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Subject: Draft DECISION OF THE COMMITTEE ON CUSTOMS OF THE FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF SINGAPORE modifying certain elements in Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation and its Annexes

DRAFT

DECISION No 01/2022
OF THE COMMITTEE ON CUSTOMS OF THE FREE TRADE AGREEMENT
BETWEEN THE EUROPEAN UNION AND THE REPUBLIC OF SINGAPORE

of ...

modifying certain elements in Protocol 1 concerning the definition of the concept of
‘originating products’ and methods of administrative cooperation and its Annexes

THE COMMITTEE ON CUSTOMS,

Having regard to the Free Trade Agreement between the European Union and the Republic of Singapore (hereinafter, ‘the Agreement’), and in particular Article 34 of Protocol 1 and Article 16.2 of the Agreement,

Whereas:

- (1) Article 34 (Amendments to this Protocol) of Protocol 1 to the Agreement provides that the Parties may, by decision in the Committee on Customs established pursuant to Article 16.2 (Specialised Committees) of the Agreement, amend the provisions of Protocol 1 to the Agreement.
- (2) Amendments were introduced on 1 January 2012, on 1 January 2017 and on 1 January 2022 in relation to the nomenclature governed by the Convention on the Harmonized Commodity Description and Coding System ('HS'). The Parties have agreed to update Protocol 1 to reflect the latest version of the HS.
- (3) The Parties have agreed to modify the scope of the annual quotas set out in Annex B(a) to Protocol 1 for canned luncheon meat, curry fish balls and cuttlefish balls.
- (4) Article 17 (Conditions for Making Out an Origin Declaration) of Protocol 1 establishes that an origin declaration may be made out, in the European Union by, inter alia, an exporter who is an approved exporter, and in Singapore by, inter alia, a registered exporter. To provide for equal treatment of the economic operators in both Parties, Protocol 1 should be amended so that each Party may decide, according to its laws and regulations, which exporter may make out an origin declaration. For that purpose, a definition of 'exporter' would therefore be necessary.

- (5) Considering the new definition of ‘exporter’, the term ‘exporter’ in the definition of ‘consignment’ in point (d) of Article 1(1), Article 13 (Non Alteration) and Article 14 (Exhibitions) of Protocol 1 needs to be replaced by the term ‘consignor’.
- (6) Paragraph 5 of Article 17 (Conditions for Making Out an Origin Declaration) provides that an origin declaration is to bear the original signature of the exporter in manuscript. The Parties have agreed to waive this requirement to facilitate trade and to decrease the administrative burden of benefiting from the tariff preferences of the Agreement.
- (7) In the definition of ‘ex-works price’ in point (f) of Article 1(1), it is necessary to clarify how the term ‘manufacturer’ is to be understood when the last working or processing is subcontracted.
- (8) Considering that both Parties are to apply a system of registered exporters, the document on origin made out in the Parties should be renamed from ‘origin declaration’ to ‘statement on origin’.
- (9) As a transitional measure, it should be provided that for a period of 3 months starting from the date of entry into force of this Decision, Singapore will accept origin declarations made out in accordance with Article 17 (Conditions for Making Out an Origin Declaration) and Article 18 (Approved Exporter) of Protocol 1 to the Agreement in force prior to the date of entry into force of this Decision.

(10) Protocol 1 to the Agreement and several of its Annexes should therefore be modified,

HAS ADOPTED THIS DECISION:

Article 1

Protocol 1 to the Agreement is amended as follows:

- (1) the table of contents of Protocol 1 is replaced by the following:

‘TABLE OF CONTENTS

SECTION 1

GENERAL PROVISIONS

ARTICLE 1 Definitions

SECTION 2

DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”

