/71:

'Issue of movement certificates A.Y.1 and conditions for the use of movement certificates A.Y.1 and forms A.Y.2.'

*Article 8*

Section C (a) and Article 28a drawn up as follows shall be added to Title III of Decision No 36/71:

'C (a): Postal packets (including parcel post)

*Article 28a*

1. The exporter shall be responsible for completing and signing both parts of form A.Y.2, either in person or by his agent.

If on the basis of the definition of the concept of 'originating products' the goods contained in the packet have already been subject to inspection in the exporting Member State or Associated State, having regard to the definition of the concept of 'originating products', the exporter may quote references relating to such inspection in the 'Remarks' section of form A.Y.2 (Part 1).

2. The exporter shall write, either on the green label C1 or customs declaration C2 CP3 or on customs declaration C2N/CP3M, the letters 'A.Y.2' and the serial number of the A.Y.2 form used. He shall also enter these letters and that number on the invoice relating to the goods contained in the packet.'

*Article 9*

The following shall be substituted for Article 29 of Decision No 36/71:

'Goods sent in small parcels to individuals or contained in the personal luggage of travellers shall be exempt from the production of a movement certificate A.Y.1 or the making out of a form A.Y.2, where these are imports satisfying the conditions provided for in Article 12.'

*Article 10*

The following shall be substituted for the headings of Title III E of Decision No 36/71:

'E - *Subsequent verification of movement certificate A.Y.1 forms A.Y.2.*'

*Article 11*

The following shall be substituted for Article 30 of Decision No 36/71:

1. Subsequent verification of movement certificates A.Y.1 or forms A.Y.2 is to be carried out at random, and also wherever the customs authorities of the importing Member State or Associated State have reasonable doubt as to the authenticity of the document or the accuracy of the information relating to the true origin of the goods in question or of certain parts thereof.

2. For the purposes of application of paragraph 1, the customs authorities of the importing country shall

return the movement certificate A.Y.1 or Part 1 of form A.Y.2 to the customs authorities of the exporting country, giving the reasons relating to fact or form which justify an inquiry. With Part I of form A.Y.2 they shall include the invoice or a copy thereof if this has been produced. They shall attach to Part I of form A.Y.2, if it has been produced, the invoice or a copy thereof, and shall forward any information which it has been possible to obtain and which suggests that the particulars given on the certificate are inaccurate.

If the customs authorities of the importing country decide to suspend application of Title I of the Convention pending the results of the verification, they shall offer the importer release of the goods subject to such precautionary measures as may be considered necessary.

3. The results of subsequent verification shall be made known to the customs authorities of the importing country within three months. The result must be such as to make it possible to ascertain whether the movement certificate A.Y.1 or the form A.Y.2 in dispute relates to the goods actually exported and whether the preferential system does in fact apply to them.

Where no agreement can be reached by the customs authorities of the importing country and those of the exporting country or where a problem of interpretation of the Decision arises in connection with the dispute, the matter shall be put before the Customs Cooperation Committee provided for in Article 31.

In any event, the settlement of disputes between the importer and the customs authorities of the importing country shall remain subject to the laws of that country.

For the purpose of subsequent verification of the certificates, the export documents or copies of certificates in lieu thereof must be retained by the customs authorities of the exporting country for two years.'

#### *Article 12*

The following shall be substituted for the first paragraph of Article 35 of Decision No 36/71:

'The explanatory notes, lists A, B and C, the specimen of movement certificate A.Y.1 and the specimen of form A.Y.2 which are annexed to this Decision shall form an integral part thereof.'

#### *Article 13*

The specimen form A.Y.2 annexed to this Decision shall be incorporated as Annex VI to Decision No 36/71:

#### *Article 14*

As a temporary measure, certificates of origin issued under the European Economic Community Recommendation of 10 December 1958 relating to the implementation of Article 133 of the EEC Treaty shall remain in force with regard to postal consignments (packets and parcel post), on condition however that they are issued not later than 29 February 1972 and submitted to the customs authorities of importing Member States or Associated States not later than 30 June 1972.

#### *Article 15*

The following provision shall be inserted in the third column of Annex III List B to Decision No 36/71 before the provisions relating to heading No ex 15.10:

'The incorporation of 'non-originating' materials or parts in machinery and equipment falling within Chapters 84 to 92 shall not cause those products to lose the character of 'originating products' provided that the value of those materials or parts does not exceed 5% of the value of the finished product.'

#### *Article 16*

In the second paragraph of Article 35 of Decision No 36/71, the date '31 December 1972' shall be substituted for '31 December 1971'.

#### *Article 17*

The Associated States, the Member States and the Community shall, each respectively for its part, take the measures required for implementation of this Decision.

