

EXPLANATORY NOTES

TO ANNEX I¹

TO THE FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND MEXICO

(REFERRED TO IN ARTICLE 37 OF ANNEX I TO THE AGREEMENT)

The Parties have agreed to apply the following Explanatory Notes:

Article 13 - Direct transport

For the purpose of Article 13 of Annex I of the EFTA-Mexico Free Trade Agreement and in cases where:

- the exporter did not know the final destination of individual products included in the consignment, and
- the customs authority or the competent governmental authority did not issue the corresponding proof of origin covering the particular goods which were split up during the transport,

the importer will present the “Movement Certificate EUR.1” issued retrospectively or the “Invoice Declaration” issued after the exportation.

Also, the importer may prove that the goods that were in transit through the territory of a non-Party (with or without trans-shipment or temporary storage) were under the surveillance of the customs authorities of such countries. The importer would have to present the following documentation to the customs authorities:

1. Transport documents such as airway bill, bill of landing or road consignment note, as the case may be, in which it is on record the date and place of shipment of the goods and the port, airport or port of entry at the final destination, when the goods were in transit through the territory of one or more countries that are non-Parties, without trans-shipment or temporary storage.
2. Transport documents such as airway bill, bill of landing or road consignment note, as the case may be, or the combined transport document, when the goods were in transit through the territory of one or more countries that are non-Parties, with trans-shipment in such countries and not being subject to temporary storage.
3. Copy of the customs control documentation that provides evidence that the goods remained under surveillance of the customs authority where the goods that were in transit through the territory of one or more countries that are non-Parties were subject to trans-shipment and temporary storage.

In absence of any of the above mentioned documents, and only for the purposes of Articles 13 of Annex I of the EFTA-Mexico Free Trade Agreement, the importer may provide any other supporting document.

¹ Subject to ratification by all Parties of Decision No 1 of 2008 (23 September 2008); entry into force 1 May 2009.

Example 1:

A Mexican manufacturer is shipping its products to Europe. Normally, the destination of the shipment is a non-Party harbour and constitutes one single consignment. On departure from Mexico the exporter does not know the final destination of individual products included in the consignment. During the transport a decision is taken to deliver part of the consignment to an EFTA State, the other part would be delivered to customers in a non-Party. Upon arrival to the harbour of the non-Party the shipment is stored in a customs warehouse. While in the customs warehouse and under customs surveillance, the goods are split up; one part delivered to the customer in the non-Party country, the other part transported further to the customer in the EFTA State.

Upon arrival in the EFTA State the importer will present an "Invoice Declaration" issued after the exportation, i.e. during shipment, or a "Movement Certificate EUR.1" issued retrospectively.

Example 2:

A Swiss company produces its products in Switzerland, exports them in one shipment to a customs warehouse in the European Union (e.g. the Netherlands - third country) for temporary storage. Based on orders from customers in Mexico, part of the initial shipment is sent to Mexico. At that moment the Swiss exporter issues retrospectively an "Invoice Declaration" or a "Movement Certificate EUR.1" and sends the proof of origin to the Mexican importer. If desired, the Mexican customs authorities can ask for transport documents from Switzerland covering the whole shipment from the producer to the Netherlands, and transport documents covering the fare from the Netherlands to Mexico. It would also be required that the transport documents issued in Switzerland and the Netherlands contain the necessary information in order to identify the particular goods imported into Mexico.

Example 3:

In cases of verification of goods being split up, the Customs Administration of the importing country would have the possibility to ask for transport documents, or copies of such documents, covering the passage from the exporting Party through the country of transit. The importer could further be asked to provide documentation from the customs authorities in the country of transit giving exact description of the goods concerned; date for the splitting up of the consignment; identification of the actual means of transport; certifying the conditions under which the products remained in the transit country; or any appropriate documents ascertaining that the direct transport rule had been correctly applied.

Article 17. Invoices made out in a third country

An invoice relating to a product exported as an originating product under the cover of a movement certificate EUR.1 can be made out in a third country.

Article 17. Description of goods on movement certificate EUR.1

Cases of large consignments or generic description of goods

When the box on the movement certificate EUR.1 provided for the description of the goods is insufficient to specify the necessary particulars for identifying the goods, particularly in the case of large consignments, the exporter may specify the goods to which the certificate relates on attached invoices of the goods and, if necessary, additional commercial documents on condition that:

- a) the invoices numbers are shown in Box 8 or 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 customs or the competent governmental authority, and
- c) the customs authority or the competent governmental authority have stamped the invoice and additional commercial documents officially attaching them to the certificates. The customs authorities or the competent governmental authorities must keep with the application of the certificate, a copy of the invoice and additional commercial documents.

