

COUNCIL DECISION (EU) 2017/814**of 12 October 2015****on the position to be adopted on behalf of the European Union within the EU-Chile Association Committee regarding the replacement of Article 12 of Annex III to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Article 38 of Annex III to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part ⁽¹⁾ ('the Agreement'), the EU-Chile Association Committee ('the Association Committee') may decide to amend the provisions of that Annex.
- (2) On 4 November 2014, the Special Committee on Customs Cooperation and Rules of Origin, set up by Article 81 of the Agreement, agreed to recommend to the Association Committee an amendment to Article 12, concerning direct transport, of Annex III to the Agreement.
- (3) The shipment of consignments from one Party to the Agreement should go directly to the other Party but may also pass via a third country subject to certain restrictions. The conditions for transport via a third country should be clarified to expressly allow for the splitting of consignments but without any relaxation of the existing restrictions.
- (4) The amendment to Article 12 of Annex III to the Agreement will provide legal certainty to importers and exporters, and consistency of interpretation of that Article for the Parties.
- (5) The position to be adopted on the Union's behalf within the Association Committee should be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on the Union's behalf within the Association Committee regarding the replacement of Article 12 of Annex III to the Agreement shall be based on the draft Decision of the Association Committee attached to this Decision.
2. Minor changes to the draft Decision of the Association Committee may be agreed to by the representatives of the Union in the Association Committee without further decision of the Council.

Article 2

After its adoption, the Decision of the Association Committee shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter force on the date of its adoption.

Done at Luxembourg, 12 October 2015.

For the Council

The President

F. MOGHERINI

⁽¹⁾ OJ L 352, 30.12.2002, p. 3.

DRAFT**DECISION No ... OF THE EU-CHILE ASSOCIATION COMMITTEE****of ...****replacing Article 12 of Title III of Annex III to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part**

THE EU-CHILE ASSOCIATION COMMITTEE,

Having regard to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part ⁽¹⁾, and in particular Article 38 of Annex III thereto;

Whereas:

- (1) Article 12 of Title III of Annex III to the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part ('the Agreement') establishes that preferential treatment applies only to goods satisfying the requirements of Annex III which are transported directly between the Republic of Chile ('Chile') and the European Union.
- (2) Chile and the European Union have concluded numerous agreements with trade content since the entry into force of the Agreement, which gave economic operators the possibility to adapt their export strategy in order to save costs and better respond to market demand.
- (3) Chile and the European Union have agreed to amend Article 12 of Title III of Annex III to the Agreement, in order to allow for more flexibility for economic operators,

HAS ADOPTED THIS DECISION:

Article 1

Article 12 of Title III of Annex III to the Agreement, concerning direct transport, is replaced with the text set out in the Annex to this Decision.

Article 2

This Decision shall enter into force 90 days after the day on which the last notification by which the Parties communicate the completion of the necessary domestic legal procedures has been carried out.

Done at ...,

For the EU-Chile Association Committee

The President

⁽¹⁾ OJ L 352, 30.12.2002, p. 3.

ANNEX

*'Article 12***Direct transport**

1. The preferential treatment provided for under this Agreement applies only to products satisfying the requirements of this Annex, which are transported directly between the European Union and Chile. However, products may be transported through other territories with transshipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than adding or affixing marks, labels, or seals; unloading; reloading; splitting of consignments; or any operation designed to preserve them in good condition.
 2. Compliance with paragraph 1 shall be considered as satisfied unless the customs authorities have reason to believe the contrary. In such cases, the customs authorities may require the importer to provide evidence of compliance, which shall be given by any appropriate means, such as contractual transport documents, for example bills of lading, or factual or concrete evidence based on marking or numbering of packages, or any evidence related to the goods themselves.'
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