ARTICLE 2 General requirements

ARTICLE 3 Cumulation of Origin

ARTICLE 4 Wholly Obtained Products

ARTICLE 5 Sufficiently Worked or Processed Products

ARTICLE 6 Insufficient Working or Processing

ARTICLE 7 Unit of Qualification

ARTICLE 8 Accessories, Spare Parts and Tools

ARTICLE 9 Sets

ARTICLE 10 Neutral Elements

ARTICLE 11 Accounting Segregation

SECTION 3

TERRITORIAL REQUIREMENTS

ARTICLE 12 Principle of Territoriality

ARTICLE 13 Non Alteration

ARTICLE 14 Exhibitions

SECTION 4

DRAWBACK OR EXEMPTION

ARTICLE 15 Prohibition of Drawback of, or Exemption from, Customs Duties

SECTION 5

STATEMENT ON ORIGIN

- ARTICLE 16 General Requirements
- ARTICLE 17 Conditions for Making Out a Statement on Origin
- ARTICLE 19 Validity of Statement on Origin
- ARTICLE 20 Submission of Statement on Origin
- ARTICLE 21 Importation in Instalments
- ARTICLE 22 Exemptions from Statement on Origin
- ARTICLE 23 Supporting Documents
- ARTICLE 24 Preservation of Statement on Origin and Supporting Documents
- ARTICLE 25 Discrepancies and Formal Errors
- ARTICLE 26 Amounts Expressed in Euro

SECTION 6

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

ARTICLE 27 Cooperation between Competent Authorities

ARTICLE 28 Verification of Statements on Origin

ARTICLE 29 Administrative Enquiries

ARTICLE 30 Settlement of Disputes

ARTICLE 31 Penalties

SECTION 7

CEUTA AND MELILLA

ARTICLE 32 Application of this Protocol

ARTICLE 33 Special Conditions

SECTION 8

FINAL PROVISIONS

ARTICLE 34 Amendments to this Protocol

ARTICLE 35 Transitional Provisions for Goods in Transit or Storage

List of Appendices

- ANNEX A: INTRODUCTORY NOTES TO THE LIST IN ANNEX B
- ANNEX B: LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS
- ANNEX B (a): ADDENDUM TO ANNEX B
- ANNEX C: MATERIALS EXCLUDED FROM CUMULATION UNDER PARAGRAPH 2 OF ARTICLE 3
- ANNEX D: PRODUCTS REFERRED TO IN PARAGRAPH 9 OF ARTICLE 3 FOR WHICH MATERIALS ORIGINATING IN AN ASEAN COUNTRY SHALL BE CONSIDERED AS MATERIALS ORIGINATING IN A PARTY
- ANNEX E: TEXT OF THE STATEMENT ON ORIGIN

Joint Declarations

JOINT DECLARATION CONCERNING THE PRINCIPALITY OF ANDORRA

JOINT DECLARATION CONCERNING THE REPUBLIC OF SAN MARINO

JOINT DECLARATION CONCERNING THE REVISION OF THE RULES OF ORIGIN CONTAINED IN PROTOCOL 1’;

(2) Article 1 is replaced by the following:

‘ARTICLE 1

Definitions

1. For the purposes of this Protocol:
 - (a) “ASEAN country” means a member state of the Association of Southeast Asian Nations which is not a Party to this Agreement;
 - (b) “chapters” and “headings” and “sub-headings” mean the chapters, the headings (four digit codes) and sub-headings (six digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, referred to in this Protocol as the “Harmonized System” or “HS”;
 - (c) “classified” refers to the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonized System;
 - (d) “consignment” means products which are either sent simultaneously from one consignor to one consignee or covered by a single transport document covering their shipment from the consignor to the consignee or, in the absence of such a document, by a single invoice;

- (e) “customs value” means the value as determined in accordance with the Customs Valuation Agreement;
- (f) “ex-works price” means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the Union or in Singapore, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the last working or processing has been subcontracted to a manufacturer, the term “manufacturer” may refer to the enterprise that has employed the subcontractor.

- (g) “exporter” means a person, located in a Party, who, in accordance with the requirements in the laws and regulations of the Party, exports or produces the originating product and who may make out a statement on origin;
- (h) “fungible materials” means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product;
- (i) “goods” means both materials and products;
- (j) “juridical person” means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;
- (k) “manufacture” means any kind of working or processing including assembly;
- (l) “material” means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (m) “person” means a natural person or juridical person;

- (n) “product” means the product being manufactured, even if it is intended for later use in another manufacturing operation;
 - (o) “value of materials” means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Union or in Singapore.’;
- (3) Article 13(3) is replaced by the following:
- ‘3. Without prejudice to Section 5, the splitting of consignments may take place where carried out by the consignor or under his responsibility provided they remain under customs supervision in the country(ies) of transit.’;
- (4) points (a) and (b) of Article 14(1) are replaced by the following:
- ‘(a) a consignor has consigned these products from a Party to the country in which the exhibition is held and has exhibited them there;
- (b) the products have been sold or otherwise disposed of by that consignor to a person in a Party;’;

(5) Article 17 is replaced by the following:

