



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.8.2004
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Proposal for a

COUNCIL DECISION

on a Community position within the Joint Committee on the adaptation of Protocol No 3, concerning the definition of the concept of "originating products" and methods of administrative co-operation, set out in the Agreement between the European Economic Community, and the Swiss Confederation pursuant to the enlargement of the European Union

(presented by the Commission)

EXPLANATORY MEMORANDUM

The accession of the new Member States implies that Protocol No 3 concerning the definition of the concept of originating products and methods of administrative cooperation, set out in this Agreement, shall be amended.

According to Article 38 of Protocol No 3, the provisions of this Protocol shall be amended by decision of the Joint Committee.

The text of the decision includes, on the one hand, some technical amendments concerning the addition of the new language versions of the administrative remarks contained in the Protocol and, on the other hand, some transitional provisions aiming at smoothing the transitional process and at guaranteeing legal security.

Pending the formal adoption of this decision, it was agreed, via an exchange of correspondence, between the Commission services and the Swiss Federal administration that the customs administrations on both sides would abide to the content of this text as of 1st May 2004.

The Council is invited to adopt the proposed Community position for the adoption by the EC-Switzerland Joint Committee of the decision amending Protocol No 3.

Proposal for a

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on a Community position within the Joint Committee on the adaptation of Protocol No 3, concerning the definition of the concept of "originating products" and methods of administrative co-operation, set out in the Agreement between the European Economic Community, and the Swiss Confederation pursuant to the enlargement of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300 paragraph 2, second subparagraph,

Having regard to the proposal from the Commission,

Whereas Article 29 of the Agreement between the European Economic Community, on the one part, and the Swiss Confederation, of the other part, signed on 22 July 1972, hereinafter referred to as "the Agreement" establishes a Joint Committee,

Whereas Article 38 of Protocol No 3 to the Agreement, concerning the definition of the concept of "originating products" and methods of administrative co-operation, provides that the Joint Committee may decide to amend the provisions of this Protocol,

HAS DECIDED AS FOLLOWS:

Sole Article

The position to be adopted by the Community within the Joint Committee established by virtue of the Agreement on the adaptation of Protocol No 3, concerning the definition of the concept of "originating products" and methods of administrative co-operation, is that defined in the attached draft decision of the Joint Committee.

Done at Brussels,

*For the Council
The President*

Decision of the EC-Switzerland Joint Committee

amending Protocol No 3 of the Agreement between the European Economic Community and the Swiss Confederation concerning the definition of the concept of ‘originating products’ and methods of administrative cooperation

The Joint Committee,

Having regard to the Agreement between the European Economic Community and the Swiss Confederation¹, signed in Brussels on 22 July 1972, hereinafter referred to as “the Agreement”,

Having regard to Protocol No 3 to the Agreement concerning the definition of the concept of originating products and methods of administrative cooperation, hereinafter referred to as "Protocol No 3"², and in particular Article 38 thereof,

Whereas:

- (1) The Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, hereinafter referred to as ‘new Member States’, acceded to the European Union on 1 May 2004,
- (2) The trade between the new Member States and Switzerland is covered upon accession by this Agreement and the application of the trade agreements concluded between the Swiss Confederation and the new Member States concerned is discontinued,
- (3) After accession of the new Member States, goods originating in these countries imported into Switzerland in the framework of the Agreement shall be treated as of Community origin,
- (4) The accession of the new Member States requires some technical amendments to the text of Protocol No 3, as well as transitional measures, to ensure the transition process and guarantee legal security,
- (5) Annex IV No. 5 of the Act of Accession provides similar transitional measures and procedures³,

¹ OJ L 300, 31/12/1972

² as last amended by Decision No. 1/2004 of the EC-Switzerland Joint Committee.

