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## **Ordinance on the Issuance of Proofs of Origin**

of 23 May 2012 (status as at 1 January 2017)

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*The Swiss Federal Council,*

based on Article 3 paragraph 2, Articles 4 and 5, and Article 7 paragraph 5 of the Federal Act of 25 June 1982<sup>1</sup> on International Trade Measures,

*ordains:*

### **Section 1: General Provisions**

#### **Art. 1** Purpose and scope

Proofs of origin are to be issued in the customs territory in accordance with:

- a. the international contracts listed in Annex 1 to the Free Trade Ordinance 1 of 18 June 2008<sup>2</sup> and in Annex 1 to the Free Trade Ordinance 2 of 27 June 1995<sup>3</sup>; and
- b. the Rules of Origin Ordinance of 30 March 2011<sup>4</sup>.

#### **Art. 2** Applicable law

Unless otherwise specified in the legal framework under Article 1 and this Ordinance, customs legislation applies.

#### **Art. 3** Definitions

In this Ordinance:

- a. *Exporter* means the person who brings goods out of the customs territory or has them brought out;

<sup>1</sup> SR 946.201

<sup>2</sup> SR 632.421.0

<sup>3</sup> SR 632.319

<sup>4</sup> SR 946.39

- b. *Approved exporter* means an exporter authorised to issue proofs of origin as set out in Article 1 in the simplified procedure (Art. 12-18);
- c.<sup>5</sup> *Registered exporter* means an exporter entitled to issue proofs of origin as described in the Rules of Origin Ordinance of 30 March 2011<sup>6</sup> (ROO) according to the procedural rules of Section 3a (Art. 18a-18f).

#### Art. 4 Proofs of origin

In this Ordinance, proofs of origin are:

- a. Movement certificates EUR.1 and EUR-MED that are applied for by exporters or their representatives and are issued by the customs office;
- b. Replacement certificates of origin Form A<sup>7</sup> that are applied for by exporters or their representatives and are issued by the customs office;
- c.<sup>8</sup> Origin declarations and origin declarations EUR-MED completed by the exporter or, insofar as provided for, by a representative of the exporter in accordance with the legal framework under Article 1 letter a;
- d. Declarations in accordance with Article 16 paragraph 3 and Article 21 of Annex C<sup>9</sup> to the Free Trade Agreement of 26 January 2008<sup>10</sup> between the EFTA-States and Canada;
- e. Suppliers' declarations according to Article 27a of Protocol B<sup>11</sup> to the Free Trade Agreement of 17 December 2004<sup>12</sup> between the EFTA-States and the Republic of Tunisia;
- f. Declarations on the originating status of products completed by Swiss suppliers for the attention of their domestic customers (suppliers' declarations);

<sup>5</sup> Inserted by No I of the Ordinance of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4955).

<sup>6</sup> SR **946.39**

<sup>7</sup> Expression according to No I of the Ordinance of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4955). This amendment has been made throughout the text.

<sup>8</sup> Amended by No I of the Ordinance of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4955).

<sup>9</sup> Rules of origin and administrative cooperation: not published in the AS; Annex C can be downloaded in English and French on the website of the EFTA secretariat (<http://secretariat.efta.int>) or that of the Customs Administration ([www.ezv.admin.ch](http://www.ezv.admin.ch) > Documentation > Regulations > D.30).

<sup>10</sup> SR **0.632.312.32**

<sup>11</sup> Protocol B concerning the definition of the concept of "originating products" and methods of administrative cooperation: not published in the AS; the Protocol can be downloaded in English and French on the website of the EFTA secretariat (<http://secretariat.efta.int>) or that of the Customs Administration ([www.ezv.admin.ch](http://www.ezv.admin.ch) > Documentation > Regulations > D.30).

<sup>12</sup> SR **0.632.317.581**

- g.<sup>13</sup> Statements on origin and replacement statements on origin made out by registered exporters in accordance with the ROO<sup>14</sup>.

#### **Art. 5** Duties

<sup>1</sup> Anyone requesting or completing a proof of origin or instructing a third party to do so must:

- a. be in possession of the necessary records and be able to prove their accuracy; and
- b.<sup>15</sup> keep supporting documents concerning the information contained in proofs of origin for three years; this is without prejudice to longer record-keeping periods pursuant to the legal framework set out in Article 1.

