

## ANNEX II<sup>1</sup>

### CONCERNING THE DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS” AND METHODS OF ADMINISTRATIVE CO-OPERATION

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# TITLE I

## GENERAL PROVISIONS

### ARTICLE 1: DEFINITIONS

For the purposes of this Annex:

- (a) **“chapters”, “headings” and “subheadings”** mean the chapters, the headings (four-digit codes) and the subheadings (six-digit codes) used in the nomenclature which makes up the Harmonized System (HS);
- (b) **“classified”** refers to the classification of a product or material under a particular heading;
- (c) **“competent public authority”** refers to:

customs authorities of the Member States of the European Union;

For Costa Rica, the *Promotora del Comercio Exterior de Costa Rica (PROCOMER)*, or its successor;

For El Salvador, the *Centro de Trámites de Exportación del Banco Central de Reserva (CENTREX/BCR)* for issuance of movement certificates EUR.1, verification of proofs of origin for exports and to grant the status of approved exporter; and *Dirección General de Aduanas (DGA) del Ministerio de Hacienda* for verification of proofs of origin for imports, or their successors;

For Guatemala, the *Dirección de Administración del Comercio Exterior del Ministerio de Economía* for issuance of movement certificates EUR.1, to grant the status of approved exporter and for verification of proofs of origin, or its successor;

For Honduras, the *Dirección General de Integración Económica y Política Comercial de la Secretaría de Estado en los Despachos de Industria y Comercio* for issuance of movement certificates EUR.1, to grant the status of approved exporter and for verification of proofs of origin, or its successor;

For Nicaragua, the *Centro de Trámites de las Exportaciones (CETREX) del Ministerio de Fomento, Industria y Comercio (MIFIC)* for issuance of movement certificates EUR.1, verification of proofs of origin for exports and to grant the status of approved exporter; and the *Dirección General de Servicios Aduaneros (DGA)* for verification of proofs of origin for imports or their successors; and

For Panama, the *Ministerio de Comercio e Industrias* for issuance of movement certificates EUR.1; and the *Autoridad Nacional de Aduanas* for verification of proofs of origin and to grant the status of approved exporter, or their successors;

- (d) **“consignment”** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document

covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

- (e) **“customs value”** means the value as determined in accordance with the WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 ( hereinafter referred to as “Customs Valuation Agreement”);
- (f) **“ex-works price”** means the price paid for the product ex works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (g) **“goods”** means both materials and products;
- (h) **“manufacture”** means any kind of working or processing, including assembly or specific operations;
- (i) **“material”** means any ingredient, raw material, component or part, amongst others, used in the manufacture of the product;
- (j) **“product”** means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (k) **“value of materials”** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Party;
- (l) **“value of originating materials”** means the value of such materials as defined in (k), applied *mutatis mutandis*.

## **TITLE II**

### **DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”**

#### **ARTICLE 2: GENERAL REQUIREMENTS**

1. For the purpose of implementing Title II (Trade in Goods) of Part IV of this Agreement, the following products shall be considered as originating in the European Union:

- (a) products wholly obtained in the European Union within the meaning of Article 4;
- (b) products obtained in the European Union incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the European Union within the meaning of Article 5.

2. For the purpose of implementing Title II (Trade in Goods) of Part IV of this Agreement, the following products shall be considered as originating in Central America:

- (a) products wholly obtained in Central America within the meaning of Article 4;

- (b) products obtained in Central America incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in Central America within the meaning of Article 5.

### **ARTICLE 3: CUMULATION OF ORIGIN**

1. Materials originating in the European Union shall be considered as materials originating in Central America when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6.

2. Materials originating in Central America shall be considered as materials originating in the European Union when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6.

3. Notwithstanding paragraphs 1 and 2, materials originating in Bolivia, Colombia, Ecuador, Peru or Venezuela shall be considered as materials originating in Central America when further processed or incorporated into a product obtained there<sup>2</sup>.

4. In order for the products referred to in paragraph 3 to acquire originating status, it shall not be necessary that the materials have undergone sufficient working or processing, provided that:

- (a) the working or processing of the materials carried out in Central America went beyond the operations referred to in Article 6;
- (b) the materials were originating in one of the countries listed in paragraph 3, in application of rules of origin identical to those applicable if said materials were exported directly to the European Union; and
- (c) the existing arrangements in force between Central America and the other countries referred to in paragraph 3 allow for adequate administrative co-operation procedures ensuring full implementation of this paragraph, as well as of certification and of verification of the originating status of the products<sup>3</sup>.

