



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.11.2005  
COM(2005) 527 final

2005/0218 (ACC)

Proposal for a

**COUNCIL DECISION**

**on a Community position within the Joint Committee on a recommendation on the re-importation of originating products and on the acceptance by the Contracting Parties of simplified proofs of origin, made out by approved exporters, to the Agreement between the European Economic Community, of the one part, and the Swiss Confederation, of the other part**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

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

The Agreement between the European Economic Community, of the one part, and the Swiss Confederation, of the other part, hereinafter referred to as 'the Agreement' , does in principle not make any distinction between products originating in one Party or the other, in order to define the scope of the abolition of the customs duties and charges having an equivalent effect, and of the prohibition of the introduction of new ones provided for by the Agreement. Such a distinction is made only regarding the preferential treatment applicable to certain products.

It should therefore be clarified that, if products are covered by a reciprocal elimination of customs duties without making a distinction between products originating in one Party or the other, this elimination of customs duties applies at import into the Community or into Switzerland of the products concerned, whether these products are originating in Switzerland or in the Community.

Article 22 (1) of Protocol No 3 of the Agreement establishes that the customs authorities of the exporting country may authorise any exporter, hereinafter referred to as 'approved exporter', who makes frequent shipments of products under the Agreement to make out invoice declarations.

The contracting parties agree that, in the context of the Agreement, the approved exporter authorisation is issued either by the customs authorities of the Swiss Confederation or by the customs authorities of a Member State of the European Community, which is not necessarily the Member State where the invoice declaration was made out nor the Member State from which the goods were supplied.

- **General context**

To provide for clear guidelines two interpretative notes have been agreed between the representatives of the Swiss Federal Administration and of the services of the Commission. These two notes have been endorsed on 10 May 2004 through administrative letters that were signed for the Swiss administration by Mr. Gerber, Swiss State Secretary for Economic Affairs, and for the Commission services by Mr. Verrue, Director-General for Taxation and Customs Union.

The two issues were also addressed at ministerial level. In Annex C to the conclusions of the EU - Switzerland summit of 19 May 2004 the interpretations of the experts were confirmed. Both sides agreed to formalise these interpretations by recommendations of the joint committee in charge of managing the bilateral free trade agreement.

- **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) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

No consultation needed because the proposed recommendation follows a request of the interested parties.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

Not applicable.

## 3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

For authorising the Community delegation to adopt the recommendations the Council has to agree to the attached draft recommendation as the Community position to be taken in the EC - Switzerland Joint Committee. Following the adoption of the Community position, the competent Commission services shall proceed with the adoption of the draft Recommendation by the EC - Switzerland Joint Committee and its subsequent publication in the Official Journal of the European Union.

- **Legal basis**

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

- **Subsidiarity principle**

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

- **Proportionality principle**

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

There is no other option in the present case. Therefore this is the simplest measure possible.

There is no extra financial and administrative burden.

- **Choice of instruments**

Proposed instruments: recommendation.

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

Article 29 of the Agreement provides that, for the purposes of the administration of the Agreement, measures taken by the EC-Switzerland Joint Committee take the form of recommendation.

**4) BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

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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, of the one part, and the Swiss Confederation, of the other part, provides that the Joint Committee may decide to make recommendations,

HAS DECIDED AS FOLLOWS:

### *Sole Article*

The position to be adopted by the Community within the Joint Committee established by virtue of the Agreement between the European Economic Community, of the one part, and the Swiss Confederation, of the other part, on a recommendation on the re-importation of originating products and on the acceptance by the Contracting Parties of simplified proofs of origin, made out by approved exporters, is that defined in the attached draft recommendation of the EC-Switzerland Joint Committee.

