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EUROPEAN COMMISSION

Brussels, 14.2.2011
COM(2011) 59 final

2011/0030 (NLE)

Proposal for a

COUNCIL DECISION

on a European Union position within the EU-Chile Special Committee on Customs Cooperation and Rules of Origin relating to Annex III to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The Association Agreement between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, was signed on 18 November 2002.

Annex III to the EU-Chile Association Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation, sets out the rules of origin for the products originating in the territory of the Parties to the Agreement.

Chile and the European Union have agreed to introduce a clarification to the rules of origin contained in Annex III. This will be done through an explanatory note to Annex III.

- **General context**

Annex III entered into force on 1 February 2003. Explanatory Notes to Annex III – whose provisions serve the purpose of providing the customs authorities with clear guidelines on the practical application of Annex III to the Agreement – have been in force since 1 January 2004.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with the other policies and objectives of the Union**

Not applicable.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Not relevant.

This proposal introduces clarifications to a previous text.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Not relevant. This proposal introduces clarifications to an existing bilateral trade agreement. There are no other options to be considered.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The Council is asked to adopt a European Union position on a draft Decision of the European Union - Chile Special Committee on Customs Cooperation and Rules of Origin introducing clarifications to the rules of origin contained in Annex III to the Association Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation.

- **Legal basis**

Article 39 of Annex III to the Association Agreement empowers the Parties to agree on the .Explanatory Notes regarding the interpretation, application and administration of this Annex within the Special Committee on Customs Cooperation and Rules of Origin. .

- **Subsidiary principle**

The proposal falls under the exclusive competence of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s):

Not relevant.

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reason(s):

Decision of the EU-Chile Special Committee on Customs Cooperation and Rules of Origin.

4. BUDGETARY IMPLICATION

The proposal has no implication for the European Union budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 (3) and (4) thereof, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Preferential rules of origin are essential for the correct functioning of the free trade agreements between the European Union and its trading partners, including Chile. The European Union and its Member States, of the one part, and Chile, of the other part, have signed an Association Agreement on 18 November 2002¹.
- (2) Annex III to the Association Agreement defines the concept of originating products and methods of administrative cooperation. It entered into force on 1 February 2003.
- (3) Explanatory Notes to Annex III – whose provisions serve the purpose of providing the customs authorities with clear guidelines on the practical application of Annex III to the Agreement – have been in force since 1 January 2004.
- (4) The Association Agreement aims in Article 58 at eliminating customs duties on goods originating in one Party and exported to the other Party, by referring to the rules of origin laid down in Annex III to the Agreement. The Annex refers in Article 36(2) to the "customs territory of the Community",

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of **Annex III to the Association Agreement between the European Community and its Member States and the Republic of Chile**, the terms "customs territory of the Community" covers the customs territory of the European Community (now the

¹ Council Decision of 18 November 2002. OJ L 352, p. 1.

European Union) as defined in Article 3.1 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, without prejudice to any future amendment or repealing of the existing legislation.

This Explanatory Note is without prejudice to Title VII on Ceuta and Melilla of that Annex III.

Article 2

This Decision shall enter into force with immediate effect.

Done at Brussels,

*For the Council
The President*

ANNEX

DECISION OF THE EU - CHILE SPECIAL COMMITTEE ON CUSTOMS COOPERATION AND RULE OF ORIGIN

No.../2010

relating to Annex III to the Association Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part, concerning the definition of the concept of originating products and methods of administrative cooperation

THE SPECIAL COMMITTEE,

Having regard to the Association Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part of 18 November 2002, and in particular Article 36(2) to Annex III concerning the definition of the concept of originating products and methods of administrative cooperation,

Whereas:

- (1) Annex III to the Association Agreement sets out the rules of origin for the products originating in the territory of the Parties to the Agreement.
- (2) Article 36(2) of the Annex, refers to the "customs territory of the Community".
- (3) It is considered appropriate to define the terms "customs territory of the Community" in order to ensure the correct territorial application of the Annex in the form of an Explanatory Note to the Annex.

HAS DECIDED AS FOLLOWS:

Article 1

For the purpose of Annex **III to the Association Agreement between the European Community and its Member States and the Republic of Chile**, the terms "customs territory of the Community" covers the customs territory of the European Community (now the European Union) as defined in Article 3.1 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, without prejudice to any future amendment or repealing of the existing legislation.

This Explanatory Note is without prejudice to Title VII on Ceuta and Melilla of that Annex III.

Article 2

This Decision shall enter into force with immediate effect.

Done at xxx,

*For the Special Committee
The President*