5. The originating status of materials exported from one of the countries referred to in paragraph 3 to Central America to be used in further working or processing shall be established by a proof of origin under which these materials could be exported directly to the European Union.

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<sup>2</sup> In case a country set out in this paragraph, no longer benefits from a preferential tariff treatment in the European Union market, preventing Central America from cumulating materials under this Article, the European Union shall take all measures compatible with its WTO obligations necessary to ensure that Central America maintains the same level of flexibility that it is entitled to under Article 3. After receiving a request under this provision the European Union shall, without undue delay, inform the affected Republics of the CA Party on actions taken in order to ensure continuation of cumulation possibilities provided for in this Article.

<sup>3</sup> Arrangements referred to in this paragraph were complied with and notified to the European Union. The notification's reference was published on 29.05.2003 in OJ L 134/1.

6. Proof of the originating status, acquired under the terms of paragraph 4, of goods exported to the European Union shall be established by a movement certificate EUR.1 issued or an invoice declaration made out in the exporting country in accordance with the provisions of Title IV (Proof of Origin) of this Annex. These documents shall bear the mention “cumulation with (name of country)”.

7. At the request of a Republic of the CA Party or the European Union, materials originating in Mexico, South American or Caribbean countries shall be considered as materials originating respectively in Central America or in the European Union when further processed or incorporated into a product obtained there.

8. The request shall be submitted to the Sub-Committee on Customs, Trade Facilitation and Rules of Origin established under Article 123 of Chapter 3 (Customs and Trade Facilitation) of Title II of Part IV of this Agreement.

9. In order for the products referred to in paragraph 7 to acquire originating status, it shall not be necessary that the materials have undergone sufficient working or processing, provided that:

- (a) the working or processing of the materials carried out in Central America or in the European Union went beyond the operations referred to in Article 6;
- (b) the materials were originating in Mexico, South American or Caribbean country, in application of rules of origin identical to those applicable if said materials were exported directly to the European Union;
- (c) the materials were originating in Mexico, South American or Caribbean country, in application of rules of origin identical to those applicable if said materials were exported directly to Central America; and
- (d) the Republics of the CA Party, the European Union and the other country or countries concerned have an arrangement on adequate administrative co-operation procedures which will ensure full implementation of this paragraph as well as of certification and of verification of the originating status of the products.

10. The Parties, on a common accord, shall notify to the Sub-Committee on Customs, Trade Facilitation and Rules of Origin the materials to which the provisions of paragraphs 7 to 12 of this Article shall apply.

11. The cumulation established in paragraphs 7, 8, 9, 10 and 12 of this Article may be applied provided that:

- (a) preferential trade agreements in accordance with Article XXIV GATT 1994 between the non-party concerned and the Republics of the CA Party and the European Union respectively, are in force. This cumulation shall only be applied between the Parties for which those agreements are in force;
- (b) cumulation provisions equivalent to the ones provided under paragraphs 7, 8, 9, 10 and 12 of this Article are contained in the Agreements referred to under (a), in order for the cumulation provisions to apply in a reciprocal manner between the Republics of the CA Party, the European Union and the non-Party concerned, respectively; and

- (c) notices indicating the fulfilment of the necessary requirements to apply cumulation under paragraphs 7, 8, 9, 10 and 12 of this Article have been published in the Official Journal of the European Union (C series), in the official publications of the Republics of the CA Party and of the non-Party countries concerned according to their own procedures.

12. The Parties may establish additional conditions for the application of paragraphs 7 to 11 of this Article.

#### **ARTICLE 4: WHOLLY OBTAINED PRODUCTS**

1. The following shall be considered as wholly obtained in the European Union or in Central America:

- (a) mineral products extracted from their soil or from their seabed;
- (b) vegetable products harvested or grown and gathered there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e)
  - (i) products obtained by hunting conducted there;
  - (ii) products obtained by fishing conducted in their inland waters or within twelve nautical miles measured from the baselines of the European Union or of the Republics of the CA Party;
  - (iii) products of aquaculture, including mariculture where the fish, crustaceans, molluscs and others aquatic invertebrates are born or raised there;
- (f) products of sea fishing and other products taken from the sea outside twelve nautical miles measured from the baselines of the European Union or of the Republics of the CA Party by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in (f);
- (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- (k) goods produced there exclusively from the products specified in (a) to (j).

