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To the tariff quota managers and members of the Customs Expert Group on Origin Matters in the Member States

Subject: COMMISSION IMPLEMENTING REGULATION (EU) 2015/2405 of 18 December 2015 opening and providing for the management of EU tariff quotas for agricultural products originating in Ukraine¹

Dear colleagues,

In order to avoid any confusion and to ensure a smooth implementation of the above mentioned Regulation, we would like to give clear guidelines on the application of the provisions of its Article 3 which reads as follows:

Article 3

*The products listed in the Annex shall be accompanied by proof of origin as set out in **Annex III to Protocol I** to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part.*

This provision would imply that the benefit of the applied zero-tariff rates quotas (TRQs) is strictly conditional upon the presentation of a movement certificate EUR.1.

Nevertheless, we would like to confirm that, in this particular case, Title V of Protocol I to the EU-Ukraine Association Agreement (OJ L 161, 29.5.2014²) has to be considered and that, in some cases (as detailed in Article 22(1) of this Protocol), a declaration given by the exporter on an invoice can be accepted as proof of origin.

Article 16, 22(1) and Article 23 of Protocol 1 read as follows:

TITLE V

PROOF OF ORIGIN

Article 16

General requirements

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

*(a) **a movement certificate EUR.1**, a specimen of which appears in Annex III to this Protocol; **or***

*(b) in the cases specified in Article 22(1) of this Protocol, **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*

¹ For the Regulation in all EU official languages see: http://eur-lex.europa.eu/eli/reg_impl/2015/2405/oj

² Text of the EU-Ukraine Association Agreement:

http://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf

detail to enable them to be identified; the text of the invoice declaration appears in Annex IV to this Protocol.

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 27, benefit from the Agreement without it being necessary to submit any of the documents referred to above.

Article 22

Conditions for making out an invoice declaration

1. An invoice declaration as referred to in Article 16(1)(b) of this Protocol may be made out:

*(a) by an **approved exporter** within the meaning of Article 23 of this Protocol,*

or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6,000.

Article 23

Approved exporter

1. The customs authorities of the exporting country 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 customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.

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

3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.

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

5. The customs 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 of this Article, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Therefore, in cases where provisions of Article 22(1) of Protocol 1 to the EU-Ukraine Association Agreement are respected, we would recommend to accept the invoice declaration as alternative proof of origin to the EUR.1 certificate.

Best regards,

Patrick WALLEZ