

DECISION OF THE JOINT EFTA-CHILE COMMITTEE

No. 2 of 2006

(Adopted on 31 January 2006)

ENDORSEMENT OF EXPLANATORY NOTES REGARDING THE
INTERPRETATION, APPLICATION AND ADMINISTRATION OF ANNEX I

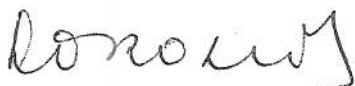
THE JOINT COMMITTEE,

Noting that the Sub-Committee on Customs and Origin Matters has agreed on "Explanatory Notes" regarding the interpretation, application and administration of Annex I,

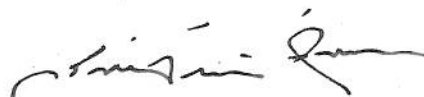
DECIDES:

The Explanatory Notes to Annex I of the Agreement are endorsed as set out in the Annex to this Decision.

Signed in Geneva on 31 January 2006 in two originals.



For the Republic of Chile



For the Republic of Iceland



For the Principality of Liechtenstein



For the Kingdom of Norway



For the Swiss Confederation

EXPLANATORY NOTES TO ANNEX I OF THE AGREEMENT

Article 1 (e) – ‘Ex-works price’

The ex-works of a product shall include:

- the value of all supplied materials used in manufacture,
- all costs (material costs as well as other costs) effectively incurred by the manufacturer. For example, the ex-works price of recorded video cassettes, records, discs, media-carrying computer software and other such products comprising an element of intellectual property rights shall as far as possible include all costs with regard to the use of intellectual property rights for the manufacture of the goods, paid for by the manufacturer, whether or not the holder of such rights has his seat or residence in the country of production.

No account shall be taken of commercial price reductions (e.g. for early payment, or large quantity deliveries).

Article 9 - Origin rule for sets

The origin rule for sets applies only to sets within the meaning of General Rule 3 for the interpretation of the Harmonised System.

According to this provision each product of which the set is composed, with the exception of products the value of which does not exceed 15 per cent of the total value of the set, must fulfil the origin criteria for the heading under which the product would have been classified if it were a separate product and not included in a set regardless of the heading under which the whole set is classified in accordance with the text of the General Rule referred to above.

These provisions remain applicable even if the 15 per cent tolerance is used for that product which under the text of the General Rule referred to above determines the classification of the whole set.

Article 14'- Drawback in cases of errors

Drawback or remission of duty can only be given in the case that a proof of origin has been wrongly issued or made out if the following three conditions have been met:

- (a) the wrongly issued or made out proof of origin is returned to the authorities in the country of export, or, as an alternative, a written statement is made by the authorities in the importing country that no preference has been or will be granted;

- (c) the customs or competent governmental authorities have stamped the invoice and additional commercial documents, officially attaching them to the certificates.

Article 16 - Goods exported by a customs clearance agent

A customs clearance agent may be allowed to act as the authorised representative of the person who is the owner of the goods or has a similar right of disposal over them, even in cases where the person is not situated in the exporting country, as long as the agent is in a position to prove the originating status of the goods.

Article 16 - 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 16 - Terms and abbreviations used for countries in a movement certificate EUR. 1

Goods originating in the EFTA may be indicated in box 4 of the certificate¹ as originating in the relevant EFTA-State: Iceland, Norway, Switzerland. Accordingly, Chile may be indicated as the country of origin.

The EFTA-States and Chile may also use its official abbreviations, IS, NO, CH and CL, (Iso-Alpha-2) and ISL, NOR, CHE and CHL (Iso-Alpha-3).¹

Article 17 - Technical reasons

A movement certificate EUR.1 may be rejected for 'technical reasons' because it was not made out in the prescribed manner. These are the cases which may give rise to subsequent presentation of a 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, except for box 8.
- Tariff classification of the goods at least at a heading (4 digits code) level² is not included in Box 8,
- the movement certificate EUR.1 has not been stamped and signed (i.e. in Box 11),

¹ Identical terms and abbreviations may be legitimately used in box 2 of the movement certificate EUR. 1.

² Accordingly, the proof of origin may legitimately contain a more specific tariff classification of the goods.

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 21 - Approved exporter

The term 'exporter' may refer to persons or undertakings, regardless of whether they are producers or traders, as long as they comply with all the other provisions of this Annex. Customs clearance agents may not be granted approved exporter status within the meaning of this Annex.

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

- whether the exporter exports regularly: here, rather than focusing on a given number of consignments or a particular sum, the customs or competent governmental authorities should look into how regularly the operator carries out such operations,
- whether the exporter is at all times 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. In the case of producers, the authorities must make sure that the undertaking's stock accounts allow identification of the origin of goods and, in the case of new undertakings, that the system they have installed will permit such identification. For operators who are traders only, examination should focus more specifically on their usual trade flows,
- 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.

Once an authorisation 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 authorisation is used, particularly for incorrect origin statements or other misuse of the authorisation,
- 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 that the declaration was made,
- undertake to produce proof of origin to the customs authorities at any time, and allow inspections by those authorities at any time.

The customs or competent governmental authorities must carry out regular controls on authorised exporters. These controls must ensure the continued compliance of the use

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 governmental authorities of the country of exportation about the refusal without delay.

Article 31 - Time-limits for the verification of evidences of origin

No country shall be obliged to answer a request for subsequent verification, as provided for in Article 31, received more than three years after the date of issue of a movement certificate EUR.1 or the date of making out an invoice declaration.

Annex I - Introductory note 6, 6.1

The special rule for textile materials excludes linings and interlinings. The 'pocketing fabric' is a special woven fabric that is exclusively used for the production of pockets and can therefore not be considered as normal lining or interlining. The special rule applies therefore to 'pocketing fabric' (for trousers). The rule applies to woven fabrics in the piece as well as to finished pockets originating in third countries.

Explanatory note for Articles 17 and 31

DE	DOKUMENT NICHT ANGENOMMEN	NICHT ANWENDBAR
EN	DOCUMENT NOT ACCEPTED	INAPPLICABLE
ES	DOCUMENTO RECHAZADO	INAPLICABLE
FR	DOCUMENT REFUSÉ	INAPPLICABLE
IT	DOCUMENTO RESPINTO	INAPPLICABILE
IS	SKJALI HAFNAÐ	ÓNOTHÆFT
NO	DOKUMENT IKKE AKSEPTERT	UGYLDIG