

Joint Minutes

7th Colombia/Ecuador/Peru/EU Sub-committee on Customs, Trade Facilitation and Rules of Origin

**4-6 November 2020
Video conference (EU host)**

The 7th meeting of the Colombia/Ecuador/Peru/EU (European Union) Sub-committee on Customs, Trade Facilitation and Rules of Origin was held on 4-6 November 2020. Due to the exceptional circumstances created by COVID-19 pandemic, the meeting took place via WebEx videoconference. A list of participants from the Colombia, Ecuador, Peru and the EU is included in ANNEX B.

- ***Adoption of the Agenda***

The EU presented the proposed agenda, which had been mutually agreed in advance. Ecuador asked for an additional point on "Proof of Origin - Movement Certificates EUR.1, Invoice Declarations" to be included (point 8d), which was agreed.

The Committee adopted the updated agenda (see ANNEX A).

A. CUSTOMS COOPERATION AND TRADE FACILITATION

1. Exchange of information regarding updates in customs and trade facilitation legislation

EU

The EU highlighted 3 areas.

a) Covid-19 measures

The EU presented an overview of the measures that have been taken in customs matters in the EU to respond to the COVID-19 emergency. Outside of rules of origin, these include measures in customs representation, customs decisions, customs debts and guarantees, entry of goods, temporary storage, transit, and exit of goods. EU referred to the Guidance¹ it has published on its website providing further details on each of these measures.

b) Advance cargo information system Import Control System 2 (ICS2)

The EU is implementing a new customs pre-arrival security and safety programme, through an advance cargo information system, called Import Control System 2 (ICS2). It helps to identify high-risk consignments, improve targeting for physical controls and facilitate legitimate trade. The launch of ICS2 will affect economic operators not only in the EU, but also in third

¹ Covid-19 customs guidance, https://ec.europa.eu/taxation_customs/covid-19-taxud-response/guidance-customs-issues-related-covid-19-emergency_en

countries, so the EU invited Colombia, Ecuador and Peru to inform their economic operators about the upcoming changes.

The EU explained that ICS2 will become operational in three releases.

- The first release will become effective on **15 March 2021** and will concern air express carriers, designated postal operators established in the EU and third-country postal operators shipping to the EU.
- The second release will become effective on 1 March 2023 and will require the provision of the Entry Summary Declaration (ENS) to the ICS2 from all air cargo and postal operators, express and air carriers and freight forwarders.
- The third release will become effective on 1 March 2024 when the requirement to submit the ENS to ICS2 will be expanded to cover also maritime, road and rail cargo.

The EU mentioned that it has published all the relevant information concerning ICS2 on a dedicated DG TAXUD website², also available in Spanish.

c) Customs Action Plan

The EU mentioned the adoption of the EU Customs Action Plan³ in September 2020. It aims for customs to be smarter, more innovative and more efficient.

Ecuador

It was mentioned that Article 12 of the Customs Code has been used to introduce measures to help during the Covid-19 crisis. These measures to facilitate trade include:

- (a) Suspension of terms and deadlines for authorization of operators, of custom procedures, and certain other provisions
- (b) Mailbox for the service desk or the single window to receive digital documents
- (c) Extension of the warranty periods and for customs regimes
- (d) Assistance with imported aid / emergency goods

Colombia

It was explained that the measures introduced are those relating to changes to the customs legislation and those aimed at trade facilitation.

For the Customs legislation, changes were made for shipments that enter the country under the modality of postal traffic and express consignments whose FOB value is equal to or less than \$200 excluding delivery costs, which will now not be subject to payment of customs duties.

² EU Information Control System 2, https://ec.europa.eu/taxation_customs/general-information-customs/customs-security/ics2_en

³ EU Customs Action Plan, http://ec.europa.eu/taxation_customs/sites/taxation/files/customs-action-plan-2020_en.pdf

Consultations are ongoing to make other modifications to customs legislation in order to reduce the presentation of physical documents and have the option to present them electronically.

