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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the amendment of Appendix II to that Convention

COUNCIL DECISION (EU) 2017/...

of ...

**on the position to be taken on behalf of the European Union
within the Joint Committee of the Regional Convention
on pan-Euro-Mediterranean preferential rules of origin
as regards the amendment of Appendix II to that Convention**

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 the proposal from the European Commission,

Whereas:

- (1) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹ ('the Convention'), which sets out the rules regarding the origin of goods traded in the context of free trade agreements between countries of the pan-Euro-Mediterranean area, as well as with countries that are party to the Union's Stabilisation and Association Process, entered into force on 1 January 2012.
- (2) Article 1 of Appendix II to the Convention provides that the Contracting Parties are able to apply, in their bilateral trade, special provisions derogating from the general provisions laid down in Appendix I to that Convention. Those special provisions are laid down in the Annexes to Appendix II.
- (3) The Joint Committee set up under the Central European Free Trade Agreement ('CEFTA'), to which the Republic of Moldova and the participants in the Union's Stabilisation and Association Process ('CEFTA Parties') are Parties, adopted Decision No 3/2015 of 26 November 2015, laying down special provisions derogating from the provisions laid down in Appendix I to the Convention ('the derogating provisions').

¹ OJ L 54, 26.2.2013, p. 4.

- (4) Decision No 3/2015 aims at facilitating trade amongst CEFTA Parties by easing the conditions for cumulation laid down in Article 3 of Appendix I to the Convention concerning cumulation of origin and by removing the prohibition of drawback of, or exemption from, customs duties laid down in Article 14 of Appendix I to the Convention. The derogating provisions apply only for the purposes of determining the origin of goods in trade between the CEFTA Parties.
- (5) The derogating provisions should be laid down in a new annex on trade covered by CEFTA involving the CEFTA Parties, which is to be included in Appendix II to the Convention. Appendix II to the Convention should be amended accordingly.
- (6) The position of the Union within the Joint Committee of the Convention should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union within the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin as regards the amendment of Appendix II to the Convention shall be based on the draft Decision of the Joint Committee attached to this Decision.

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

Article 2

After its adoption, the Decision of the 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 ...,

For the Council
The President

DRAFT

DECISION No .../2017
OF THE JOINT COMMITTEE OF THE REGIONAL CONVENTION
ON PAN-EURO-MEDITERRANEAN PREFERENTIAL RULES OF ORIGIN

of ...

amending the provisions of Appendix II to the Regional Convention
on pan-Euro-Mediterranean preferential rules of origin
by introducing a possibility of duty drawback and of full cumulation in the trade
covered by the Central European Free Trade Agreement (CEFTA)
involving the Republic of Moldova
and the participants in the European Union's Stabilisation and Association Process

THE JOINT COMMITTEE,

Having regard to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹,

¹ OJ L 54, 26.2.2013, p. 4.

Whereas:

- (1) Article 1(2) of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin ('the Convention') provides that Appendix II sets out special provisions applicable between certain Contracting Parties and derogating from the provisions laid down in Appendix I.
- (2) Article 1 of Appendix II to the Convention provides that the Contracting Parties may apply in their bilateral trade special provisions derogating from the provisions laid down in Appendix I and that those provisions are laid down in the Annexes to Appendix II.
- (3) The Republic of Serbia, acting as the chair of the CEFTA subcommittee on customs and rules of origin in the framework of the Central European Free Trade Agreement (CEFTA) involving the Republic of Moldova and the participants in the European Union's Stabilisation and Association Process ('CEFTA Parties'), informed the secretariat of the Joint Committee of the Convention about Decision No 3/2015 of the Joint Committee of the Central European Free Trade Agreement of 26 November 2015 introducing a possibility of duty drawback and of full cumulation in the trade between the Republic of Moldova and the participants in the European Union's Stabilisation and Association Process in the framework of CEFTA.
- (4) Article 4(3)(a) of the Convention provides that the Joint Committee is to adopt by unanimity amendments to the Convention, including amendments to the Appendixes,

HAS ADOPTED THIS DECISION:

Article 1

Appendix II to the Convention, which sets out the derogations from the provisions of Appendix I to the Convention, is amended and complemented by Annexes XIII, G and H to Appendix II to the Convention, set out in the Annexes to this Decision.

Article 2

Annexes XIII, G and H to Appendix II to the Convention, set out in the Annexes to this Decision, specify the conditions for application of the prohibition of duty drawback and full cumulation in the trade between the CEFTA Parties.

