Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, as regards the amendment of that Agreement by replacing Protocol 3 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

COUNCIL DECISION (EU) …/…

of …

on the position to be taken on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, as regards the amendment of that Agreement by replacing Protocol 3 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation

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) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part ('the Agreement'), was concluded by the Union by Council and Commission Decision 2010/224/EU, Euratom[1] and entered into force on 1 May 2010.

(2) The Agreement includes Protocol 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation ('Protocol 3'). Pursuant to Article 3 of Protocol 3, the Stabilisation and Association Council established by Article 119 of the Agreement ('the Stabilisation and Association Council') may decide to amend the provisions of Protocol 3.

(3) The Stabilisation and Association Council will adopt a decision amending the Agreement by replacing Protocol 3 ('decision') during its next meeting, before the end of 2023.

(4) It is appropriate to establish the position to be taken on the Union's behalf within the Stabilisation and Association Council, as the decision will have binding legal effects in the Union.

[1] Council and Commission Decision 2010/224/EU, Euratom of 29 March 2010 on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (OJ L 108, 29.4.2010, p. 1).

(5) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ('the Convention') was concluded by the Union by Council Decision 2013/94/EU[1] and entered into force in relation to the Union on 1 May 2012. It lays down provisions on the origin of goods traded under relevant bilateral free trade agreements concluded between the Contracting Parties to the Convention, which apply without prejudice to the principles laid down in those bilateral agreements.

(6) Article 6 of the Convention provides that each Contracting Party is to take appropriate measures to ensure that the Convention is effectively applied. To that effect, the decision will introduce a dynamic reference to the Convention in Protocol 3, so as to refer always to the latest version of the Convention in force.

(7) Discussions on amending the Convention have resulted in a new set of modernised and more flexible rules of origin to be incorporated into the Convention. Pending the conclusion and entry into force of the amendment of the Convention, the Union and the Republic of Montenegro have agreed to apply as soon as possible an alternative set of rules of origin based on those of the amended Convention, which may be used bilaterally as alternative rules of origin to those laid down in the Convention ('Transitional rules'). To that effect, the decision will also provide for the Transitional rules.

[1] Council Decision 2013/94/EU of 26 March 2012 on the conclusion of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (OJ L 54, 26.2.2013, p. 3).

(8) In the cumulation zone constituted by the EFTA States, the Faroe Islands, the Union, the Republic of Turkey, the participants in the Stabilisation and Association Process, the Republic of Moldova, Georgia and Ukraine, the possibility of using movement certificates EUR.1 or origin declarations instead of movement certificates EUR-MED or origin declarations EUR-MED, as a derogation from the provisions of the Convention applicable to diagonal cumulation among those participants, should be maintained.

(9) The position of the Union within the Stabilisation and Association Council should therefore be based on the draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, as regards the amendment of that Agreement by replacing Protocol 3 thereto, shall be based on the draft decision of the Stabilisation and Association Council[1].

Article 2

This Decision shall enter into force on the date of its adoption and shall expire on 31 December 2023.

Done at …,

For the Council
The President

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[1] See document ST 11124/20 on http://register.consilium.europa.eu.