Council of the European Union

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**ADD 1**

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**ASIE 13**

**PROPOSAL**

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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 3 February 2023 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2023) 55 final - ANNEX |
| Subject: | ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Trade Committee established under the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam, as regards the amendment of Protocol 1 concerning the definition of 'originating products' and methods of administrative cooperation |

Delegations will find attached document COM(2023) 55 final - ANNEX.

Encl.: COM(2023) 55 final - ANNEX

EUROPEAN
COMMISSION

Brussels, 3.2.2023
COM(2023) 55 final

ANNEX

**ANNEX**

***to the***

**Proposal for a Council Decision**

**on the position to be taken on behalf of the European Union in the Trade Committee established under the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam, as regards the amendment of Protocol 1 concerning the definition of 'originating products' and methods of administrative cooperation**

**DECISION NO 2022/01**

**OF THE TRADE COMMITTEE**

**of …**

**modifying Annex II (List of required working or processing) to Protocol 1, concerning the definition of the concept of "originating products" and methods of administrative cooperation**

**THE TRADE COMMITTEE,**

Having regard to the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam (hereinafter, 'the Agreement'), and in particular paragraph 1 of Article 36 of Protocol 1, and subparagraph (c) of paragraph 3 of Article 17.1 of the Agreement,

Whereas:

(1) Paragraph 1 of Article 36 of Protocol 1 provides that the Committee on Customs may review the provisions of Protocol 1 and submit a proposal for a decision to amend it to be adopted by the Trade Committee.

(2) Paragraph 1 of Article 17.4 of the Agreement provides that the Trade Committee may adopt binding decisions where provided for in the Agreement.

(3) Amendments were introduced 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 to the Agreement have agreed to update Annex II to Protocol 1 containing the list of required working or processing to reflect the amendments to HS 2022.

(4) There is no condition in Annex II to Protocol 1 for considering knitted or crocheted products of Heading 6212 to be sufficiently worked or processed. The rule of Chapter 62 of Annex II to Protocol 1 may not be applied to those products, since it is limited to products 'not knitted or crocheted'. Therefore, a specific rule should be added for knitted or crocheted products of Heading 6212.

(5) The required working or processing for products classified in Chapter 41 is missing in the relevant column in Annex II to Protocol 1. It should be added.

(6) The word 'individual' in the third and fourth conditions of the required working or processing for products of Chapter 19 of Annex II to Protocol 1 may be interpreted

differently as regards the content of materials of Chapter 4 and of sugar. To clarify the rule, the word ‘individual’ should be deleted in both instances.

(7) The tolerances for textile products of Chapter 62 of Annex II to Protocol 1 are not referred to in the different alternative rules of the required working or processing. This should be corrected.

(8) Annex II to Protocol 1 to the Agreement should therefore be modified.

**HAS ADOPTED THIS DECISION:**

*Article 1*

Annex II to Protocol 1 to the Agreement containing the list of required working or processing to be carried out on non-originating materials in order that the product manufactured can obtain originating status is amended, as set out in Annex to this Decision.

*Article 2*

This Decision shall enter into force on 1 January 2024.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Vietnamese languages, each text being equally authentic.

Done at Brussels and Hanoi, [insert date]

***For the Trade Committee***

***The Co-Chairs***

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ANNEX

Annex II to Protocol 1 is amended as follows:

(1) In the row related to heading ‘0305’, the text in the column ‘description of the good’ 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 heading ‘ex 0306’, the text in the column ‘description of the good’ 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 heading ‘ex 0307’, the text in the column ‘description of the good’ 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) In the row related to heading ‘ex 0308’, the text in the column ‘description of the good’ is replaced by the following:

‘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’;

(5) Between the row related to heading ‘ex 0308’ and the row related to ‘ex Chapter 4’, a new row is inserted as follows:

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| ‘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.’; |

(6) In the row related to heading ‘ex Chapter 15’, the text in the column ‘description of the good’ 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:’;

(7) In the row related to heading ‘1516 and 1517’, the text in the column ‘description of the good’ 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 1516’;

(8) In the row related to heading ‘Chapter 16’, the text in the column ‘description of the good’ 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 heading ‘Chapter 19’, the text in the column ‘Required working or Processing’ is replaced by the following:

‘Manufacture from materials of any heading, except that of the product, in which:

— the weight of the materials of Chapters 2, 3 and 16 used does not exceed 20 % of the weight of the final product;

— the weight of the materials of headings 1006 and 1101 to 1108 used does not exceed 20 % of the weight of the final product;

— the weight of the materials of Chapter 4 used does not exceed 20 % of the weight of the final product;

— the weight of sugar used does not exceed 40 % of the weight of the final products; and

— the total combined weight of sugar and the materials of Chapter 4 used does not exceed 50 % of the weight of the final product.