2. The terms “their vessels” and “their factory ships” in paragraph 1(f) and (g) shall apply only to vessels and factory ships:



- (a) which are registered in a Member State of the European Union or in a Republic of the CA Party in accordance with the domestic legislation of each Party;
- (b) which sail under the flag of a Member State of the European Union or of a Republic of the CA Party; and
- (c) which meet one of the following conditions:
  - (i) they are at least 50 per cent owned by nationals of the Member States of the European Union or of the Republics of the CA Party; or
  - (ii) they are owned by companies
    - which have their head office and their main place of business in a Member State of the European Union or in a Republic of the CA Party, and
    - which are at least 50 per cent owned by a Member State of the European Union or a Republic of the CA Party, public entities or nationals thereof.

3. The conditions of paragraph 2 can be fulfilled in the different countries mentioned in Article 3 under conditions referred to in this Article.

#### **ARTICLE 5: SUFFICIENTLY WORKED OR PROCESSED PRODUCTS**

1. For the purposes of Article 2, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Appendix 2 are fulfilled.

The conditions referred to above indicate, for all products covered by the Agreement, the working or processing which shall be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. It follows that if a product which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list, shall not be used in the manufacture of a product may nevertheless be used, provided that:

- (a) their total value does not exceed 10 per cent of the ex-works price of the product;
- (b) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

This paragraph shall not apply to products falling within Chapters 50 to 63 of the Harmonized System for which Appendix 1 shall apply. Additionally, this paragraph shall not apply to products wholly obtained in the Parties. However, without prejudice to Article 7,

the tolerance provided for in this paragraph applies also to the materials which are used in the manufacture of a product and for which the rule laid down in the list in Appendix 2 for that product requires that such materials be wholly obtained.

3. Paragraphs 1 and 2 shall apply subject to the provisions of Article 6.

#### **ARTICLE 6: INSUFFICIENT WORKING OR PROCESSING**

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) slaughter of animals;
- (p) a combination of two or more operations specified in (a) to (o).

2. All operations carried out in the European Union or in Central America on a given product shall be considered together when determining whether the working or processing

undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

#### **ARTICLE 7: UNIT OF QUALIFICATION**

1. The unit of qualification for the application of the provisions of this Annex shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.

It follows that:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the provisions of this Annex.

2. Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

#### **ARTICLE 8: ACCESSORIES, SPARE PARTS AND TOOLS**

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

#### **ARTICLE 9: SETS**

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

#### **ARTICLE 10: NEUTRAL ELEMENTS**

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter and which are not intended to enter into the final composition of the product.

## TITLE III

### TERRITORIAL REQUIREMENTS

#### ARTICLE 11: PRINCIPLE OF TERRITORIALITY

1. The conditions set out in Title II of this Annex, relating to the acquisition of originating status must be fulfilled without interruption in the European Union or Central America.

2. If originating goods exported from the European Union or from Central America to another country return, they shall be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the returning goods are the same as those exported; and
- (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

3. The acquisition of originating status in accordance with the conditions set out in Title II of this Annex shall not be affected by working or processing done outside the Parties on materials exported from the European Union or from Central America and subsequently re-imported there, provided that:

- (a) said materials are wholly obtained in the European Union or in Central America or have undergone working or processing beyond the operations referred to in Article 6 prior to being exported; and
- (b) it can be demonstrated to the satisfaction of the customs authorities that:
  - (i) the re-imported goods have been obtained by working or processing the exported materials; and
  - (ii) the total added value acquired outside the Parties by applying the provisions of this Article does not exceed 10 per cent of the ex-works price of the end product for which originating status is claimed.

4. For the purposes of paragraph 3, the conditions for acquiring originating status set out in Title II of this Annex shall not apply to working or processing done outside the Parties. But where, in the list in Appendix 2, a rule setting a maximum value for all the non-originating materials incorporated is applied in determining the originating status of the end product, the total value of the non-originating materials incorporated in the territory of the Party concerned, taken together with the total added value acquired outside the Parties by applying the provisions of this Article, shall not exceed the stated percentage.

5. For the purposes of applying the provisions of paragraphs 3 and 4, “total added value” shall mean all costs arising outside the Parties, including the value of the materials incorporated there.