Article 3

The Annexes shall form an integral part of this Decision.

Article 4

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

The date of application shall be

Done at Brussels,

For the Joint Committee

The Chair

ANNEX I

Annex XIII to Appendix II

Trade covered by the Central European Free Trade Agreement (CEFTA) involving the Republic of Moldova and the participants in the European Union's Stabilisation and Association Process

Article 1

Exclusions from cumulation of origin

Products having acquired their origin by application of the provisions foreseen in this Annex shall be excluded from cumulation as referred to in Article 3 of Appendix I.

Article 2

Cumulation of origin

For the purpose of implementing Article 2(1)(b) of Appendix I, working or processing carried out in the Republic of Moldova or the participants in the European Union's Stabilisation and Association Process ('the CEFTA Parties') shall be considered as having been carried out in any other CEFTA Party when the products obtained undergo subsequent working or processing in the CEFTA Party concerned. Where, pursuant to this provision, the originating products are obtained in two or more of the Parties concerned, they shall be considered as originating in the CEFTA Party concerned only if the working and processing goes beyond the operations referred to in Article 6 of Appendix I.

Article 3
Proofs of origin

1. Without prejudice to Article 16(4) and (5) of Appendix I, a movement certificate EUR.1 shall be issued by the customs authorities of a CEFTA Party if the products concerned can be considered as products originating in a CEFTA Party with application of the cumulation referred to in Article 2 of this Annex, and fulfil the other requirements of Appendix I.
2. Without prejudice to Article 21(2) and (3) of Appendix I, an origin declaration may be made out if the products concerned can be considered as products originating in a CEFTA Party, with application of the cumulation referred to in Article 2 of this Annex, and fulfil the other requirements of Appendix I.

Article 4
Supplier's declarations

1. When a movement certificate EUR.1 is issued or an origin declaration is made out in a CEFTA Party for originating products in the manufacture of which goods coming from other CEFTA Parties which have undergone working or processing in those Parties without having obtained preferential originating status have been used, account shall be taken of the supplier's declaration given for those goods in accordance with this Article.

2. The supplier's declaration referred to in paragraph 1 of this Article shall serve as evidence of the working or processing undergone in the CEFTA Parties by the goods concerned for the purpose of determining whether the products in the manufacture of which those goods are used can be considered as products originating in the CEFTA Parties or fulfil the other requirements of Appendix I.
3. A separate supplier's declaration shall, except in the cases provided in paragraph 4 of this Article, be made out by the supplier for each consignment of goods in the form prescribed in Annex G to this Appendix on a sheet of paper annexed to the invoice, the delivery note or any other commercial document describing the goods concerned in sufficient detail to enable them to be identified.
4. Where a supplier regularly supplies a particular customer with goods for which the working or processing undergone in the CEFTA Parties is expected to remain constant for a considerable period of time, he may provide a single supplier's declaration to cover subsequent consignments of those goods ('long-term supplier's declaration').

A long-term supplier's declaration may normally be valid for a period of up to one year from the date of making out the declaration. The customs authority of a CEFTA Party where the declaration is made out lays down the conditions under which longer periods may be used.

The long-term supplier's declaration shall be made out by the supplier in the form prescribed in Annex H to this Appendix and shall describe the goods concerned in sufficient detail to enable them to be identified. It shall be provided to the customer concerned before he is supplied with the first consignment of goods covered by that declaration or together with his first consignment.

The supplier shall inform his customer immediately if the long-term supplier's declaration is no longer applicable to the goods supplied.

5. The supplier's declarations referred to in paragraphs 3 and 4 of this Article shall be typed or printed in English, in accordance with the provisions of the national law of the CEFTA Party where the declaration is made out, and shall bear the original signature of the supplier in manuscript. The declaration may also be handwritten; in such a case, it shall be written in ink in printed characters.
6. The supplier making out a declaration shall be prepared to submit at any time, at the request of the customs authority of the CEFTA Party where the declaration is made out, all appropriate documents proving that the information given on that declaration is correct.

Article 5
Supporting documents

Supplier's declarations proving the working or processing undergone in the CEFTA Parties by materials used, made out in one of those parties, shall be treated as a document referred to in Articles 16(3) and 21(5) of Appendix I and Article 4(6) of this Annex used for the purpose of proving that products covered by a movement certificate EUR.1 or an origin declaration may be considered as products originating in a CEFTA Party and fulfil the other requirements of Appendix I.

