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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Draft DECISION OF THE EU-CENTRAL AMERICA ASSOCIATION COUNCIL introducing Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II (Concerning Definition of the Concept of 'Originating Products' and Methods of Administrative Cooperation) of the Agreement regarding the Movement Certificate EUR.1, invoice declarations, approved exporters and verification of proofs of origin

DRAFT

DECISION No …/…
OF THE EU-CENTRAL AMERICA ASSOCIATION COUNCIL

of …

introducing Explanatory Notes to Articles 15, 16, 19, 20 and 30 of Annex II (Concerning Definition of the Concept of 'Originating Products' and Methods of Administrative Cooperation) of the Agreement regarding the Movement Certificate EUR.1, invoice declarations, approved exporters and verification of proofs of origin

THE EU CENTRAL AMERICA ASSOCIATION COUNCIL,

Having regard to the Agreement establishing an association between Central America, on the one hand, and the European Union and its Member States, on the other ('the Agreement'), and in particular Article 37 of Annex II thereof;

Whereas:

(1) Annex II to the Agreement concerns the definition of the concept of 'originating products' and methods of administrative co-operation.

(2) According to Article 37 of Annex II to the Agreement, the Parties shall agree Explanatory Notes regarding the interpretation, application and administration of Annex II within the Sub-Committee on Customs, Trade Facilitation and Rules of Origin and recommend their approval by the Association Council.

(3) As the movement certificate EUR.1. set out in Appendix 3 to Annex II to the Agreement is only a specimen, minor differences might occur in the forms printed by the different authorities. It should be clarified that such differences should not have as a consequence that certificates are rejected.

(4) Furthermore, in order to ensure that such minor differences do not cause difficulties in relation to the acceptance of movement certificates EUR.1. and in order to ensure a harmonised interpretation by the competent public authorities of the Parties, guidance should be provided on the required content of the movement certificate EUR.1.

(5) The explanatory notes relating to the filling-in instructions of the movement certificates EUR.1 contained in the Annex of this Decision provide guidance. However, they should be read in conjunction with the explanatory notes relating to Articles 16 (1) (b) and 30 contained in the Annex to this Decision as concerns the grounds for rejecting a movement certificate EUR.1 for technical reasons and refusal of preferential treatment without verification.

(6) Guidance is provided as regards to the application of the provisions concerning the invoice declaration, the basis of applying the value limit for any exporter to make out an invoice declaration, and for the authorisation and monitoring of approved exporters.

HAS ADOPTED THIS DECISION:

Article 1

The Explanatory Notes relating to Articles 15, 16, 19, 20 and 30 of Annex II (Concerning the Definition of the Concept of 'Originating Products' and Methods of Administrative Co-operation) to the Agreement regarding the Movement Certificate EUR.1, invoice declarations, approved exporters and verification of proofs of origin contained in the Annex to this Decision are approved.

Article 2

This Decision shall enter into force 180 days after that day of its adoption.

Done at …,

For the Association Council,

For the CA Party,

For the EU Party,

ANNEX

EXPLANATORY NOTES

Article 15

Movement certificate EUR.1: forms and filling-in instructions

EUR.1 serial number

The movement certificate EUR.1 must bear a serial number to facilitate identification. The serial number is usually composed by letter(s) and numbers.

Movement certificate EUR.1 forms

Movement certificate EUR.1 which may vary, such as in wording or the placement of footnotes, depending on the issuing competent public authority, with respect to the specimen contained in Appendix 3 (Specimens of movement certificate EUR.1 and application for a movement certificate EUR.1) to Annex II (Concerning definition of the concept of 'originating products' and methods of administrative cooperation) to the Agreement, may be accepted as proof of origin, if the variations do not modify the information required in each box.

Box 1

Exporter

The full details of the exporter of the goods (name, full current address and country in which the export originates) shall be provided.

Box 2

Certificate used in preferential trade between

To this end, specify:

Central America; European Union or EU[1]; Ceuta; Melilla; Andorra or AD; San Marino or SM.