‘ARTICLE 17

Conditions for Making Out a Statement on Origin

1. A statement on origin as referred to in Article 16 (General Requirements) may be made out by the exporter.
2. A statement on origin may be made out if the products concerned can be considered as products originating in the Union or in Singapore and fulfil the other requirements of this Protocol.
3. The exporter making out a statement on origin shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents as referred to under Article 23 (Supporting Documents) proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. A statement on origin shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears in Annex E to this Protocol, in accordance with the domestic law of the exporting Party. If the statement is hand-written, it shall be written in ink in capital characters. In the case of exports from Singapore, the statement on origin shall be set out using the English version and in the case of exports from Union, the statement on origin may be set out in one of the linguistic versions in Annex E to this Protocol.
5. By derogation from paragraph 1, a statement on origin may be made out after exportation (“retrospective statement”) on condition that it is presented in the importing Party no later than two years, in the case of the Union, and one year, in the case of Singapore, after the entry of the goods into the territory.’;

- (6) in the Table of Contents, and in Article 3(6), Article 3(13), Article 11(5), Article 14(2), Article 15(1), Article 15(3), the title of Section 5, Article 16(1), Article 16(2), the title of Article 19, Article 19(1), Article 19(2), Article 19(3), the title of Article 20, Article 20, Article 21, the title of Article 22, Article 22(1), Article 23, the title of Article 24, Article 24(1), Article 24(2), Article 25(1), Article 25(2), Article 27(1), Article 27(2), the title of Article 28, Article 28(1), Article 28(2), Article 30(1), Article 33(3), and Article 35, the term ‘origin declaration’ is replaced by the term ‘statement on origin’;
- (7) Article 18 is deleted;
- (8) Article 26 is replaced by the following:

‘ARTICLE 26

Amounts Expressed in Euro

1. For the application of the provisions of paragraph 3 of Article 22 (Exemptions from Statement on Origin) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States of the Union equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.

2. A consignment shall benefit from the provisions of paragraph 3 of Article 22 (Exemptions from Statement on Origin) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the Party concerned.
3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by 15 October and shall apply from 1 January the following year. The European Commission shall notify all countries concerned of the relevant amounts.
4. A Member State of the Union may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded amount may not differ from the amount resulting from the conversion by more than five percent. A Member State of the Union may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than fifteen percent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in euro shall be reviewed by the Parties in the Committee on Customs established pursuant to Article 16.2 (Specialised Committees) at the request of the Union or of Singapore. When carrying out this review, the Parties shall consider the desirability of preserving the effects of the limits concerned in real terms. For these purposes, the Parties may, by decision in the Committee on Customs, modify the amounts expressed in euro.’;

- (9) Annex B is amended as set out in Annex 1 to this Decision;
- (10) Annex B(a) is amended as set out in Annex 2 to this Decision;
- (11) Annex D is amended as set out in Annex 3 to this Decision;
- (12) Annex E is amended as set out in Annex 4 to this Decision.

Article 2
Entry into force

This Decision shall enter into force on [1 January 2023].

Done at ...,

For the EU-Singapore Committee on Customs

On behalf of the European Union

On behalf of the Republic of Singapore

ANNEX 1

Annex B to Protocol 1 is amended as follows:

- (1) in the row related to HS Heading '0305', the text in the column 'description of product' is replaced by the following:

 'Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process';
- (2) in the row related to HS Heading 'ex 0306', the text in the column 'description of product' is replaced by the following:

 'Crustaceans, whether in shell or not, dried, salted or in brine; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine';
- (3) in the row related to HS Heading 'ex 0307', the text in the column 'description of product' is replaced by the following:

 'Molluscs, whether in shell or not, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process';

- (4) between the row related to HS Heading ‘ex 0307’ and the row related to HS Heading ‘Chapter 4’, the following rows are inserted:

ex 0308	Aquatic invertebrates other than crustaceans and molluscs, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs, whether or not cooked before or during the smoking process	Manufacture in which all the materials of Chapter 3 used are wholly obtained
0309	Flours, meals and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fit for human consumption	Manufacture in which all the materials of Chapter 3 used are wholly obtained

’;

- (5) in the row related to HS Heading ‘ex Chapter 15’, the text in the column ‘description of product ’ is replaced by the following:

‘Animal, vegetable or microbial fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; except for:’;

- (6) in the row related to HS Heading ‘1509 and 1510’, the text in the column ‘description of product ’ is replaced by the following:

‘Olive oil and its fractions, other oils and their fractions obtained solely from olives’;

- (7) in the row related to HS Heading ‘1516 and 1517’, the text in the column ‘description of product ’ is replaced by the following:

‘Animal, vegetable or microbial fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared;

Margarine; edible mixtures or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats and oils or their fractions of heading 15.16’;

- (8) in the row related to HS Heading ‘Chapter 16’, the text in the column ‘description of product ’ is replaced by the following:

‘Preparations of meat, of fish, of crustaceans, molluscs or other aquatic invertebrates, or of insects’;

- (9) in the row related to HS Heading ‘ex Chapter 24’, the text in the column ‘description of product ’ is replaced by the following:

‘Tobacco and manufactured tobacco substitutes; products, whether or not containing nicotine, intended for inhalation without combustion; other nicotine containing products intended for the intake of nicotine into the human body; except for;’;

- (10) between the row related to HS Heading ‘ex 2402’ and the row related to HS Heading ‘ex Chapter 25’, the following rows are inserted:

2404 12	Products intended for inhalation without combustion, not containing tobacco or reconstituted tobacco, and containing nicotine	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product or Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2404 19	Cartridges and refills, filled for electronic cigarettes	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product or Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

2404 91	Other products than products intended for inhalation without combustion, for oral application	<p>Manufacture from materials of any heading, except that of the product, in which:</p> <p>— the individual weight of sugar and of the materials of Chapter 4 used does not exceed 20 % of the weight of the final product, and</p> <p>— the total combined weight of sugar and the materials of Chapter 4 used does not exceed 40 % of the weight of final product</p>
2404 92, 2404 99	Other products than products intended for inhalation without combustion, for transdermal application and for other than oral application	<p>Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product</p> <p>or</p> <p>Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product</p>

2.
;

- (11) between the row related to HS Heading ‘ex Chapter 38’ and the row related to HS Heading ‘3823’, the following rows are inserted:

ex 3816	Dolomite ramming mix	Manufacture from materials of any heading, except that of the product or Manufacture in which the value of all the materials used does not exceed 40 % of the ex- works price of the product
ex 3822	Malaria diagnostic test kits Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale Immunological products, put up in measured doses or in forms or packings for retail sale Blood-grouping reagents	Manufacture from materials of any heading

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(12) in the first row related to HS Heading ‘6306’, the text in the column ‘description of product ’ is replaced by the following:

‘Tarpaulins, awnings and sunblinds; tents (including temporary canopies and similar articles); sails for boats, sailboards or landcraft; camping goods’;

(13) in the row related to HS Heading ‘8522, the text in the column ‘description of product ’ is replaced by the following:

‘Parts and accessories suitable for use solely or principally with the apparatus of heading 8519 or 8521’;

(14) in the row related to HS Heading ‘8529, the text in the column ‘description of product’ is replaced by the following:

‘Parts suitable for use solely or principally with the apparatus of headings 8524 to 8528’;

(15) in the row related to HS Heading ‘8548’, the text in the column ‘description of product ’ is replaced by the following:

‘Electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter’;

- (16) between the row related to HS Heading ‘8548’ and the row related to HS Heading ‘ex Chapter 86’, the following row is inserted:

8549	Electrical and electronic waste and scrap.	Manufacture from materials of any heading, except that of the product or Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product
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- (17) in the row related to HS Heading ‘ex Chapter 86’, the text in the column ‘HS Heading’ and the text in the column ‘description of product’ are replaced respectively by the following:

‘Chapter 86’ and ‘Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signaling equipment of all kinds’;

- (18) between the row related to HS Heading ‘ex 8804’ and the row related to HS Heading ‘Chapter 89’, the following row is inserted:

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ex 8806	Unmanned aircraft Television cameras, digital cameras and video camera recorders	Manufacture from materials of any heading, except that of the product and of heading 8529 or Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product
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- (19) in the row related to HS Heading ‘9013’, the text in the column ‘description of product ’ is replaced by the following:

‘Lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter’;

- (20) between the row related to HS Heading ‘9016’ and the row related to HS Heading ‘9025’, the following row is inserted:

ex 9021	<p>Materials for orthopedic or fracture appliances and for dental fitting:</p> <ul style="list-style-type: none"> – Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper – Threaded articles and non-threaded articles of iron or steel, excluding coach screws, wood screws, screw hooks and screw rings, spring washers and other lock washers, rivets 	<p>Manufacture from materials of any heading, except that of the product or</p> <p>Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product</p>
	<ul style="list-style-type: none"> – Titanium and articles thereof, including waste and scrap 	<p>Manufacture from materials of any heading</p>

’;

- (21) in the row related to HS Heading 'Chapter 94', the text in the column 'description of product ' is replaced by the following:

'Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings'.