Done at Brussels,

*For the Council  
The President*

Draft

**RECOMMENDATION No .../2005 of the EC – SWITZERLAND JOINT  
COMMITTEE**

**on the re-importation of originating products and the acceptance by the Contracting  
Parties of simplified proofs of origin, made out by approved exporters**

**of ...**

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Economic Community, of the one part, and the Swiss Confederation, of the other part, hereinafter referred to as 'the Agreement', signed in Brussels on 22 July 1972, and in particular Article 29 thereof ;

Whereas:

- (1) The Agreement does in principle not make any distinction between products originating in one Party or the other, in order to define the scope of the abolition of the customs duties and charges having an equivalent effect, and of the prohibition of the introduction of new ones provided for by the Agreement. Such a distinction is made only regarding the preferential treatment applicable to certain products;
- (2) The Contracting Parties to the Agreement share the understanding that this elimination of customs duties applies at import into the Community or into Switzerland of the products concerned, whether these products are originating in Switzerland or in the Community, exclusively in the cases where a reciprocal elimination of customs duties applies without making a distinction between products originating in one Party or the other;
- (3) Article 22 (1) of Protocol No 3 of the Agreement establishes that the customs authorities of the exporting country may authorise any exporter, hereinafter referred to as 'approved exporter', who makes frequent shipments of products under this Agreement to make out invoice declarations;
- (4) The Contracting Parties agree that, in the context of the Agreement, the approved exporter authorisation is issued either by the customs authorities of the Swiss Confederation or by the customs authorities of a Member State of the European Community, which is not necessarily the Member State where the invoice declaration was made out nor the Member State from which the goods were supplied;
- (5) It is appropriate, for the proper functioning of the Agreement, recommend to the Contracting Parties a consistent interpretation of the Agreement;

HAS ADOPTED THIS RECOMMENDATION:

*Sole Article*

The Contracting Parties shall apply the Agreement, as from 1 June 2004, in conformity with the two interpretative notes in the annex to this Recommendation, which concern the re-importation of originating products and the acceptance by the Contracting Parties of simplified proofs of origin, made out by approved exporters.

Done at [...],

*For the Joint Committee*

*The Chairman*

## Interpretative Note

### **The experts representing the services of the European Commission and the Swiss Federal Administration,**

HAVING IN MIND that the Agreement of 22 July 1972 between the European Economic Community and the Swiss Confederation aims, in particular, at promoting, through the expansion of reciprocal trade, the harmonious development of economic relations between the Parties and that such an objective mainly implies the progressive elimination of the obstacles to substantially all their trade, in accordance with the provisions of the GATT concerning the establishment of free trade areas,

CONSIDERING that, in tariff terms, this elimination implies for a Party, subject to conditions specific to certain products, to abolish customs duties and charges having equivalent effect and to prohibit the introduction of new customs duties or charges having equivalent effect on products originating in the other Party, covered by the Agreement,

POINTING OUT, following a joint analysis of the specific terms of the Agreement, in particular Article 2 thereof, read in combination with Articles 3 to 7, that it did not make any distinction between products originating in one Party or the other, in order to define the scope of the abolition of the customs duties and charges having an equivalent effect – as completed on 1 July 1977 – and of the prohibition of the introduction of new ones, such a distinction being made, however, regarding the preferential treatment to apply to certain products,

HAVE AGREED as follows:

**"The abolition of the customs duties and charges having an equivalent effect, as well as the prohibition of the introduction of new customs duties and charges having an equivalent effect, as provided for in the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972, apply at import into the Community or into Switzerland of the products concerned, whether these products are originating in Switzerland or in the Community.**

**This interpretation is applicable only to products which benefit from the reciprocal elimination of customs duties. It is therefore not applicable to products originating in one Party, for which the Agreement has defined a preferential tariff treatment by making reference only to products originating in the other Party."**



## Interpretative Note

### **The experts representing the services of the European Commission and the Swiss Federal Administration,**

CONSIDERING the terms of Article 22 (1) of Protocol 3 of the Agreement of 22 July 1972 between the European Economic Community and the Swiss Confederation, according to which *the customs authorities of the exporting country may authorise any exporter, hereinafter referred to as 'approved exporter', who makes frequent shipments of products under this Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol,*

CONSIDERING Article 8 of Council Regulation (EC) No 1207/2001 of 11.6.2001,

HAVE AGREED as follows:

**« The phrase *customs authorities of the exporting country* refers, on the one hand, to the customs authorities of the Swiss Confederation and, on the other hand, to the customs authorities of the Member State of the European Community having issued the authorisation, without taking into consideration either the Member State where the invoice declaration was made out or the Member State from which the goods were supplied »**