Box 3

Consignee

Filling in this box is optional. If this box is filled in, the details of the consignee must be provided: name, full current address and country of destination of the goods.

Box 4

Country, group of countries or territory in which the products are considered as originating

Specify the country, group of countries or territory of origin of the goods:

Central America; European Union or EU[2]; Ceuta; Melilla; Andorra or AD; San Marino or SM.

Box 5

Country, group of countries or territory of destination

Specify the country, group of countries or territory of the importing Party to which the products are to be delivered:

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[1] See 'Annex to the Explanatory Notes: Terms referring unequivocally to the European Union'.

[2] See 'Annex to the Explanatory Notes: Terms referring unequivocally to the European Union'.

Central America; European Union or EU[3]; Ceuta; Melilla; Andorra or AD; San Marino or SM.

Box 6

Transport details

Filling in this box is optional. If this box is filled in, the means of transport and airway bill or bill of lading numbers, with the names of the respective transport companies are to be indicated.

Box 7

Remarks

This box should be filled in:

1. In the case of a certificate issued after export of the goods pursuant to Article 16 of Annex II to the Agreement, the following is indicated, in one of the languages established in the Agreement, in this box: 'ISSUED RETROSPECTIVELY'. Additionally, in the case established under Article 16.1 (b) of Annex II the number of movement certificate EUR.1 that was not accepted at importation for technical reasons, is indicated in this box: 'EUR.1 N°…..'.

2. In the case of a duplicate certificate issued pursuant to Article 17 of Annex II, the following must be indicated, in one of the languages established in the Agreement, in this box: 'DUPLICATE' and the date of issue of the original movement certificate EUR.1.

[3] See 'Annex to the Explanatory Notes: Terms referring unequivocally to the European Union'.

3. In the case of cumulation of origin with Bolivia, Colombia, Ecuador, Peru or Venezuela, the following must be indicated in this box: ‘cumulation with (name of the country)’ in accordance with Article 3 of Annex II.

4. In the case a product is covered by a rule of origin that is subject to quotas, the following must be indicated in this box: ‘Product originating in accordance with Appendix 2A of Annex II (Concerning definition of the concept of “originating products” and methods of administrative cooperation)’.

5. In other cases that may be considered useful to clarify information of the movement certificate EUR. 1.

Box 8

Item number; marks and numbers; number and kind of packages; description of the goods

Provide a description of the goods, in accordance with the description provided in the invoice and provide other information such as: order or item number; marks and numbering; number and kind of packages (pallets, boxes, bags, rolls, barrels, sacks, etc.). A general description of the goods may be provided as long as it is related to the specific description found in the invoice and there is an unambiguous link between the import document and the movement certificate EUR.1. In this case, the number of the invoice shall be indicated in this box. The tariff classification should preferably be indicated at least at a heading level (four digit code) under the Harmonized System.

If the goods are not packaged, indicate the number of articles or state ‘in bulk’ as appropriate.

The description of the goods must be preceded by an order or item number, without leaving any blank lines or spaces and there should be no blank spaces between the products specified in the certificate. If the box is not completely filled in, a horizontal line must be drawn below the last line of the description and the empty space must be crossed through in such a way that any later additions are impossible.

Where the box is insufficient to permit specification of the necessary particulars for identifying the products, particularly in the case of large consignments, the exporter may specify the products to which the certificate relates on attached invoices of the products and, if necessary, additional commercial documents on condition that:

(a) the invoice numbers are shown in Box 10 of the movement certificate EUR.1;

(b) the invoices and, where relevant, additional commercial documents are firmly attached to the certificate prior to presentation to the competent public authority; and

(c) the competent public authority has stamped the invoices and, where relevant, additional commercial documents, officially attaching them to the certificates.

Box 9

Gross mass (kg) or other measure (litres, m^3, etc.)

Specify the gross mass (kg) or other measure (litres, m^3, etc.) of all the goods listed in box 8 or separately for each item (HS heading).

Box 10

Invoices

Filling in this box is optional. If this box is filled in, indicate the date and invoice number(s).