Article 6
Preservation of supplier's declarations

The supplier making out a supplier's declaration shall keep for at least three years copies of the declaration and of all the invoices, delivery notes or other commercial documents to which that declaration is annexed as well as the documents referred to in Article 4(6) of this Annex.

The supplier making out a long-term supplier's declaration shall keep for at least three years copies of the declaration and of all the invoices, delivery notes or other commercial documents concerning goods covered by that declaration sent to the customer concerned, as well as the documents referred to in Article 4(6) of this Annex. That period shall begin from the date of expiry of validity of the long-term supplier's declaration.

Article 7

Administrative cooperation

Without prejudice to Articles 31 and 32 of Appendix I, in order to ensure the proper application of this Annex, the CEFTA Parties shall assist each other, through the competent customs authorities, in checking the authenticity of the movement certificates EUR.1, the origin declarations or the supplier's declarations and the correctness of the information given in those documents.

Article 8

Verification of supplier's declarations

1. Subsequent verifications of supplier's declarations or long-term supplier's declarations may be carried out at random or whenever the customs authority of the CEFTA Party where such declarations have been taken into account to use a movement certificate EUR.1 or to make out an origin declaration have reasonable doubts as to the authenticity of the document or the correctness of the information given therein.
2. For the purposes of implementing the provisions of paragraph 1 of this Article, the customs authority of the CEFTA Party referred to in paragraph 1 of this Article shall return the supplier's declaration or the long-term supplier's declaration and invoices, delivery notes or other commercial documents concerning goods covered by such declaration to the customs authority of the CEFTA Party where the declaration was made out, giving, where appropriate, the reasons of substance or form of the request for verification.

They shall forward, in support of the request for subsequent verification, any documents and information that have been obtained suggesting that the information given in the supplier's declaration or the long-term supplier's declaration is incorrect.

3. The verification shall be carried out by the customs authority of the CEFTA Party where the supplier's declaration or the long-term supplier's declaration was made out. For that purpose, they shall have the right to call for any evidence and carry out any inspection of the supplier's accounts or any other check which they consider appropriate.
4. The customs authority requesting the verification shall be informed of the results thereof as soon as possible. Those results shall indicate clearly whether the information given in the supplier's declaration or the long-term supplier's declaration is correct and make it possible for them to determine whether and to what extent such declaration could be taken into account for issuing a movement certificate EUR.1 or for making out an origin declaration.

Article 9

Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 10

Prohibition of drawback of, or exemption from, customs duties

The prohibition in paragraph 1 of Article 14 of Appendix I shall not apply in bilateral trade between CEFTA Parties.

ANNEX II

ANNEX G to Appendix II

Supplier's declaration for goods which have undergone working or processing in the CEFTA Parties
without having obtained preferential origin status

The supplier's declaration, 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.

SUPPLIER'S DECLARATION

for goods which have undergone working or processing in the CEFTA Parties without having
obtained preferential origin status

I, the undersigned, supplier of the goods covered by the annexed document, declare that:

1. The following materials which do not originate in the CEFTA Parties have been used in
the CEFTA Parties to produce these goods:

Description of the goods supplied ⁽¹⁾	Description of non-originating materials used	Heading of non-originating materials used ⁽²⁾	Value of non-originating materials used ⁽³⁾
Total value			

- ¹ When the invoice, delivery note or other commercial document to which the declaration is annexed relates to different kinds of goods, or to goods which do not incorporate non-originating materials to the same extent, the supplier must clearly differentiate them.

Example:

The document relates to different models of electric motor of heading 8501 to be used in the manufacture of washing machines of heading 8450. The nature and value of the non-originating materials used in the manufacture of these motors differ from one model to another. The models must therefore be differentiated in the first column and the indications in the other columns must be provided separately for each of the models to make it possible for the manufacturer of washing machines to make a correct assessment of the originating status of his products depending on which model of electrical motor he uses.

- ² The indications requested in these columns should only be given if they are necessary.

Examples:

The rule for garments of ex Chapter 62 says that non-originating yarn may be used. If a manufacturer of such garments in Serbia uses fabric imported from Montenegro which has been obtained there by weaving non-originating yarn, it is sufficient for the Montenegrin supplier to describe in his declaration the non-originating material used as yarn, without it being necessary to indicate the heading and value of such yarn.

