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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 December 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 741 final
Subject:	Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, in the EEA Joint Committee established by the Agreement on the European Economic Area, as regards the replacement of Protocol 4 to that Agreement, on rules of origin, by a new Protocol which is aligned to the Regional Convention on pan-Euro- Mediterranean rules of origin

Delegations will find attached document COM(2014) 741 final.

Encl.: COM(2014) 741 final



EUROPEAN
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Brussels, 17.12.2014
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Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the EEA Joint Committee established by the Agreement on the European Economic Area, as regards the replacement of Protocol 4 to that Agreement, on rules of origin, by a new Protocol which is aligned to the Regional Convention on pan-Euro-Mediterranean rules of origin

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹ (hereafter 'the Convention') lays down provisions on the origin of goods traded under relevant Agreements concluded between the Contracting Parties.

The EU signed the Convention on 15 June 2011 and deposited its instrument of acceptance with the depositary of the Convention on 26 March 2012. As a consequence, in application of its Article 10(3), the Convention entered into force in relation to the EU on 1 May 2012. Norway, Iceland and Liechtenstein, the other Contracting Parties to the Agreement on the European Economic Area² (hereafter 'the EEA Agreement'), signed the Convention on 15 June 2011, 30 June 2011 and 15 June 2011, respectively and deposited their instrument of acceptance with the depositary of the Convention on 9 November 2011, 12 March 2012 and 28 November 2011, respectively. As a consequence, in application of its Article 10(3), the Convention entered into force in relation to Norway, Iceland and Liechtenstein on 1 January 2012, 1 May 2012 and 1 January 2012, respectively.

Article 6 of the Convention provides that each Contracting Party shall take appropriate measures to ensure that the Convention is effectively applied. As a consequence, in the EEA Agreement, Protocol 4 on rules of origin should be replaced by a new Protocol which, as much as possible, refers to the Convention. At the same time, the text of Protocol 4 is updated aligning it, inter alia, to the Treaty on the Functioning of the European Union.

This proposal replaces Protocol 4 entirely with a new Protocol in order to enhance readability for economic operators and for administrations. The changes compared to the current Protocol are the following:

1. Article 3 is amended in order to extend the application of diagonal cumulation of origin to any country which is a participant in the EU's Stabilisation and Association Process³, which is one of the main goals of the Convention. The reference to the countries participating in the EU's Stabilisation and Association Process is added in Article 3(1) in order to avoid the mandatory use of EUR-MED certification. For the same reason, the reference to the Faroe Islands is moved from Article 3(2) to 3(1).
2. In the reference to Article 32 in the Table of Contents, the words 'Mutual assistance' are replaced by 'Administrative cooperation'.
3. The word 'Community' is replaced by 'European Union' in the heading 'Joint Declarations' in the Table of Contents, in Articles 3(1), 3(5), 4(2) and 31(1), as well as in the Joint Declarations.
4. The words 'Commission of the European Communities' are replaced by 'European Commission' in Articles 3(5), 31(3) and 32(1).

¹ OJ L 54, 26.2.2013, p. 4.

² OJ L 1, 3.1.1994, p. 3.

³ Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo under UNSC Resolution 1244/99.

5. In Article 5(2) the words 'shall not be used' is replaced by 'should not be used'.
6. In Article 6(1) the following is inserted after letter (m):

‘(n) mixing of sugar with any materials;’

The current letters (n) to (p) are renumbered letters (o) to (q).

7. The title of Article 32 is replaced by:

‘Administrative cooperation’

The content of Annexes I to IVb, is replaced by a reference to the Convention.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The EU Member States were consulted on the draft Council Decision in the Customs Code Committee's Origin Section of 13 May 2013. The Contracting Parties to the Convention were consulted at the meeting of the Pan-Euro-Med working group of 14 and 15 May 2013.

No recourse to external expertise has been necessary. Furthermore, it has not been necessary to conduct an impact assessment, since the proposed amendments are technical in nature and do not affect the substance of the protocol on rules of origin currently in effect.

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 1(3) of Council Regulation (EC) No 2894/94 concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The legal basis for the amendment of this provision is Article 207 in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

The proposal falls under the exclusive competence of the Union. The principle of subsidiarity does therefore not apply.

Proposed instrument: Council Decision.

This proposal replaces COM(201)133 final of 22 March 2012, which is hereby withdrawn.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area⁴, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Protocol 4 to the Agreement on the European Economic Area⁵, ('the Agreement'), concerns the rules of origin.
- (2) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin⁶, ('the Convention'), lays down provisions on the origin of goods traded under relevant Agreements concluded between the Contracting Parties.
- (3) The EU, Norway and Liechtenstein signed the Convention on 15 June 2011 and Iceland signed the Convention on 30 June 2011.
- (4) The EU, Norway, Iceland and Liechtenstein deposited their instrument of acceptance with the depositary of the Convention on 26 March 2012, 9 November 2011, 12 March 2012 and 28 November 2011, respectively. As a consequence, in application of its Article 10(3), the Convention entered into force in relation to the EU and Iceland on 1 May 2012 and in relation to Norway and Liechtenstein on 1 January 2012.
- (5) Article 6 of the Convention provides that each Contracting Party shall take appropriate measures to ensure that the Convention is effectively applied. As a consequence, in the Agreement, Protocol 4 concerning the rules of origin should be replaced by a new Protocol which is aligned to the Convention and refers to it as much as possible.

⁴ OJ L 305, 30.11.1994, p. 6.

⁵ OJ L 1, 3.1.1994, p. 3.

⁶ OJ L 54, 26.2.2013, p. 4.

- (6) The European Union should therefore adopt the position set out in the attached draft Decision within the EEA Joint Committee,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted by the European Union within the EEA Joint Committee established by the Agreement on the European Economic Area, as regards the replacement of Protocol 4 to that Agreement, on rules of origin, by a new Protocol which is aligned to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin and refers to it as much as possible, is set out in the attached draft decision of the EEA Joint Committee.

Minor changes to the draft decision of the EEA Joint Committee may be agreed to by the representatives of the Union in the EEA Joint Committee without further decision of the Council.

Article 2

The Decision of the EEA Joint Committee shall be published in the Official Journal of the European Union.

Article 3

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

Done at Brussels,

*For the Council
The President*