Box 11

Customs or competent public authority endorsement

This box is for the exclusive use of the competent public or customs authority, as appropriate in each country, which issues the certificate.

Box 12

Declaration by the exporter

This box is for the exclusive use of the exporter or his authorised representative. It must record the place and date when the certificate was drawn up and it must be signed by the exporter or his authorised representative.

The exporter or his authorised representative can sign physically or a Party may allow them to sign digitally the EUR.1 certificate.

By signing this form the exporter or his authorised representative declare that the goods qualify under the provisions of the EU-Central America Agreement.

Box 13 Request for verification and Box 14 Result of verification

These boxes are for the exclusive use of the customs authority or competent public authority in each country, as appropriate, for the purposes of verification.

Article 15 (3)

Documents accompanying a movement certificate EUR.1

An invoice relating to goods exported under preference from the territory of one of the Parties and accompanying a movement certificate EUR.1 can be made out in a third country.

Article 15 (7)

When actual exportation has been effected or ensured

For the purposes of competent authorities issuing a movement certificate EUR.1, exportation is considered to have been effected or ensured through the presentation of the export declaration by the exporter and its acceptance by the customs authority.

Article 16 (1) (b)

Technical reasons

1. A movement certificate EUR.1 may be rejected for technical reasons because it was not made out in the prescribed manner. These are cases which may give rise to subsequent presentation of the retrospectively endorsed certificate and they include, by way of example, the following:

   – the movement certificate EUR.1 has been made out on a form other than the prescribed one (e.g. no guilloche background; differs significantly from the model in size or colour; no serial number; not printed in one of the officially prescribed languages);

   – one of the mandatory boxes (e.g. box 4 on the EUR.1) has not been filled in;

   – the movement certificate EUR.1 is endorsed by a non-competent authority of a Party;

   – the stamp used is one which has not been notified;

   – the date set out in box 11 is prior to the date indicated in box 12;

   – the movement certificate EUR.1 has not been stamped or signed (i.e. in box 11);

   – the movement certificate EUR.1 presented is a copy or photocopy rather than the original;

– the entry in box 2 or 5 refers to a country that does not belong to the Agreement;

– if the horizontal line below the last line of the description and the empty space crossed through is not drawn in box 8.

Action to be taken:

The document should be marked 'Document not accepted' in one of the official languages of the Agreement, stating the reason(s) either on the certificate or on another document issued by the customs authorities. The certificate and where appropriate, the other document, is then returned to the importer in order to enable them to get a new document issued retrospectively. The customs authorities, however, may keep a photocopy of the rejected document for the purposes of post-clearance verification or if they have grounds for suspecting fraud.

2. Notwithstanding the above, minor errors, discrepancies or omissions in the completion of a movement certificate EUR.1, shall not be considered as technical reasons justifying its rejection, as they do not impede the acquisition and appreciation of the relevant information contained in the proof of origin. By way of example, the following cases shall not be considered as technical reasons for rejection:

– typing errors, when there is no doubt about the correctness of the information provided in one or more boxes of a movement certificate EUR.1;

– the information provided exceeds the space available of any individual box;

– one or more boxes are filled using a stamp, provided that all required information is included (e.g. signatures shall be hand-written);

– the unit measure used in box 9 does not correspond to the unit measure indicated in the corresponding invoice (for example: kilos in the movement certificate EUR.1 and square meters in the invoice);

– there is no information on the export document, as referred to in box 11, where the regulations of the exporting country or territory do not require the inclusion of such information;

– the date of issue of the movement certificate EUR.1 does not appear on the prescribed line of box 11, but it is however clearly indicated in that box (for example as part of the official stamp used by the competent authorities to endorse the certificate);

– the optional boxes 3, 6, 7 and 10 are not filled in.

Article 19

Application of the provisions concerning invoice declaration

The following guidelines shall apply:

(a) when an invoice, delivery note or any other commercial document[4], includes originating and non-originating products, they should be identified as such in these documents;

[4] Such a commercial document is for instance the packing list which accompanies the goods.

(b) an invoice declaration filled in the back of the invoice, delivery note or any other commercial document is acceptable.