6. The provisions of paragraphs 3 and 4 shall not apply to products which do not fulfil the conditions set out in the list in Appendix 2 or which can be considered sufficiently worked or processed only if the general tolerance fixed in Article 5, paragraph 2 is applied.

7. The provisions of paragraphs 3 and 4 shall not apply to products of Chapters 50 to 63 of the Harmonized System.

8. Any working or processing of the kind covered by the provisions of this Article and done outside the Parties shall be done under the outward processing arrangements, or similar arrangements.

#### **ARTICLE 12: DIRECT TRANSPORT**

1. The preferential tariff treatment provided for under this Agreement applies only to products satisfying the requirements of this Annex, which are transported directly between the Parties. However, products may be transported through other territories, should the occasion arise, trans-shipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline across territories other than those of the Parties.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing Party by the production of:

- (a) a single transport document covering the passage from the exporting Party through the country of transit; or
- (b) certification issued by the customs authorities of the country of transit containing the following:
  - (i) an exact description of the products,
  - (ii) the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and
  - (iii) the conditions under which the products remained in the transit country; or
- (c) failing these, any substantiating documents to the satisfaction of the customs authority of the importing Party.

#### **ARTICLE 13: EXHIBITIONS**

1. Originating products, sent for exhibition in a country other than the Parties and sold after the exhibition for importation into the territory of a Party shall benefit on importation from the provisions of this Agreement provided it is shown to the satisfaction of the customs authorities that:

- (a) an exporter has consigned these products from the European Union or from a Republic of the CA Party to the country in which the exhibition is held and has exhibited them there;

- (b) the products have been sold or otherwise disposed of by that exporter to a person in the territory of a Party;
- (c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and
- (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title IV of this Annex and submitted to the customs authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

## **TITLE IV**

### **PROOF OF ORIGIN**

#### **ARTICLE 14: GENERAL REQUIREMENTS**

1. Products originating in the European Union shall, on importation into Central America, and products originating in Central America shall, on importation into the European Union, benefit from this Agreement upon submission of either:

- (a) a movement certificate EUR.1, a specimen of which appears in Appendix 3; or
- (b) in the cases specified in Article 19, paragraph 1, a declaration, subsequently referred to as the “invoice declaration”, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified; the text of the invoice declaration appears in Appendix 4.

2. Notwithstanding paragraph 1, originating products within the meaning of this Annex shall, in the cases specified in Article 24, benefit from the Agreement without it being necessary to submit any of the documents referred to above.

#### **ARTICLE 15: PROCEDURE FOR THE ISSUE OF A MOVEMENT CERTIFICATE EUR.1**

1. A movement certificate EUR.1 shall be issued by the competent public authority of the exporting Party on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Appendix 3. These forms shall be completed in one of the languages in which this Agreement is drawn up and in accordance with the provisions of the domestic legislation of

the exporting Party. If they are hand-written, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. The exporter applying for the issue of a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the competent public authority of the exporting Party where the movement certificate EUR.1 is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.

4. A movement certificate EUR.1 shall be issued by the competent public authority of a Member State of the European Union or of a Republic of the CA Party if the products concerned can be considered as products originating in the European Union or in Central America and fulfil the other requirements of this Annex.

5. The competent public authorities issuing movement certificates EUR.1 shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Annex. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounting records<sup>4</sup> or any other check considered appropriate. They shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the movement certificate EUR.1 shall be indicated in box 11 of the certificate.

7. A movement certificate EUR.1 shall be issued by the competent public authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

#### **ARTICLE 16: MOVEMENT CERTIFICATES EUR.1 ISSUED RETROSPECTIVELY**

1. Notwithstanding Article 15, paragraph 7, a movement certificate EUR.1 may exceptionally be issued after exportation of the products to which it relates if:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the competent public authorities that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.

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<sup>4</sup> For greater certainty, whenever the concept of “account” is used in this Annex or in its appendixes, it shall be understood as referring to accounting records.