ANNEX 2

Annex B(a) to Protocol 1 is amended as follows:

- (1) paragraph 3 of the common provisions is deleted;
- (2) paragraph 4 of the common provisions is renumbered to paragraph 3;
- (3) paragraph 5 of the common provisions is renumbered to paragraph 4;
- (4) in the row related to HS Heading

‘ex 1602 32

ex 1602 41

ex 1602 49

ex 1602 50’,

the text ‘Canned luncheon meat of pork, chicken and beef (午餐肉)’ in the column ‘description of product ’ is replaced by the following:

‘Canned luncheon meat or meat loaf of pork (containing more than 40 % by weight of pork meat or meat offal), canned luncheon meat or meat loaf of chicken (containing more than 20 % by weight of chicken meat or meat offal), canned luncheon meat or meat loaf of beef (containing more than 20 % by weight of beef meat or meat offal)’;

- (5) in the row related to HS Heading ‘ex 1604 20’ the text ‘Curry fish balls made of fish meat, curry, wheat starch, salt, sugar, and compound condiments’ in the column ‘description of product’ is replaced by the following:

‘fish balls and fish cakes made of fish meat except of tuna and of mackerel, starch, salt, sugar, and compound condiments’;

- (6) the row related to HS Heading

‘ex 1605 10

ex 1605 90

ex 1605 20

ex 1605 20

ex 1605 20

ex 1605 30'

is replaced by the following:

‘

ex 1605 10	Crab balls made of wheat starch, salt, sugar, compound condiments, crab meat and filling	Manufacture from materials of any heading, except that of the product
ex 1605 54	Cuttlefish balls made of fish meat, cuttlefish filling, starch, salt, sugar, and compound condiments	
ex 1605 21	Hargow made of prawn, wheat starch, tapioca, water, scallion, ginger, sugar, and salt	
ex 1605 29	Shaomai made of prawn predominantly, chicken, corn starch, vegetable oil, black pepper, sesame oil, and water	
ex 1902 20	Fried prawn wonton made of prawn, salt, oil, sugar, ginger, pepper, egg, vinegar, and soy sauce.	
ex 1605 54	Lobster flavoured balls: cuttlefish meat, fish meat and crab meat.	

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ANNEX 3

Annex D to Protocol 1 is amended as follows:

- (1) in the row related to HS Code '2909', the text in the column 'description' is replaced by the following:

'Ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, acetal and hemiacetal peroxides, ketone peroxides (whether or not chemically defined), and their halogenated, sulphonated, nitrated or nitrosated derivatives';

- (2) in the row related to HS Code '9013', the text in the column 'description' is replaced by the following:

'Lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter'.

ANNEX 4

Annex E to Protocol 1 is amended as follows:

- (1) in the title of Annex E, the term ‘origin declaration’ is replaced by the term ‘statement on origin’;
- (2) the first paragraph of Annex E is replaced by the following:

‘The statement on origin, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.’;
- (3) footnote (1) is replaced by the following:

‘Indicate the reference number by which the exporter is identified. For the Union exporter, this will be the number assigned in accordance with the laws and regulations of the Union. For Singapore, this will be the number assigned in accordance with the laws and regulations of Singapore. Where the exporter has not been assigned a number, this field may be left blank’;
- (4) the last sentence before the footnotes is replaced by the following:

‘(Name of the exporter)’;
- (5) footnote (4) is deleted.

JOINT DECLARATION

CONCERNING TRANSITIONAL MEASURES AFTER THE DATE OF ENTRY INTO FORCE OF THE DECISION

By way of derogation from Article 17 (Conditions for Making Out a Statement on Origin) of Protocol 1 to the Agreement, as amended by this Decision, Singapore shall continue to grant the preferential tariff treatment under this Agreement to goods originating in the Union and exported from the Union upon the presentation of an origin declaration made out in accordance with Article 17 (Conditions for Making Out an Origin Declaration) and Article 18 (Approved Exporter) of Protocol 1 to the Agreement in force prior to the date of entry into force of this Decision. This transitional measure shall apply for a period of 3 months starting from the date of entry into force of this Decision.