This Decision shall enter into force on 1 January 1972.

Done at Brussels, 23 November 1971.

*The President of the Committee of Association*  
A. SISSOKO

(\*) The member countries are: (a) the Member States of the EEC: The Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Republic of Italy, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands in Europe; (b) the Associated States: the Republic of Burundi, the Federal Republic of Cameroon, the Central African Republic, the Republic of Chad, the People's Republic of the Congo, the Republic of Gabon, the Republic of Senegal, the Republic of Somalia, the Republic of Togo, the Republic of Upper Volta, and the Republic of Zaïre.

(\*\*) Tariff heading numbers shall be understood to mean those of the Brussels Nomenclature.

**Category 2**  
 Goods obtained or produced within the exporting Member country and manufactured entirely from products originally imported from another Member country and which on exportation satisfied the conditions for the issue of an A, Y, 1 certificate or, where appropriate, from a combination of such products and category of products.

**Category 4**  
 Goods originally imported by a Member country which on exportation belong to one of the categories of 1, 2 or 3 and which are re-exported in the unaltered state to another Member country.

**Category 1**  
 Goods wholly obtained or produced in the exporting Member country. These shall be considered as being obtained or produced in the exporting Member country.

(a) mineral products extracted from the ground thereof;  
 (b) vegetable products harvested therein;  
 (c) animals born and raised therein;  
 (d) products derived from live animals raised therein;  
 (e) products of hunting and fishing carried on therein;  
 (f) marine products obtained from the sea by its ships;  
 (g) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are only fit for the recovery of raw materials;  
 (h) goods obtained exclusively from the animals or products referred to in (a) to (g) or from their derivatives.

**Category 3**  
 Goods obtained or produced within the exporting country and in the manufacture of which were used products other than those falling within categories 1 or 2, on condition that these products (hereinafter called 'third country products') have been subject to forms of working or processing:

(a) which result in the classification of the goods obtained under a tariff heading number (\*\*), other than that relating to each of the third country products used, unless the working or processing carried out is mentioned in List A annexed to the Decision of the Council of Association on the definition of the concept of 'originating products' and on methods of administrative cooperation; or

(b) which, although mentioned in List A referred to under (a), satisfy the special conditions laid down with respect to them in List A; or

(c) which do not result in the classification of the goods obtained under a tariff heading number other than that relating to the third country products used, but which appear in List B annexed to the Decision of the Council of Association on the definition of the concept of 'originating products' and on methods of administrative cooperation.

**GOODS IN RESPECT OF WHICH A MOVEMENT CERTIFICATE A.Y.1 MAY BE ENDORSED OR A FORM A.Y.2 MAY BE MADE OUT**

This rule shall, however, not apply as regards the Member States of the EEC to goods imported from an Associated State and re-exported to another Associated State, except where the Associated State in which the goods originate is eligible in the Associated State of destination for the same treatment as the Member States of the EEC.

Note: When applying this rule, the Member country of origin which should be shown in the movement certificate is the one from which the goods were originally imported

FORM A.Y.2 (PART I)

<b>YAOUNDÉ CONVENTION OF ASSOCIATION</b>		<b>LABEL A.Y.2</b>	<b>A 000000</b>
Declaration by the exporter		Description of goods	
<p><b>I, the undersigned</b>, exporter of the goods described herein and contained in this postal packet</p> <p>— <b>declare that they are in</b> .....          (exporting member country)</p> <p>in the conditions set out on the reverse side of Part 2 of this declaration;</p> <p>— <b>undertake to submit at the request of the appropriate authorities, any supporting evidence which they may require and to agree to any inspection of my accounts by these authorities and any verification by them of the processes of manufacture of the goods described herein.</b></p> <p><b>Member country of destination</b> .....</p> <p>At ..... on .....</p> <p align="center">.....          (Signature of exporter)</p> <p><b>Exporter:</b> .....          (Name and forename, or name of firm, and full address of exporter)</p>		<p><b>Remarks (1):</b> .....</p> <p>.....</p> <p>.....</p> <p><b>Authorities in the exporting Member country responsible for subsequent verification of declarations by exporters (2):</b></p> <p>.....</p> <p>.....</p>	

TO BE INSERTED IN THE PARCEL

(1) Give the references of any verification already carried out by the competent authorities.  
 (2) Name the competent authorities under national provisions.



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FORM A.Y.2

(PART I)

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Declaration by the exporter	Description of goods
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<p>(1) Give the references of any verification already carried out by the competent authorities.  (2) Name the competent authorities under national provisions.</p>	

TO BE INSERTED IN THE PARCEL