³ OJ L 236, 23/09/2003

HAS DECIDED AS FOLLOWS:

SECTION I

TECHNICAL AMENDMENTS TO THE TEXT OF THE PROTOCOL

Article 1

Rules of origin

Protocol No 3, shall be amended as follows:

1. in Articles 3(1) and 4(1), the reference to the new Member States shall be deleted.
2. Article 18(4) shall be replaced by the following:

‘4. Movement certificates EUR.1 issued retrospectively must be endorsed with one of the following phrases:

- ES "EXPEDIDO A POSTERIORI"
- CS "VYSTAVENO DODATEČNĚ"
- DA "UDSTEDT EFTERFØLGENDE"
- DE "NACHTRÄGLICH AUSGESTELLT"
- ET "VÄLJA ANTUD TAGASIULATUVALT"
- EL "ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ"
- EN "ISSUED RETROSPECTIVELY"
- FR "DÉLIVRÉ A POSTERIORI"
- IT "RILASCIATO A POSTERIORI"
- LV "IZSNIEGTS RETROSPEKTĪVI"
- LT "RETROSPEKTYVUSIS IŠDAVIMAS"
- HU "KIADVA VISSZAMENŐLEGES HATÁLLYAL"
- MT "MAHRUĠ RETROSPETTIVAMENT"
- NL "AFGEGEVEN A POSTERIORI"
- PL "WYSTAWIONE RETROSPEKTYWNIĘ"
- PT "EMITIDO A POSTERIORI"
- SL "IZDANO NAKNADNO"
- SK "VYDANÉ DODATOČNE"
- FI "ANNETTU JÄLKIKÄTEEN"
- SV "UTFÄRDAT I EFTERHAND"

3. Article 19(2) shall be replaced by the following:

‘2. The duplicate issued in this way must be endorsed with one of the following words:

ES "DUPLICADO"
CS "DUPLIKÁT"
DA "DUPLIKAT"
DE "DUPLIKAT"
ET "DUPLIKAAT"
EL "ΑΝΤΙΓΡΑΦΟ"
EN "DUPLICATE"
FR "DUPLICATA"
IT "DUPLICATO"
LV "DUBLIKĀTS"
LT "DUBLIKATAS"
HU "MÁSODLAT"
MT "DUPLIKAT"
NL "DUPLICAAT"
PL "DUPLIKAT"
PT "SEGUNDA VIA"
SL "DVOJNIK"
SK "DUPLIKÁT"
FI "KAKSOISKAPPALE"
SV "DUPLIKAT"

4. Annex IV shall be replaced by the following:

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduanera n° ...⁽¹⁾.) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial⁽²⁾.

Czech version

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení ...⁽¹⁾) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v ...⁽²⁾.

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ...⁽¹⁾), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ...⁽²⁾.

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ...⁽¹⁾) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anders angegeben, präferenzbegünstigte ...⁽²⁾ Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ...⁽¹⁾) deklareerib, et need tooted on ...⁽²⁾ sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ' αριθ. ...⁽¹⁾) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησησιακής καταγωγής ...⁽²⁾.

English version

The exporter of the products covered by this document (customs authorization No ...⁽¹⁾) declares that, except where otherwise clearly indicated, these products are of ...⁽²⁾ preferential origin.

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ...⁽¹⁾) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ...⁽²⁾.

Italian version

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale n. ...⁽¹⁾) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...⁽²⁾.

Latvian version

Eksportētājs produktiem, kuri ietverti šajā dokumentā (muitas pilnvara Nr. ...⁽¹⁾), deklarē, ka, izņemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no ...⁽²⁾.

Lithuanian version

Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr ...⁽¹⁾) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra ...⁽²⁾ preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: ...⁽¹⁾) kijelentem, hogy eltérő jelzés hiányában az áruk kedvezményes ...⁽²⁾ származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. ...⁽¹⁾) jiddikjara li, ħlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali ...⁽²⁾.

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ...⁽¹⁾), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn ⁽²⁾.

Polish version

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr ...⁽¹⁾) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają ...⁽²⁾ preferencyjne pochodzenie.

