

DECISION OF THE JOINT EFTA-MEXICO COMMITTEE
No. 1 of 2008

(Adopted on 23 September 2008)

AMENDMENTS TO ANNEX I

DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS AND
METHODS OF ADMINISTRATIVE CO-OPERATION

AND ENDORSEMENT OF EXPLANATORY NOTES TO ARTICLE 13
OF ANNEX I

THE JOINT COMMITTEE,

With the aim of enhancing the opportunities created by the Agreement, by allowing for the splitting-up of consignments of originating products in a non-Party under the surveillance of customs authorities,

Noting that the Sub-Committee on Customs and Origin Matters has agreed on “Explanatory Notes” regarding direct transport,

Having regard to paragraph 8 of Article 70 of the Agreement, empowering the Joint Committee to amend the Annexes to the Agreement,

DECIDES:

1. The following amendments shall be made to Annex I to the Agreement:
 - (a) The definition of the term “consignment” in paragraph 1 of Article 1 shall be deleted.
 - (b) Article 13 shall be replaced by the revised Article 13 as set out in Annex I to this Decision.
2. The Explanatory Notes to Article 13 of Annex I to the Agreement, as set out in Annex II to this Decision, are endorsed.
3. Each Party shall notify the Depositary of the completion of its necessary legal procedures required to bring this Decision into force and it shall enter into force on the first day of the second month following the date of the last such notification.

4. The Secretary-General of the European Free Trade Association shall deposit the text of this Decision with the Depositary.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have adopted these decisions.

Signed in Geneva on 23 September 2008 in two originals.

For the United Mexican States

For the Republic of Iceland

For the Principality of Liechtenstein

For the Kingdom of Norway

For the Swiss Confederation

ARTICLE 13

Direct transport

1. The preferential treatment provided for under this Agreement applies only to products satisfying the requirements of this Annex, which are transported directly between an EFTA State and Mexico. However, products may be transported through other countries with, should the occasion arise, trans-shipment or temporary warehousing in such countries, 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, splitting-up of consignments or any operation designed to preserve them in good condition.

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

- (a) transport documents covering the passage from the exporting Party through the country of transit; or
 - (b) failing these, any other substantiating documents.
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EXPLANATORY NOTES TO ARTICLE 13 OF ANNEX I TO THE AGREEMENT

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.

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.
