



Brussels, 21.10.2016
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2016/0328 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an Exchange of Letters between the European Union and the Swiss Confederation on the cumulation of origin between the European Union, the Swiss Confederation, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

The proposal takes place in the context of the reform of the GSP rules of origin of 2010 introduced with Regulation (EU) No 1063/2010 of 18 November 2010, which amended Regulation (EEC) No 2454/93.

The reform conditionally included Turkey in the system of cumulation of origin which used to work until then between the Union, Switzerland and Norway.

The reform also introduced a new system of certification of origin by registered exporters, the application of which is deferred until 1 January 2017.

Based on the elements above, the existing legal instrument applicable to the system of cumulation of origin between the Union and Switzerland has to be revised. This is the purpose of the present proposal.

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

The proposal is consistent with the common trade policy, particularly with customs, the free circulation of goods and the rules of origin.

- **Consistency with other Union policies**

N/A.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The Treaty on the Functioning of the European Union, and in particular Article 218(6); the Council Decision No 2001/101/EC of 05.12.2000.

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

The proposal is linked to the common trade policy, which is an exclusive competence of the Union.

- **Proportionality**

This proposal is in line with the principle of proportionality because its effects are strictly limited to what is necessary to provide for extension to Turkey of the cumulation existing in relation to products of Swiss and Norwegian origin.

- **Choice of the instrument**

Pursuant to Article 218(6) of the Treaty on the Functioning of the European Union, the Council shall adopt a Decision authorising the conclusion of the Agreement on a proposal by the negotiator. This is a proposal for such a Decision.

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

- **Ex-post evaluations/fitness checks of existing legislation**

N/A.

- **Stakeholder consultations**

The consultations with the interested parties have given way to an Agreement fully accepted in all its elements.

- **Collection and use of expertise**

N/A.

- **Impact assessment**

No Impact Assessment was carried out with reference to the accompanying roadmap and the Guidelines on Better Regulation because the proposal relates to the cumulation of origin between the Union, Switzerland, Norway and possibly Turkey, a system which already existed and which is now adapted in order to meet the technical requirements implied by the implementation of the REX system as of 1st January 2017.

- **Regulatory fitness and simplification**

N/A.

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

N/A.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The measure will be regularly assessed by the Parties which will be involved in regular contacts, training sessions and meetings related to the implementation of the REX system.

- **Explanatory documents (for directives)**

N/A.

- **Detailed explanation of the specific provisions of the proposal**

The previous Agreement in the form of an Exchange of Letters between the Community and each of the EFTA countries that grants tariff preferences under the Generalised System of Preferences (Norway and Switzerland), providing that goods with content of Norwegian or Swiss origin shall be treated on their arrival on the customs territory of the Community as goods with content of Community origin, approved on behalf of the European Community (Council Decision of 05.12.2000), needs to be replaced by a new Agreement to take into account the reform of the GSP rules of origin adopted by Regulation No 1063/2010 of 18.11.2010. Following the authorisation given by the Council to the Commission on 8 March 2012, negotiations have been conducted and concluded with Switzerland on this new Agreement.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(6)(a)(v) thereof,²

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) In accordance with Article 41(b) of Commission Delegated Regulation (EU) 2015/2446¹, products obtained in Norway, Switzerland or Turkey incorporating materials which have not been wholly obtained there are to be considered as products originating in a beneficiary country, provided that such materials have undergone sufficient working or processing within the meaning of Article 45 of that Delegated Regulation (system of cumulation).
- (2) Pursuant to Article 54 of Commission Delegated Regulation (EU) 2015/2446, the system of cumulation applies on condition that Switzerland grants, by reciprocity, the same treatment to products originating in beneficiary countries which incorporate materials originating in the Union.
- (3) In so far as Switzerland is concerned, this system of cumulation was initially put in place through an Agreement in the form of an exchange of letters between the Union and Switzerland. That exchange of letters took place on 14 December 2000, after the Council had given its approval by Decision 2001/101/EC².
- (4) In order to ensure the application of a concept of origin corresponding to that set out in the rules of origin in the Generalised System of Preferences ("GSP") of the Union, Switzerland has modified its GSP rules of origin. Therefore, it is necessary to revise the Agreement in the form of an exchange of letters between the Union and Switzerland.

¹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

² Council Decision 2001/101/EC of 5 December 2000 concerning the approval of an Agreement in the form of an Exchange of Letters between the Community and each of the EFTA countries that grants tariff preferences under the Generalised System of Preferences (Norway and Switzerland), providing that goods with content of Norwegian or Swiss origin shall be treated on their arrival on the customs territory of the Community as goods with content of Community origin (reciprocal agreement) (OJ L 38, 8.2.2001, p. 24).

- (5) The system of mutual acceptance of replacement certificates of origin Form A by the Union, Norway and Switzerland should continue under the revised exchange of letters and be conditionally applied by Turkey, in order to facilitate trade between the Union, Norway, Switzerland and Turkey.
- (6) Moreover, the rules of origin in the GSP of the Union provide for the implementation of a new system for the establishment of proofs of origin by registered exporters, which is to be applied from 1 January 2017. Modifications in the exchange of letters also need to be made in this regard.
- (7) In order to anticipate the application of that new system and the rules relating thereto, the Council authorised on 8 March 2012 the Commission to negotiate an Agreement with Switzerland, in the form of an exchange of letters, concerning the mutual acceptance of replacement certificates of origin Form A or replacement statements of origin and providing that products with content of Norwegian, Swiss or Turkish origin are to be treated on their arrival on the customs territory of the Union as products with content of Union origin.
- (8) The negotiations with Switzerland were conducted by the Commission and led to an Agreement in the form of an Exchange of Letters.
- (9) The Agreement should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement in the form of an Exchange of Letters between the European Union and the Swiss Confederation on the cumulation of origin between the European Union, the Swiss Confederation, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union ("the Agreement") is hereby approved on behalf of the Union.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, with the notification provided for in paragraph 18 of the Agreement in the form of Exchanges of Letters, in order to express the consent of the European Union to be bound by the Agreement.

Article 3

This Decision shall enter into force on 1st January 2017.

Done at Brussels,

*For the Council
The President*