



Brussels, 17.5.2016
COM(2016) 262 final

2016/0136 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted on behalf of the European Union within the EU-Central America Association Council regarding Explanatory Notes to Article 15 of Annex II to the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America, on the other, was signed in Tegucigalpa, Honduras on 29 June 2012 and has been provisionally applied from 2013.

Annex II to the Association Agreement sets out the definition of the concept of "originating products" and methods of administrative cooperation. Article 37 of Annex II states that 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 in order to recommend its approval by the Association Council.

The Sub-Committee on Customs, Trade Facilitation and Rules of Origin met on 1-2 June 2015 in Brussels and agreed Explanatory Notes. They cover guidance for Article 15 of Annex II to the Agreement for the issue and completion of movement certificates EUR.1 which can be used as proof of origin.

A specimen of the EUR.1 movement certificate is contained in Appendix 3 to Annex II to the Association Agreement. However, in practice there are small differences between Appendix 3 and the wording used on the certificates printed by the Member States. The Explanatory Notes allow flexibility over the wording without invalidating the certificates so long as all Parties have a copy of the certificate used and the wording does not change the information required to be completed by the exporter.

The information required to be completed by the exporter on the movement certificate EUR.1 for presentation to the customs authority needs to be clear and should avoid any possible misuse. For this reason the Explanatory Notes provide guidance on the completion of all the boxes on the movement certificate EUR.1.

- **Consistency with existing policy provisions in the policy area**

The proposal is consistent with other Explanatory Notes agreed in the Free Trade Agreements between the European Union and Chile, and Mexico.

- **Consistency with other Union policies**

The use of Explanatory Notes supports better regulation.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

As the proposal relates to the commercial policy of the European Union the appropriate legal basis is Article 207(4) first subparagraph in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the exclusive competence of the European Union.

- **Proportionality**

The proposal does not go beyond what is necessary or appropriate to achieve the expected objectives.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Not relevant as the proposal only provides guidance to an existing agreement.

- **Collection and use of expertise**

Not relevant as the proposal only provides guidance to an existing agreement.

- **Impact assessment**

This proposal introduces guidance to an existing bilateral trade agreement. There are no other options to be considered.

4. BUDGETARY IMPLICATIONS

The proposal has no implication for the Union budget.

5. OTHER ELEMENTS

None

Proposal for a

COUNCIL DECISION

on the position to be adopted on behalf of the European Union within the EU-Central America Association Council regarding Explanatory Notes to Article 15 of Annex II to the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other¹ (the "Agreement"), was initialled on 22 March 2011 and signed on 29 June 2012. Pursuant to Article 353(4) of the Agreement, Part IV thereof has been applied provisionally since 1 August 2013 between the Union, Nicaragua, Honduras and Panama, since 1 October 2013 between those parties and El Salvador and Costa Rica, and since 1 December 2013 between the Union, Nicaragua, Honduras, Panama, El Salvador and Costa Rica on the one side and Guatemala on the other.
- (2) Article 37 of Annex II to the Agreement, provides that the parties to the Agreement shall agree within the Sub-Committee on Customs, Trade Facilitation and Rules of Origin, established in accordance with Article 123 of the Agreement (the "Sub-Committee"), on "Explanatory Notes" regarding the interpretation, application and administration of Annex II and recommend their approval by the Association Council.
- (3) The Sub-Committee met on 1 and 2 June 2015 and agreement was reached on Explanatory Notes to Article 15 of Annex II to the Agreement on the filling-in and printing of a movement certificate EUR.1 (the "Explanatory Notes").
- (4) As the movement certificate EUR.1. set out in Appendix 3 to Annex 3 to the Agreement is only a specimen, minor differences might occur in the forms printed by the different authorities. In order to ensure that such 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 and printing of the movement certificate EUR.1. The position to be adopted on the Union's behalf within the Association Council should be based on the attached draft decision,

¹ OJ L 346, 15.12.2012, p. 3.

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on the Union's behalf within the Association Council regarding Explanatory Notes to Article 15 to Annex II to the Agreement, on EUR.1 movement certificates, shall be based on the draft Decision of the Association Council attached to this Decision.

2. Minor changes to the draft Decision of the Association Council may be agreed to by the representatives of the Union in the Association Council without further decision of the Council.

Article 2

After its adoption, the Decision of the Association Council shall be published in the Official Journal of the European Union.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*