Concerning trade facilitation, focus has been on simplification of procedures and automation. The Trade Facilitation Committee has identified and solved supply chain bottlenecks through 15 virtual meetings since March 2020. There is work to simplify and streamline procedures, for which the ongoing strengthening of the single window for foreign trade through interoperability with other governmental entities and enhancements to the risk management system is important. During the Covid-19 crisis improvements have been made to reduce the time period for the release of goods at import and a move towards digital systems. The use and exchange of digital sanitary certificates has been implemented, as well as the digitalization of origin certificates, and there is also ongoing work on customs declarations and zoosanitary digital certificates.

As well, Colombia mentioned that on 6 August 2020 they ratified the World Trade Organization's Trade Facilitation Agreement.

Peru

Several initiatives were mentioned by Peru.

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| a) Customs Law 1433 | <ul style="list-style-type: none">- ATA Carnet introduced- New legal framework for AEO (benefits for sanitary products)- Penalties based on facts and circumstances of the case- Reduction of time for advance rulings- New classification for trade operators |
| b) Customs Law (Supreme Decree 367-2019-EF) | <ul style="list-style-type: none">- Advance clearance is obligatory (some exceptions)- Electronic procedures- Penalties streamlined, minor errors exonerated- Customs broker appointed by the importer or exporter by electronic means |
| c) Expedited shipments (Supreme Decree 192-2020-EF) | <ul style="list-style-type: none">- 100% digital processes- Pre-arrival declarations- Guarantees and deferred payments allowed- Release of consignments when the means of transportation arrives. |
| d) Customs penalties (Supreme Decree 418-2019-EF) | <ul style="list-style-type: none">- New customs breaches by foreign operators |

Customs procedures can be done remotely without face to face procedures through electronic processes and a remote helpdesk.

Peru is working on the improvement of the AEO legislation in the framework of a Project, managed by the ministry of foreign trade with the participation of border agencies such as the customs authority, fishery authority and health authorities.

Furthermore, Peru mentioned the creation of an information module for trade services (logistics) in the single window platform. This module aims to facilitate, expedite, automate and clarify the processes of entry and exit of goods in all customs control points around the country, which are linked to management processes of operators and risk and security management processes of the logistics chain.

2. Exchange of information on free trade negotiations

EU

The EU highlighted some of its trade negotiations:

- Agreement in principle on the trade part of the Mexico and Mercosur agreements, which are now in legal revision
- Chile 8th Round took place in September 2020
- Vietnam entered into force in August 2020
- Negotiations ongoing with the UK, Indonesia, Australia and New Zealand

Colombia

Colombia mentioned the following trade negotiations:

- Pacific Alliance (Chile, Colombia, Mexico and Peru) is negotiating with Singapore, Australia, Canada and New Zealand (Candidates for Associated States).

Ecuador

Ecuador stated the following trade negotiations:

- Chile was concluded in 2020
- Mexico is nearly complete with a possible conclusion in 2021 (this negotiation is part of Pacific Alliance)
- UK has been concluded with the Andean countries (Colombia, Ecuador and Peru) in 2019. It will start for Ecuador in 2021
- EFTA entered into force 1 November 2020
- Ecuador notified the indicative date for implementation categories B and C Trade Facilitation Agreement WTO in 2019.

Peru

In addition to the negotiations as part of the Pacific Alliance with the Candidates for Associated States, Peru made reference to the following trade negotiations:

- India negotiations are on-going
- China agreement is being updated

3. Update of contact points for customs procedures

An exchange of the updated lists of contact points for the purposes of the implementation of Mutual Administrative Assistance in Customs Matters, was done prior to the meeting. Colombia and Ecuador confirmed that there was no change, while Peru confirmed their new contact point.

4. Topics of relevance to Peru

a) Security measures applied to perishable goods transported by air to the EU

Peru touched upon an air cargo security audit from 2019 done by an EU Member State that had resulted in some control difficulties leading to extra time and costs for the clearance of perishable goods. The EU explained that this issue was not a competency of this Sub-Committee but would seek to inform Peru of the appropriate EU contact point on this matter.