Article 19(1)(b)

Value basis for the issue and acceptance of invoice declarations made out by any exporter

The ex-works price may be used as the value basis for deciding when an invoice declaration can be used instead of a movement certificate EUR.1 in reference to the value limit laid down in Appendix 6 of Annex II. If the ex-works price is used as the value basis, the importing country shall accept invoice declarations made out by reference to that.

In cases where there is no ex-works price owing to the fact that the consignment is supplied free of charge, the customs value established by the authorities of the country of importation shall be considered as the basis for the value limit.

Article 20

Approved exporter

The term ‘exporter’ refers to people or undertakings, regardless of whether they are producers or traders, as long as they comply with all the other provisions in Annex II.

The status of approved exporter may be granted only after an exporter has submitted a written application. When examining this, the competent public authorities should give particular consideration to the following points:

– whether the exporter exports regularly;

– whether the exporter is, in any moment, in a position to supply evidence of origin for the goods to be exported. In this connection it is necessary to consider whether the exporter knows the current rules of origin and is in possession of all the documents proving origin;

– whether, in the light of his past exporting record, the exporter offers sufficient guarantees concerning the originating status of the goods and the ability to meet all resulting obligations; and

Once an authorization has been issued, exporters must:

– undertake to issue invoice declarations only for goods for which they hold all the necessary proof or accounting elements at the time of issue;

– assume full responsibility for the way the authorization is used, particularly for incorrect origin statements or other misuse of the authorization;

– assume responsibility for ensuring the person in the undertaking responsible for completing invoice declarations knows and understands the rules of origin;

– undertake to keep all documentary proofs of origin for a period of at least three years from the date the declaration was made;

– undertake to submit proofs of origin to the competent public authority at any time, and allow inspections by this authority at any time.

The competent public authority must carry out regular controls on approved exporters. These controls must ensure the continued compliance of the use of the authorization and may be carried out at intervals determined, if possible, on the basis of risk analysis criteria.

The competent public authorities of the Parties must notify the Commission of the European Union of the national numbering system used for designating approved exporters. The Commission of the European Union will then pass on the information to the customs authorities of the other countries.

Article 30

Refusal of preferential treatment without verification

This covers cases in which the proof of origin is considered inapplicable:

– the proof of origin (movement certificate EUR.1) has been issued by a country which does not belong to the Agreement;

– the goods description on box 8 on the movement certificate EUR.1 refers to goods other than those presented;

– the proof of origin (movement certificate EUR.1) contains erasures or words written over one another not initialed and endorsed;

– the time-limit on the proof of origin (movement certificate EUR.1) has expired for reasons other than those covered in the Agreement (e.g. exceptional circumstances), except where the goods were presented before expiry of the time-limit.

Action to be taken:

The proof of origin should be marked ‘INAPPLICABLE’ and retained by the customs authorities to which it was presented in order to prevent any further attempt to use it. Without prejudice to legal actions initiated according to internal legislation, the customs authorities of the importing country shall inform, where it is appropriate to do so the customs or competent public authority of the country of exportation about the refusal without delay.

Annex to the Explanatory Notes:

Terms referring unequivocally to the European Union

Language	EU	European Union (EU)
BG	ЕС	Европейски съюз (ЕС)
CS	EU	Evropská unie
DA	EU	Den Europæiske Union
DE	EU	Europäische Union
EL	ΕΕ	Ευρωπαϊκή Ένωση
EN	EU	European Union
ES	UE	Unión Europea
ET	EL	Euroopa Liit
FI	EU	Euroopan unioni
FR	UE	Union européenne
HR	EU	Europska unija
HU	EU	Európai Unió
IT	UE	Unione europea
LT	ES	Europos Sąjunga
LV	ES	Eiropas Savienība
MT	UE	Unjoni Ewropea
NL	EU	Europese Unie
PL	UE	Unia Europejska
PT	UE	União Europeia
RO	UE	Uniunea Europeană
SK	EÚ	Európska únia
SL	EU	Evropska unija
SV	EU	Europeiska unionen