

EXPLANATORY NOTES

Note 1 - to article 1

The term "in a member State" or "in Spain" shall apply equally to their territorial waters and to vessels operating on the high seas, including factory ships on which the products of the catch are transformed or worked up, provided that they fulfil the conditions laid down in Explanatory Note 4.

Note 2 - to article 1

In order to determine whether any commodity originated in the Community or in Spain no account is taken of whether the sources of energy, plant, machines or tools used in producing this commodity did or did not originate in third States.

Note 3 - to article 1

Packing cases or other wrappings shall be deemed to form a unit with the commodities which they contain. This provision shall not apply however in the case of packing cases or wrappings which are not of the type normally used for the product in question or which have a lasting utility value in themselves apart from their use for packing purposes.

Note 4 - to article 2(f)

The term "their vessels" shall apply only to vessels:

- which are registered in a member State or in Spain;
- which fly the flag of a member State or of Spain;
- which are owned to at least 50 per cent by citizens of member States and of Spain or by a company having its main headquarters in one of these States and of which the managers, the chairman of the board of directors or supervisors and the majority of the members of those boards are citizens of the member States or of Spain; provided also that, in the case of associations of individuals or limited liability companies, at least half the capital belongs to the States in question or to public bodies or nationals of those States;
- of which all the officers are citizens of member States and of Spain;
- and of which not less than 75 per cent of the crew are citizens of member States and of Spain.

Note 5 - to article 4

The term "ex-works price" shall be deemed to mean the price paid to the manufacturer in the undertaking in which the goods were worked up or transformed to a sufficient extent. When the working-up or transforming took place in two or more successive undertakings the price to be taken into account shall be that paid to the last manufacturer.

Note 6 - to article 5(c)

1. For the purposes of applying article 5(c), the passage of goods traded between member States and Spain through territories other than those of the Contracting Parties shall be justified on geographical grounds where it results from the need to discharge or load the goods at the Portuguese ports of Lisbon and Oporto.

2. When passing through territory other than that of the contracting parties, products originating in a member State or in Spain:

- shall remain under the supervision of the customs authorities of the country of transit and shall not be admitted to pratique;
- shall not, during the period of transit, be handled except in so far as is necessary for preserving them in good condition.

Evidence that these conditions have been fulfilled shall be provided by the production to the customs authorities of the country of destination of a certificate issued by the customs authorities of the country of transit containing:

- an exact description of the goods;
- an indication of the date of loading and unloading of the goods, with the names of the ships;
- confirmation of the conditions under which the goods were kept;

or, failing that, by the production of any other document considered acceptable by the country of destination.

Note 7 - to article 8

In the case of exports from Spain in accordance with the provisions of article 5(c), when the final destination is not known at the time the goods leave Spain, a provisional transport certificate A.E. 1 may be issued in respect of these goods. This will subsequently be replaced by a definitive certificate A.E. 1, or, if the consignment is split up before being loaded, by several such certificates, provided proof can be supplied to the customs authorities issuing the original certificate that the goods have been forwarded to a member State.

The provisional certificate shall be in the form laid down in article 10. It shall be marked "PROVISIONAL" in block capitals in red ink in the space for "Observations".

Note 8 - to article 8

When a transport certificate A.E. 1 refers to products originally imported from a member State or from Spain which are re-exported as they are, the new certificates issued by the country of re-exportation shall mention the country in which the original transport certificate was issued.

Note 9 - to article 13

After filling up the form A.E. 2, the exporter shall indicate "A.E. 2" followed by the serial number of the form on the green label C 1 or on the declaration C 2 or C 2 M or in the "Remarks" section of the customs declarations CP 3 or CP 3 M.

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- List A - List of cases in which working-up or transformation involves a change in the tariff heading but does not allow the products in question to qualify as "originating in" a given country or does so only under certain conditions.
- List B - List of cases in which working-up or transformation does not involve a change in the tariff heading but in which, nevertheless, the products undergoing such treatment qualify as "originating in" a given country.
- List C - List of products temporarily excluded from the application of the present Protocol.