<sup>2</sup> Anyone requesting or completing a proof of origin or instructing a third party to do so who later discovers that the proof of origin was issued wrongly must report this to the Federal Customs Administration (FCA).

<sup>1bis</sup> The record-keeping periods for supporting documents concerning the information contained in proofs of origin apply also for supporting documents concerning the information on suppliers' declarations as described in Article 4 letter f.<sup>16</sup>

### **Section 2: Procedure**

#### **Art. 6** Issuance of a movement certificate or replacement certificate of origin Form A

<sup>1</sup> Anyone requiring a movement certificate or replacement certificate of origin Form A has to apply for it at the competent customs office.

<sup>2</sup> If the prerequisites are met, the customs office issues the movement certificate or replacement certificate of origin Form A.

<sup>3</sup> Exporters can submit their applications for the issuance of a movement certificate to the competent district directorate of customs or chamber of commerce for preliminary review. If the prerequisites are met, the competent body endorses the application.

#### **Art. 7** Verification

<sup>1</sup> FCA handles the requests for subsequent verification of proofs of origin of importing country authorities according to the legal framework set out in Article 1.

<sup>13</sup> Inserted by No I of the Ordinance of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4955).

<sup>14</sup> SR **946.39**

<sup>15</sup> Amended by No I of the Ordinance of 7 March 2014, in force since 1 April 2014 (AS **2014** 713).

<sup>16</sup> Inserted by No I of the Ordinance of 7 March 2014, in force since 1 April 2014 (AS **2014** 713).

<sup>2</sup> It can check the accuracy of proofs of origin at its own initiative.

**Art. 8** Information and inspections

Insofar as it is necessary to clarify the origin situation, the FCA can do the following in the case of persons applying or completing a proof of origin, or instruct a third party to do so:

- a. ask for information;
- b. access the books, business papers, records and documents on production processes; and
- c. carry out an onsite inspection at any time without prior notice.

**Art. 9** Responsibility and duties of chambers of commerce

<sup>1</sup> The bodies, employees and parties mandated by the chambers of commerce are subject to the provisions on criminal and financial liability and the confidentiality of federal employees as provided for in Article 4 paragraph 3 of the Federal Act of 25 June 1982 on International Trade Measures.

<sup>2</sup> The chambers of commerce must remove from office persons who have committed a criminal offence as defined in this Ordinance wilfully or repeatedly through negligence as bodies, employees or mandated parties.

<sup>3</sup> If the chambers of commerce detect or have grounds to suspect a violation of this Ordinance, they must immediately notify the competent district directorate of customs.

**Art. 10** FCA tasks

<sup>1</sup> The Directorate General of Customs supervises the chambers of commerce with respect to their activity under this Ordinance.

<sup>2</sup> It issues directives on applying for and completing proofs of origin.

<sup>3</sup> The district directorate of customs monitors the completing of proofs of origin by approved exporters.

<sup>4</sup> The FCA can help exporters acquire the necessary knowledge for approved exporters.

**Art. 11** Fees

<sup>1</sup> The fees of the FCA are based on the Ordinance of 4 April 2007<sup>17</sup> on Federal Customs Administration Charges.

<sup>2</sup> The chambers of commerce charge fees in accordance with the Ordinance of 4 April 2007 on Federal Customs Administration Charges for services within the framework of implementing this Ordinance. The fees go to the chambers of commerce.

**Section 3: Simplified Procedure for Approved Exporters****Art. 12** Authorisation

Anyone wishing to complete proofs of origin as an approved exporter requires an authorisation from the FCA.

**Art. 13** Prerequisites

In order to obtain an authorisation in accordance with Article 12 exporters have to fulfil the following prerequisites:

- a. Regular transport – or ordering to do so – of goods for which a proof of origin can be issued out of the customs territory.
- b. Listed in the Swiss commercial register or in the Liechtenstein public register.
- c. Dispose over sufficiently qualified staff and designate the individuals responsible from a technical and organisational viewpoint.
- d. Provide guarantee that proofs of origin will be correctly issued.
- e. Be able to demonstrate that the exported goods have the characteristics of an originating product.