3. The competent public authorities may issue a movement certificate EUR.1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. Movement certificates EUR.1 issued retrospectively must be endorsed with the phrase “issued retrospectively” in one of the following languages:

BG	“ИЗДАДЕН ВПОСЛЕДСТВИЕ”
ES	“EXPEDIDO A POSTERIORI”
CS	“VYSTAVENO DODATEČNE”
DA	“UDSTEDT EFTERFØLGENDE”
DE	“NACHTRÄGLICH AUSGESTELLT”
ET	“TAGANTJÄRELE VÄLJA ANTUD”
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	“MAHRUG RETROSPETTIVAMENT”
NL	“AFGEGEVEN A POSTERIORI”
PL	“WYSTAWIONE RETROSPEKTYWNIĘ”
PT	“EMITIDO A POSTERIORI”
RO	“EMIS A POSTERIORI”
SK	“VYDANÉ DODATOČNE”
SL	“IZDANO NAKNADNO”
FI	“ANNETTU JÄLKIKÄTEEN”
SV	“UTFÄRDAT I EFTERHAND”

5. The endorsement referred to in paragraph 4 shall be inserted in the “Remarks” box of the movement certificate EUR.1.

#### **ARTICLE 17: ISSUE OF A DUPLICATE MOVEMENT CERTIFICATE EUR.1**

1. In the event of theft, loss or destruction of a movement certificate EUR.1, the exporter may apply to the competent public authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with the phrase “duplicate” in one of the following languages:

BG	“ДУБЛИКАТ”
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”
RO	“DUPLICAT”
SK	“DUPLIKÁT”
SL	“DVOJNIK”
FI	“KAKSOISKAPPALE”
SV	“DUPLIKAT”

3. The endorsement referred to in paragraph 2 shall be inserted in the “Remarks” box of the duplicate movement certificate EUR.1.

4. The duplicate, which must bear the date of issue of the original movement certificate EUR.1, shall take effect as from that date.

**ARTICLE 18: ISSUE OF MOVEMENT CERTIFICATES EUR.1 ON THE BASIS OF A PROOF OF ORIGIN ISSUED OR MADE OUT PREVIOUSLY**

When originating products are placed under the control of a customs office in a Party, it shall be possible to replace the original proof of origin by one or more movement certificates EUR.1 for the purpose of sending all or some of these products elsewhere within the European Union or Central America. The replacement movement certificate(s) EUR.1 shall be issued by the customs office in the EU Party under whose control the products are placed or by the respective competent public authority of the Republics of the CA Party.

**ARTICLE 19: CONDITIONS FOR MAKING OUT AN INVOICE DECLARATION**

1. An invoice declaration as referred to in Article 14, paragraph 1(b) may be made out:

- (a) by an approved exporter within the meaning of Article 20; or
- (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed the amount in Euros established in Appendix 6 (Amounts referred to in Articles 19, paragraph 1 (b) and 24, paragraph 3 of Annex II, concerning the Definition of the Concept of “Originating Products” and Methods of Administrative Co-operation).

2. An invoice declaration may be made out if the products concerned can be considered as products originating in the European Union or in Central America and fulfil the other requirements of this Annex.

3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the competent public authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the text of the declaration included in Appendix 4, by using one of the linguistic versions set out in that

Appendix and in accordance with the provisions of the domestic legislation of the exporting Party. If the declaration is hand-written, it shall be written in ink in printed characters.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 20 shall not be required to sign such declarations provided that he gives the competent public authorities of the exporting Party a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing Party no longer than the period established in Appendix 5.

#### **ARTICLE 20: APPROVED EXPORTER**

1. The competent public authorities of the exporting Party 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 competent public authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Annex.

2. The competent public authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The competent public authorities shall grant to the approved exporter an authorisation number which shall appear on the invoice declaration.

4. The competent public authorities shall monitor the use of the authorisation by the approved exporter.

5. The competent public authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

#### **ARTICLE 21: VALIDITY OF PROOF OF ORIGIN**

1. A proof of origin shall be valid for twelve months from the date of issue in the exporting Party, and shall be submitted within said period to the customs authorities of the importing Party.

2. Proofs of origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential tariff treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing Party may accept the proofs of origin where the products have been submitted before said final date.

4. According to the domestic legislation of the importing Party, a preferential tariff treatment may be awarded, when it proceeds, through the reimbursement of the tariffs in a

period no longer than the period established in Appendix 5 from the date of acceptance of the import declaration, where a proof of origin is presented indicating that the imported goods were at that date eligible for preferential tariff treatment.