B. RULES OF ORIGIN

5. Adaptation of Appendices 2, 2A and 5 of Annex II to the Harmonized System 2017

The Parties agreed to the update of Appendices 2, 2A and 5 of Annex II to the Harmonized System 2017. The EU will send the agreed Appendices to Colombia, Ecuador and Peru.

The EU should be in a position to provide a Spanish version of the text by March 2021. The Parties will then begin their internal procedures with the aim to be able to adopt the updates in the Trade Committee by mid-2021.

6. Issues relating to Covid-19

a) Scanned copies of movement certificates EUR.1

The Covid-19 flexibilities on the proof of origin involve essentially accepting scanned copies of the movement certificate EUR.1, which may include a digital signature. These measures are only temporary during the Covid-19 crisis and must be supported by authentic movement certificates EUR.1 in line with the Agreement if required on request after the crisis period. The position of the EU Member States in respect of what flexibilities they accept at import and what they do at export was mentioned. The details are on the EU website⁴.

The position of Colombia, Ecuador and Peru on the Covid-19 flexibilities was also outlined and the information is likewise available on the EU website⁵.

The EU stressed as well the importance of promoting self-certification through the invoice declarations by Approved Exporters as this avoids the problems with issuing certificates.

⁴ Covid-19 flexibilities by EU Member States, https://ec.europa.eu/taxation_customs/sites/taxation/files/covid-19-crisis-exceptional-measures-proofs-of-preferential-origin-eu-ms.pdf

⁵ Covid-19 flexibilities by EU trade partners, https://ec.europa.eu/taxation_customs/sites/taxation/files/covid-19-crisis-exceptional-measures-proofs-of-preferential-origin-non-em-countries.pdf

Overall the Parties concluded that the measures were beneficial in ensuring the emission of the proof of origin in preferential trade during the Covid-19 crisis.

b) Verification

The EU outlined that flexibility should be given to extending the 10 month verification period due to difficulties encountered during the Covid-19 crisis period. This should be done through a written request from the Party receiving the verification request.

7. Topics of relevance to Colombia:

a) Digital exchange of movement certificates EUR.1

Colombia mentioned its preference to move towards digital movement certificates EUR.1. This view was supported by Ecuador. The foregoing, is under the provisions of paragraph 3 of the "Joint Declaration on the Revision of the rules of origin contained in Annex II Concerning the Definition of 'Originating Products' and Methods of Administrative Cooperation", stating that "The Parties agree to analyze the feasibility of implementing a digital proof of origin."

The EU stated that the Agreement did not allow for this and scanned copies were only allowed during the Covid-19 crisis period on a reciprocal basis and subject to being backed up by the authentic paper version should a request be made. The Agreement provides for self-certification which would be a preferable way forward and it avoids the difficulties currently encountered in issuing movement certificates EUR.1. From its experience with trading partners where the agreement only allows for self-certification no problems have been encountered in claiming preference based on these documents.

Ecuador mentioned that smaller exporters were not going to use self-certification.

The EU mentioned the difficulties of digital certificates in terms of agreeing formats in a consistent and structured manner without a trade agreement that provides the legal basis.

Colombia, Ecuador and Peru would need to analyse the scope of any future proposal about digital movement certificates EUR.1 and determine if according to the agreement there is a legal basis for it.

b) Approved Exporter:

i) Lack of knowledge of the approved exporter - Promotion of the use of approved exporter.

Colombia mentioned that some EU importers would not accept invoice declarations from Approved Exporters in Colombia. This situation discourages the use of invoice declarations and hinders the objectives of self-certification.

The EU replied that it is a purely commercial decision whether an EU importer wants to accept an invoice declaration as the basis for claiming preference.

ii) Electronic invoices: possible exemption from signature in the certification of origin.

Colombia reported that it has implemented electronic invoicing and suggests exploring the option of not requiring a handwritten signature on invoice declarations for those operations that do not exceed EUR 6 000 and for which the exporters are not Approved Exporters.

The electronic invoice that is issued in Colombia has an electronic signature and control mechanisms.