**Art. 14** Granting of authorisation

<sup>1</sup> The district directorate of customs checks whether the prerequisites set out in Article 13 are fulfilled.

<sup>2</sup> If necessary, it can:

- a. require further documents and information;
- b. check proofs of origin;
- c. check the exporter's organisation and business activity onsite.

<sup>3</sup> It takes into consideration whether the exporter did any of the following in the three years prior to filing the application:

- a. infringe this Ordinance;

<sup>17</sup> SR 631.035

- b. seriously or repeatedly violate federal law, insofar as its implementation is incumbent on the FCA.

<sup>4</sup> If an exporter fulfils the prerequisites set out in Article 13, the district directorate of customs grants unlimited authorisation to complete proofs of origin as approved exporter and assigns an authorisation number. The authorisation is free of charge.

<sup>5</sup> The district directorate of customs can subject the authorisation to conditions and stipulations.

<sup>6</sup> It can:

- a. grant authorisation for all branches of the approved exporter;
- b. restrict the authorisation to individual branches of the approved exporter.

<sup>7</sup> It makes authorisation decisions no later than 60 days after receiving the full documentation.<sup>18</sup>

#### **Art. 15** Rejection of authorisation

If an exporter does not fulfil the prerequisites for the granting of an authorisation, the district directorate of customs notifies it - upon request - by means of a ruling.

#### **Art. 16** Rights of approved exporters

Approved exporters can complete origin declarations in accordance with the legal framework set out in Article 1. They do not have to sign them, but they are responsible in any case for the accuracy of the origin declarations made out.

#### **Art. 17** Duties of approved exporters

The duties of approved exporters are as follows:

- a. To ensure the prerequisites under Article 13 remain fulfilled.
- b. To make sure the responsible persons described in Article 13 letter c have the necessary knowledge and regularly engage in continuing professional development.
- c. To cooperate with FCA checks, particularly by:
  1. granting access to production processes;
  2. disclosing processes;
  3. preparing and releasing business documents and records;

<sup>18</sup> Amended by No I 8 of the Ordinance of 6 June 2014 on Official Processing Times for Matters within the Jurisdiction of the Federal Customs Administration, in force since 1 Sep. 2014 (AS 2014 2051).

4. providing information;
  5. in the case of extensive checks electronically supplying the necessary data in the format required by the FCA.
- d. They support the FCA in the preparation of a risk analysis by supplying the necessary information.
  - e. They follow the FCA directives and take the measures required.
  - f. They immediately notify the district directorate of customs of the following:
    1. changes to the prerequisites under Article 13;
    2. information that could be of significance for the FCA for implementing this Ordinance.

**Art. 18**            Withdrawal of authorisation

<sup>1</sup> The district directorate of customs withdraws the authorisation from approved exporters who:

- a. no longer fulfil the prerequisites under Article 13;
- b. violate a duty under Article 17; or
- c. do not comply with FCA conditions and stipulations.

<sup>2</sup> Before the planned withdrawal of the authorisation, approved exporters can be given an appropriate timeframe to enable them to take the measures needed to fulfil the prerequisites under Article 13 again, as well as to be able to comply with the duties, conditions and stipulations.

<sup>3</sup> The district directorate of customs can withdraw the authorisation if authorised exporters repeatedly violate federal law, insofar as its implementation is incumbent on the FCA.

**Section 3a:**<sup>19</sup> **Procedure for Registered Exporters**

**Art. 18a**            Registration duty

Anyone who wishes to make out statements on origin as a registered exporter has to register with the FCA for that purpose.

**Art. 18b**            Registration prerequisites

Exporters have to fulfil the following prerequisites to be registered in accordance with Article 18a:

- a. They are legal entities or natural persons headquartered or resident in the Swiss customs territory.

<sup>19</sup> Inserted by No I of the Ordinance of 23 Nov. 2016, in force since 1 Jan. 2017 (AS **2016** 4955).

- b. They are able to prove that the exported goods have the characteristics of an originating product.
- c. They consent to their data being transmitted to the states mentioned in Article 1 paragraph 2 of the ROO<sup>20</sup>.

**Art. 18c** Review, decision, costs

<sup>1</sup> The district directorate of customs checks whether the prerequisites set out in Article 18*b* are fulfilled.