#### **ARTICLE 22: SUBMISSION OF PROOF OF ORIGIN**

Proofs of origin shall be submitted to the customs authorities of the importing Party in accordance with the procedures applicable in that Party. Said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

#### **ARTICLE 23: IMPORTATION BY INSTALMENTS**

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2 (a) of the Harmonized System falling within Sections XVI and XVII or headings 7308 and 9406 of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

#### **ARTICLE 24: EXEMPTIONS FROM PROOF OF ORIGIN**

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Annex and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed in the case of small packages or of products forming part of travellers' personal luggage, the amounts in Euros established in Appendix 6 (Amounts referred to in Articles 19, paragraph 1 (b) and 24, paragraph 3 of Annex II, concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Co-operation).

#### **ARTICLE 25: SUPPORTING DOCUMENTS**

The documents referred to in Articles 15, paragraph 3 and 19, paragraph 3 used for the purpose of proving that products covered by a movement certificate EUR.1 or an invoice declaration can be considered as products originating in the European Union or in Central America and fulfil the other requirements of this Annex may consist *inter alia* of the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounting records or internal book-keeping;

- (b) documents proving the originating status of materials used, issued or made out in a Party, where these documents are used in accordance with domestic legislation;
- (c) documents proving the working or processing of materials in the European Union or in Central America, issued or made out in a Party, where these documents are used in accordance with domestic legislation;
- (d) movement certificates EUR.1 or invoice declarations proving the originating status of materials used, issued or made out in a Party in accordance with this Annex.

#### **ARTICLE 26: PRESERVATION OF PROOF OF ORIGIN AND SUPPORTING DOCUMENTS**

1. The exporter applying for the issuance of a movement certificate EUR.1 shall keep for at least three years the documents referred to in Article 15, paragraph 3.
2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Article 19, paragraph 3.
3. The competent public authority of the exporting Party issuing a movement certificate EUR.1 shall keep for at least three years the application form referred to in Article 15, paragraph 2.
4. The customs authorities of the importing Party shall keep for at least three years the movement certificates EUR.1 and the invoice declarations submitted to them, which may be kept in electronic format.

#### **ARTICLE 27: DISCREPANCIES AND FORMAL ERRORS**

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.
2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

#### **ARTICLE 28: AMOUNTS EXPRESSED IN EURO**

1. For the application of the provisions of Article 19, paragraph 1(b) and Article 24, paragraph 3 in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States of the European Union or of the Republics of the CA Party equivalent to the amounts expressed in euro shall be fixed annually by each Member State of the European Union or Republic of the CA Party concerned.
2. A consignment shall benefit from the provisions of Article 19, paragraph 1(b) or Article 24, paragraph 3 by reference to the currency in which the invoice is drawn up,

according to the amount fixed by the Member State of the European Union or Republic of the CA Party concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by October 15th, and shall apply from January 1st, the following year. The European Commission shall notify the Member States of the European Union or Republics of the CA Party concerned of the relevant amounts.

4. The Member States of the European Union and the Republics of the CA Party may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 per cent. A Member State of the European Union or a Republic of the CA Party may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 per cent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in euro shall be reviewed by the Association Committee at the request of a Party. When carrying out this review, the Association Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

## **TITLE V**

### **ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION**

#### **ARTICLE 29: ADMINISTRATIVE CO-OPERATION**

1. The competent public authorities of the Parties shall provide each other, through the European Commission, with specimen impressions of stamps used in their offices for the issue of movement certificates EUR.1 and with the addresses of the competent public authorities responsible for verifying those certificates and invoice declarations.

2. In order to ensure the proper application of this Annex, the Parties shall assist each other, through their respective competent public authorities or, when applicable, customs authorities in checking the authenticity of the movement certificates EUR.1 or the invoice declarations and the correctness of the information given in these documents.

#### **ARTICLE 30: VERIFICATION OF PROOFS OF ORIGIN**

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authority or, when applicable, competent public authority of the importing Party have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Annex.

2. For the purposes of implementing the provisions of paragraph 1, the customs authority or, when applicable, competent public authority of the importing Party shall return the movement certificate EUR.1 and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the competent public authorities of the

exporting Party giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the competent public authorities of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounting records or any other check considered appropriate related to origin and according the procedures of its domestic legislation.

4. If the customs authorities of the importing Party decide to suspend the granting of preferential tariff treatment to the products from the exporter subject to verification, while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The competent public authorities or, when applicable, customs authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the European Union or in Central America and fulfil the other requirements of this Annex.