Example:

The stamp appears in Box 11 and also on the first page of the invoice and, where appropriate, on any additional commercial documents, or the stamp appears in Box 11 and the other stamp is on the reverse side of the certificate covering the certificate and the first page of the invoice at the same time.

When the invoice relates to originating and non-originating goods, the exporter must identify which goods are originating and which ones are not in the invoice in a precise way so as to avoid any misunderstanding.

Article 17 and 18. 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 17 and 18. Indication of country of origin

To indicate the country of origin of the goods in the movement certificate EUR.1 (Box 4) or in attached invoice(s), it is possible to insert the appropriate name of the countries or to use the ISO-Alpha-2 code. If an ISO-Alpha-2 code is used, the following codes shall apply:

- | | |
|---------------|----|
| - Iceland | IS |
| - Mexico | MX |
| - Norway | NO |
| - Switzerland | CH |

Article 18 (1)(b). 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 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 color, no serial number, not printed in one of the official languages of the Parties or in English),
- one of the mandatory boxes (e.g. Box 4 on the EUR.1) has not been filled in,
- tariff classification of the good at least at a heading (4-digit code) level is not included in Box 8 or in the invoice concerned for the cases referred to in the above paragraph on “description of goods on a movement certificate EUR.1”,
- the movement certificate EUR.1 has not been stamped or signed (i.e. in Box 11),
- the movement certificate EUR.1 is endorsed by a non-authorised authority,
- the stamp used has not been notified,
- 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 not being a Party to the Agreement,
- the date set out in Box 11 is prior to the date indicated in Box 12.

Action to be taken

The document should be marked ‘Document not accepted’ in one of the official languages of the Parties² or in English, stating the reason(s) on the certificate or on another document made out by the customs authority. The certificate and where appropriate, the other documents, is then returned to the importer in order to enable him 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 For the official language versions, see Annex.

Article 21. Application of the provisions concerning invoice declaration

Invoice declarations have to be made out by an exporter established in the territory of one of the Parties. If the invoice is made out in a third country, the invoice declaration can appear on any other commercial document³ issued in the territory of the exporting Party, which describes the products concerned in sufficient detail to enable them to be identified as originating in accordance with Annex I to the Agreement. In such case the exporter of the goods must be identified on the document on which the invoice declaration is made out.

Furthermore, the following guidelines shall apply:

- (a) the wording of the invoice declaration shall be in accordance with the wording set out in Appendix 4 of Annex I to the Agreement;
- (b) the indication of non-originating products and therefore products which are not covered by the invoice declaration should not be made on the declaration itself. However, this indication should appear on the invoice in a precise way so as to avoid any misunderstandings;
- (c) declarations made on carbon copied or photocopied invoices are acceptable provided such declarations bear the signature of the exporter under the same conditions as the original. Approved exporters who are authorised not to sign invoice declarations are not required to sign invoice declarations made on carbon copied or photocopied invoices;
- (d) an invoice declaration on the reverse of the invoice is acceptable;
- (e) the invoice declaration may be made out on a separate sheet of the invoice provided that the sheet is obviously part of the invoice. A complementary form may not be used;

Example:

The origin declaration is made out on the last page of the invoice, that page bearing the same information as the other pages, such as the invoice number, the name and address of the exporter and a consecutive page number.

- (f) an invoice declaration made out on a label which is subsequently attached to the invoice is acceptable provided there is no doubt that the label has been affixed by the exporter. For example, the exporter's stamp or signature should cover both the label and the invoice;
- (g) Notwithstanding the explanatory note to Article 17 and 18 (goods exported by a customs clearance agent), customs clearance agents cannot make out invoice declarations as an authorised representative of an exporter.

³ Such commercial documents are for instance the bill of lading or the packing list which accompany the goods.

(h) If an ISO-Alpha-2 code is used to indicate the country of origin, the following codes shall apply:

- Iceland IS
- Mexico MX
- Norway NO
- Switzerland CH

Article 22. Approved exporter

Customs clearance agents cannot be granted approved exporter status.

ANNEX

to

Explanatory Notes

Expressions in the different language versions

CH	DOKUMENT NICHT ANGENOMMEN
CH	DOCUMENT REFUSÉ
CH	DOCUMENTO RESPINTO
IS	SKJALI HAFNAD
MX	DOCUMENTO RECHAZADO
NO	DOKUMENT IKKE AKSEPTERT
ENGLISH	DOCUMENT NOT ACCEPTED