A producer of iron of heading 7217 who has produced it from non-originating iron bars should indicate in the second column 'bars of iron'. Where this wire is to be used in the production of a machine for which the rule contains a limitation for all non-originating materials used to a certain percentage value, it is necessary to indicate in the third column the value of non-originating bars.

- ³ '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 one of the CEFTA Parties. The exact value for each non-originating material used must be given per unit of the goods specified in the first column.

2. All the other materials used in the CEFTA Parties to produce these goods originate in the CEFTA Parties.
3. The following goods have undergone working or processing outside CEFTA Parties, in accordance with Article 11 of Appendix I to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, and have acquired the following total added value there:

Description of the goods supplied	Total added value acquired outside the CEFTA Parties ⁴
.....	
.....	
.....	
.....	
	
	<i>(Place and date)</i>
	
	
	
	<i>(Address and signature of the supplier; in addition, the name of the person signing the declaration has to be indicated in clear script)</i>

⁴ 'Total added value' shall mean all costs accumulated outside the CEFTA Parties, including the value of all materials added there. The exact total added value acquired outside the CEFTA Parties must be given per unit of the goods specified in the first column.

ANNEX III

ANNEX H to Appendix II

Long-term supplier's declaration for goods which have undergone working or processing in the
CEFTA Parties without having obtained preferential origin status

The long-term supplier's declaration, 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.

LONG-TERM SUPPLIER'S DECLARATION

for goods which have undergone working or processing in the CEFTA Parties without having
obtained preferential originating status

I, the undersigned, supplier of the goods covered by this document, which are regularly supplied to
.....¹, declare that:

1. The following materials which do not originate in the CEFTA Parties have been used in
the CEFTA Parties to produce these goods:

¹ Name and address of customer.

Description of the goods supplied ⁽²⁾	Description of non-originating materials used	Heading of non-originating materials used ⁽³⁾	Value of non-originating materials used ⁽⁴⁾
Total value			

- ² When the invoice, delivery note or other commercial document to which the declaration is annexed relates to different kinds of goods, or to goods which do not incorporate non-originating materials to the same extent, the supplier must clearly differentiate them.

Example:

The document relates to different models of electric motor of heading 8501 to be used in the manufacture of washing machines of heading 8450. The nature and value of the non-originating materials used in the manufacture of these motors differ from one model to another. The models must therefore be differentiated in the first column and the indications in the other columns must be provided separately for each of the models to make it possible for the manufacturer of washing machines to make a correct assessment of the originating status of his products depending on which model of electrical motor he uses.

- ³ The indications requested in these columns should only be given if they are necessary.

Examples:

The rule for garments of ex Chapter 62 says that non-originating yarn may be used. If a manufacturer of such garments in Serbia uses fabric imported from Montenegro which has been obtained there by weaving non-originating yarn, it is sufficient for the Montenegrin supplier to describe in his declaration the non-originating material used as yarn, without it being necessary to indicate the heading and value of such yarn. A producer of iron of heading 7217 who has produced it from non-originating iron bars should indicate in the second column 'bars of iron'. Where this wire is to be used in the production of a machine for which the rule contains a limitation for all non-originating materials used to a certain percentage value, it is necessary to indicate in the third column the value of non-originating bars.

- ⁴ '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 one of the CEFTA Parties. The exact value for each non-originating material used must be given per unit of the goods specified in the first column.

2. All the other materials used in the CEFTA Parties to produce these goods originate in the CEFTA Parties.
3. The following goods have undergone working or processing outside CEFTA Parties, in accordance with Article 11 of Appendix I to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, and have acquired the following total added value there:

Description of the goods supplied	Total added value acquired outside the CEFTA Parties ⁽⁵⁾

This declaration is valid for all subsequent consignments of these goods dispatched
 from.....
 to.....⁶

⁵ 'Total added value' shall mean all costs accumulated outside the CEFTA Parties, including the value of all materials added there. The exact total added value acquired outside the CEFTA Parties must be given per unit of the goods specified in the first column.

⁶ Insert dates. The period of validity of the long term supplier's declaration should not normally exceed 12 months, subject to the conditions laid down by the customs authorities of the country where the long term supplier's declaration is made out.

I undertake to inform.....⁷ immediately if this declaration is no longer valid.

.....
(Place and date)

.....
.....
.....

(Address and signature of the supplier; in addition, the name of the person signing the declaration has to be indicated in clear script)

⁷ _____
Name and address of customer.