6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities or, when applicable, competent public authority shall, except in exceptional circumstances, refuse entitlement to the preferences to the products covered by the proof of origin subject to verification.

#### **ARTICLE 31: DISPUTE SETTLEMENT**

1. Where disputes arise in relation to the verification procedures of Article 30, which cannot be settled between the authorities requesting verification and the authorities responsible for carrying out this verification, or in relation to the interpretation of this Annex, the requests for the settlement of those disputes shall be submitted to the Sub-Committee on Customs, Trade Facilitation and Rules of Origin for consultations and discussions within the Sub-Committee. In any case, the Parties shall retain their rights under the dispute settlement mechanism established in Title X (Dispute Settlement) of Part IV of this Agreement.

2. In all cases the settlement of disputes between the importer and the customs authorities of the importing Party shall be under the domestic legislation of said Party.

#### **ARTICLE 32: PENALTIES**

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential tariff treatment for products.

#### **ARTICLE 33: FREE ZONES**

1. The European Union and the Republics of the CA Party shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone or a customs warehouse situated in their territory in accordance

with their domestic legislation, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in the European Union or in Central America are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the competent public authorities shall issue a new movement certificate EUR.1 at the exporter's request, if the treatment or processing undergone is in conformity with the provisions of this Annex.

## **TITLE VI**

### **CEUTA AND MELILLA**

#### **ARTICLE 34: APPLICATION OF THIS ANNEX**

1. The term “European Union” used in Article 2 does not cover Ceuta and Melilla.
2. Products originating in Central America, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. The Republics of the CA Party shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the European Union.
3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Annex shall apply *mutatis mutandis* subject to the special conditions set out in Article 35.

#### **ARTICLE 35: SPECIAL CONDITIONS**

1. Provided that they have been transported directly in accordance with the provisions of Article 12, the following shall be considered as:
  - (a) products originating in Ceuta and Melilla:
    - (i) products wholly obtained in Ceuta and Melilla;
    - (ii) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in (a) are used, provided that:

said products have undergone sufficient working or processing within the meaning of Article 5; or that

those products are originating in Central America or in the European Union, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.
  - (b) products originating in Central America:
    - (i) products wholly obtained in the Central America;

- (ii) products obtained in Central America, in the manufacture of which products other than those referred to in (a) are used, provided that:

the said products have undergone sufficient working or processing within the meaning of Article 5; or that

those products are originating in Ceuta and Melilla or in the European Union, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.

2. Ceuta and Melilla shall be considered as a single territory.

3. The exporter or his authorised representative shall enter “Central America” and “Ceuta and Melilla” in box 2 of movement certificates EUR.1 or on invoice declarations. In addition, in the case of products originating in Ceuta and Melilla, this shall be indicated in box 4 of movement certificates EUR.1 or on invoice declarations.

4. The Spanish customs authorities shall be responsible for the application of this Annex in Ceuta and Melilla.

## **TITLE VII**

### **FINAL PROVISIONS**

#### **ARTICLE 36: AMENDMENTS TO THIS ANNEX**

The Association Council may decide to modify the provisions of the Appendixes to this Annex.

#### **ARTICLE 37: EXPLANATORY NOTES**

The Parties shall agree “Explanatory Notes” regarding the interpretation, application and administration of this Annex within the Sub-Committee on Customs, Trade Facilitation and Rules of Origin, in order to recommend its approval by the Association Council.

#### **ARTICLE 38: TRANSITIONAL PROVISIONS FOR PRODUCTS IN TRANSIT OR STORAGE**

The provisions of this Agreement may be applied to products which comply with the provisions of this Annex and which on the date of entry into force of this Agreement are either in transit or are in the Parties in temporary storage in customs warehouses or in free zones, subject to the submission to the customs authorities of the importing Party, within four months of that date, of a proof of origin made out retrospectively together with the documents showing that the goods have been transported directly in accordance with Article 12.

#### **ARTICLE 39: TRANSITIONAL PROVISION FOR CUMULATION PURPOSES**

The Parties for which this Agreement has entered into force in accordance with Article 353 of Part V (General and Final Provisions), may use materials originating in the Republics of the CA Party for which the Agreement has not yet entered into force. Article 3 of this Annex shall be applied *mutatis mutandis*.