(10) 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:’;

(11) Between the row related to HS Heading ‘ex 2402’ and the row related to HS Heading ‘ex Chapter 25’, the following four new rows are inserted as follows:

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| ‘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 50 % 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 50 % of the ex-works price of the product. |
| 2404 91 | Other products than products intended for inhalation without combustion, for oral application | Manufacture from materials of any heading, except that of the product, in which: |

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| | | — the individual weight of the materials of Chapter 4 used does not exceed 20 % of the weight of the final product;<br>— the individual weight of sugar used does not exceed 40 % of the weight of the final product; and<br>— the total combined weight of sugar and the materials of Chapter 4 used does not exceed 50 % of the weight of final product. |
| 2404 92,<br><br>2404 99 | Other products than products intended for inhalation without combustion, for transdermal application and for other than oral application | 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 50 % of the ex-works price of the product’; |

(12) Between the row related to HS Heading ‘ex Chapter 38’ and the row related to HS Heading ‘3823’, the following two new rows are inserted as follows:

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| ‘ex 3816 | Dolomite ramming mix | Manufacture from materials of any heading, except that of the product; or<br>manufacture in which the value of all the materials used does not exceed 70 % of the ex- works price of the product. |
| ex 3822 | Malaria diagnostic test kits<br><br>Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale<br><br>Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale<br><br>Immunological products, put up in measured doses or in forms or packings for retail sale<br><br>Blood-grouping reagents | Manufacture from materials of any heading.’; |

(13) In the row related to heading ‘ex Chapter 41’, the text in the column ‘Required working or Processing’ is replaced by the following:

‘Manufacture from materials of any heading, except that of the product’;

(14) In the row related to heading ‘ex Chapter 62’, the text in the column ‘Required working or Processing’ is replaced by the following:

‘Weaving accompanied by making- up (including cutting) [3], [5]; or

making-up preceded by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5% of the ex-works price of the product [3], [5]’;

(15) Between the row related to headings ‘ex 6202, ex 6204, ex 6206, ex 6209 and ex 6211’ and the row related to headings ‘ex 6210 and ex 6216’, three new rows are inserted as follows:

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| ‘ex 6212 | Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, knitted or crocheted | |
| | - - Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form | Knitting and making-up (including cutting). [7] [10] |
| | - Other | Dyeing of yarn of natural fibres accompanied by knitting (knitted to shape products). [10]’; |

(16) In the row related to heading ‘6306’, the text in the column ‘description of the good’ is replaced by the following:

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

(17) In the row related to heading ‘7019’, the text in the column ‘description of the good’ is replaced by the following:

‘Glass fibres (including glass wool) and articles thereof (for example, yarn, rovings, woven fabrics)’;

(18) In the row related to heading ‘8539’, the text in the column ‘description of the good’ is replaced by the following:

‘Electric filament or discharge lamps, including sealed beam lamp units and ultraviolet or infra-red lamps; arc-lamps; light-emitting diode (LED) light sources’;

(19) In the row related to heading ‘8548’, the text in the column ‘description of the good’ is replaced by the following:

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

(20) Between the row related to heading ‘8548’ and the row related to ‘Chapter 86’, a new row is inserted as follows:

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| ‘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.’; |

(21) Between the row related to HS Heading ‘9002’ and the row related to HS Heading ‘Chapter 91’, a new row is inserted as follows:

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| ‘ex 9021 | Materials for orthopedic or fracture appliances and for dental fitting:<br><br>- 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<br><br>- 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 | Manufacture from materials of any heading, except that of the product. |
| | - Titanium and articles thereof, including waste and scrap | Manufacture from materials of any heading.’; |

and

(22) In the row related to heading ‘Chapter 94’, the text in the column ‘description of the good’ is replaced by the following:

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