Portuguese version

O exportador dos produtos cobertos pelo presente documento (autorização aduaneira n.º. ...⁽¹⁾), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ...⁽²⁾.

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št ...⁽¹⁾) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno ...⁽²⁾ poreklo.

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia ...⁽¹⁾) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v ...⁽²⁾.

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ...⁽¹⁾) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita ⁽²⁾.

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ...⁽¹⁾) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung⁽²⁾.

..... 3
(Place and date)

..... 4
(Signature of the exporter, in addition the name of the person signing the declaration has to be indicated in clear script)

¹ When the invoice declaration is made out by an approved exporter, the authorization number of the approved exporter must be enter in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

² Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and Mellila, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

³ These indications may be omitted if the information is contained on the document itself.

⁴ In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

SECTION II

TRANSITIONAL PROVISIONS

Article 2

Proof of origin and administrative cooperation

1. Proofs of origin properly issued by either Switzerland or a new Member State in the framework of preferential agreements or autonomous arrangements applied between them shall be accepted in the respective countries, provided that:

- (a) the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in the Agreement;
- (b) the proof of origin and the transport documents were issued no later than the day before the date of accession;
- (c) the proof of origin is submitted to the customs authorities within the period of four months from the date of accession.

Where goods were declared for importation in either Switzerland or a new Member State, prior to the date of accession, under preferential agreements or autonomous arrangements applied between Switzerland and that new Member State at that time, proof of origin issued retrospectively under those agreements or arrangements may also be accepted provided that it is submitted to the customs authorities within the period of four months from the date of accession.

2. Switzerland and the new Member States are authorised to retain the authorisations with which the status of “approved exporters” has been granted in the framework of preferential agreements or autonomous arrangements applied between them, provided that:

- (a) such a provision is also provided for in the agreement concluded prior to the date of accession between Switzerland and the Community; and
- (b) the approved exporter apply the rules of origin in force under that agreement.

These authorisations shall be replaced no later than one year after the date of accession, by new authorisations issued under the conditions of the Agreement.

3. Requests for subsequent verification of proof of origin issued under the preferential agreements or autonomous arrangements referred to in paragraphs 1 and 2 above shall be accepted by the competent customs authorities of either Switzerland or the Member States for a period of three years after the issue of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin submitted to those authorities in support of an import declaration.

Article 3

Goods in transit

1. The provisions of the Agreement may be applied to goods exported from either Switzerland to one of the new Member States or from one of the new Member States to Switzerland, which comply with the provisions of Protocol No 3 and that on the date of accession are either in transit or in temporary storage, in a customs warehouse or in a free zone in Switzerland or in that new Member State.

2. Preferential treatment may be granted in such cases, subject to the submission to the customs authorities of the importing country, within four months of the date of accession, of a proof of origin issued retrospectively by the customs authorities of the exporting country.

Article 4

This decision shall enter into force on the day of its adoption.

It shall apply from 1st May 2004.

Done at

*For the Joint Committee
The President*

FINANCIAL STATEMENT

1. Legal basis

Article 133 of the Treaty establishing the European Community, in conjunction with Article 300 §2, second subparagraph.

Article 38 of Protocol No 3 of the Agreement between the Economic Community and the Swiss Confederation.

2. Title of the measure

Decision of the EC-Switzerland Joint Committee amending Protocol No 3 of the Agreement between the European Economic Community and the Swiss Confederation concerning the definition of the concept of 'originating products' and methods of administrative cooperation

3. Objective

To take account of the accession of 10 new Member States to the European Union as of 1st May 2004.

4. Financial implications

As the amendments proposed are purely technical and have no implication on the tariff concessions granted by the agreement, the proposal does not have any financial implications.

TIMETABLE

In order to enable the contracting parties to apply the transitional provisions on origin within the time limits set out in the Decision, an adoption of a Community position by the Council as soon as possible is recommended.