<sup>2</sup> If necessary, it can:

- a. require further documents and information;
- b. check proofs of origin.

<sup>3</sup> It decides on registration no later than 60 days after receiving the full documentation.

<sup>4</sup> If exporters do not fulfil the registration prerequisites, the district directorate of customs notifies them upon request by means of a ruling.

<sup>5</sup> Registration is free of charge.

**Art. 18d** Rights of registered exporters

Registered exporters can complete statements on origin in accordance with the legal framework set out in the ROO<sup>21</sup>.

**Art. 18e** Duties of registered exporters

The duties of registered exporters are as follows:

- a. To immediately notify the district directorate of customs of changes concerning the fulfilment of the prerequisites under Article 18*b*.
- b. To cooperate with FCA checks, particularly by:
  1. granting access to any production processes;
  2. disclosing processes;
  3. preparing and releasing business documents and records;
  4. providing information;
  5. in the case of extensive checks electronically supplying the necessary data in the format required by the FCA.
- c. They follow the FCA directives and take the measures required.

<sup>20</sup> SR 946.39

<sup>21</sup> SR 946.39

**Art. 18<sup>f</sup>**      Withdrawal of registration

<sup>1</sup> The district directorate of customs withdraws the registration from registered exporters if they no longer fulfil the prerequisites under Article 18*b*.

<sup>2</sup> Before the planned withdrawal of the registration, registered exporters can be given an appropriate timeframe to enable them to take the measures needed to fulfil the prerequisites under Article 18*b* again.

**Section 4: Violations****Art. 19**

<sup>1</sup> A fine not exceeding CHF 40,000 will be imposed on anyone who wilfully:

- a. provides incorrect information, conceals significant facts or presents incorrect documents on significant facts in connection with issuing a movement certificate EUR.1, a movement certificate EUR-MED or a replacement certificate of origin Form A;
- b. requests, completes or uses incorrect proofs of origin or instructs to do so;
- c.<sup>22</sup> fails to fulfil the duty under Article 5 paragraph 1 letter b and paragraph 1<sup>bis</sup>;
- d. refuses the FCA the rights under Article 8;
- e. impedes, hinders or renders impossible the carrying out of a check or an onsite visit;
- f. wrongly endorses an application form in the preliminary review process as a body, employee or party mandated by a chamber of commerce.

<sup>2</sup> If the offender in the cases set out in paragraph 1 letter a, b or c acts negligently, the fine is up to CHF 20,000.

<sup>3</sup> Offences are prosecuted and adjudicated by the FCA in accordance with the Federal Act of 22 March 1974<sup>23</sup> on Administrative Criminal Law.

<sup>4</sup> The limitation period for prosecution is governed by Article 11 paragraph 2 of the Federal Act of 22 March 1974 on Administrative Criminal Law.

**Section 5: Final Provisions****Art. 20**      Implementation

The FCA is charged with implementation.

<sup>22</sup> Amended by No I of the Ordinance of 7 March 2014, in force since 1 April 2014 (AS 2014 713).

<sup>23</sup> SR 313.0

**Art. 21** Repeal and amendment of existing legislation

<sup>1</sup> The Ordinance of 28 May 1997<sup>24</sup> on the Issue of Proofs of Origin is repealed.

<sup>2</sup> Amendments to existing legislation are set out in the Annex.

**Art. 22** Transitional provision

FCA authorisations to issue proofs of origin in the simplified procedure granted before this Ordinance's entry into force remain valid and are deemed to constitute authorisations in accordance with Article 12 of this Ordinance. If the district directorate of customs finds that an approved exporter does not fulfil the prerequisites set out in Article 13, it will set an appropriate deadline.

**Art. 23** Entry into force

This Ordinance enters into force on 1 July 2012.

<sup>24</sup> [AS 1997 1382, 2005 2289 No II, 2006 1079, 2007 1469 Annex 4 No 21, 2008 1833 Annex No 2]

*Annex*  
(Art. 21 para. 2)

### **Amendment of existing legislation**

The following ordinances are amended as follows:

...<sup>25</sup>

<sup>25</sup> The amendments may be consulted under AS **2012** 3477.