The EU noted that the Approved Exporter does not need to sign the invoice declaration providing they declare that they accept fully responsibility when the invoice declaration identifies them. The EU has guidance on Approved Exporters⁶ which details how the system works in the EU.

For consignments less than EUR 6 000 where any exporter can make out an invoice declaration, the signature is required unless the exporter is an Approved Exporter providing his number.

8. Topics of relevance to Ecuador:

- a) Invoice declaration procedure under Article 15, subparagraph 1 (b), Annex II regarding Origin of the Trade Agreement.
- b) Applicability of paragraph 3 of the “Joint Declaration on the Revision of the rules of origin contained in Annex II Concerning the Definition of ‘Originating Products’ and Methods of Administrative Cooperation”.
- c) Necessary procedure to apply paragraph 3 of the Joint Declaration.

Ecuador grouped points a) to c) together. They mentioned that during the Covid-19 crisis exporters had reacted positively to the use of scanned movement certificates EUR.1 and would be favourable to moving to digital certificates permanently. They enquired as to whether the EU was supportive of moving to digital certificates.

The EU replied that work was beginning in the context of the PanEuroMed (PEM) neighbouring countries in looking at digital certificates. It was best to wait for the outcome of this work before stating a view on digital certificates.

The EU recalled that in the EU, Colombia, Ecuador, Peru Trade Agreement the acceptance of digital movement certificates EUR.1 would require a change to the agreement. Paragraph 3 of the Joint Declaration on the revision of the rules of origin only expresses the view of the Parties to look at digital certificates and does not represent a legal base for implementing it.

As any potential change of the agreement is a long-term perspective, the advantages of invoice declarations, which are already allowed for in the agreement, can bring immediate benefits.

- d) Proof of Origin - Movement Certificates EUR.1, Invoice Declarations

⁶ EU guidance on Approved Exporters, https://ec.europa.eu/taxation_customs/sites/taxation/files/guidance-on-approved-exporters.pdf

Ecuador mentioned a series of issues they had encountered regarding the proof of origin. These included incorrect Approved Exporter numbers, the invoice made out on documents other than those of the exporter, different text used on the invoice declaration, the time periods allowed for replacement invoice declarations and whether there are limitations on which products can be covered by an invoice declaration by an Approved Exporter.

The EU invited Ecuador to provide them with the details, preferably with concrete examples, of the types of issues raised for the EU to examine them in more detail. As a general point, if there are doubts about the Approved Exporter number Ecuador can send a verification request to customs in the EU.

9. Topics of relevance to Peru

- a) Validity of Movement Certificates EUR.1 that do not contain stamps and signatures (generally issued by Spain)

Peru mentioned that they had received movement certificates EUR.1 without a customs stamp or signature.

The EU replied that these should be rejected. The EU will also remind Member States that during the Covid-19 crisis Peru does not accept digital signatures on the movement certificate EUR.1.

- b) Acceptance of copies of Movement Certificate EUR.1 issued in Peru

Peru mentioned that certain EU Member States were not accepting copies of movement certificates EUR.1 during the Covid-19 crisis period. They noted 23 such instances.

The EU replied that all EU Member States had agreed to accept scanned copies of movement certificates EUR.1 during the Covid-19 crisis period. If Peru wants to send to the EU the cases it will investigate further.

- c) Application of the paragraph 3 of the Article 29: Amounts expressed in Euros

Peru reminded the EU that by 15 October each year the EU should send a list of the equivalent national currency amounts for those Member States not using the Euro.

The EU will provide the information.

- d) Country of origin of the products covered by an Invoice Declaration

Peru asked if the clarification provided during the 6th meeting regarding the correct way to fill in boxes 2, 4 and 5 of the movement certificate EUR.1 for originating products of the EU, applies to the invoice declaration.

The EU replied that strictly speaking only the European Union or EU was correct. This is the case for both the movement certificate EUR.1 and the invoice declaration.

However, the EU added that flexibility may be shown, depending on circumstances, if the origin mentions an EU Member State or another reference to the EU such as EC. Nevertheless, efforts will be made in the EU to promote the correct origin description.

Colombia	Ecuador	Peru	European Union

