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ANNEX 1

ANNEX

to the

Proposal for a Council Decision

on the position to be taken by 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 replacement of Protocol 3 to that Agreement, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, by a new Protocol which, as regards the rules of origin, refers to the Regional Convention on pan-Euro-Mediterranean rules of origin

ANNEX

Draft

DECISION OF THE EU-MONTENEGRO STABILISATION AND ASSOCIATION COUNCIL No […]

of […]

amending Protocol 3 to 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, concerning the definition of the concept of 'originating products' and methods of administrative cooperation

The Stabilisation and Association Council,

Having regard to the Stabiliation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, signed in Luxembourg on 15 October 2007[1], hereinafter referred to as 'the Agreement', and in particular its Article 44,

Having regard to Protocol 3 to the Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation, hereinafter referred to as 'Protocol 3',

Whereas:

(1) Article 44 of the Agreement refers to Protocol 3 which lays down the rules of origin and provides for cumulation of origin between the EU, Montenegro, Turkey and any country or territory participating in the European Union's Stabilisation and Association Process.

(2) Article 39 of Protocol 3 provides that the Stabilisation and Association Council provided for in Article 119 of the Agreement may decide to amend the provisions of this protocol.

(3) The regional Convention on pan-Euro-Mediterranean preferential rules of origin[2], hereafter 'the Convention', aims at replacing the protocols on rules of origin currently in force among the countries of the pan-Euro-Mediterranean area with a single legal act. Montenegro and other participants to the Stabilisation and Association Process from the Western Balkans were invited to join the system of pan-European diagonal cumulation of origin in the Thessaloniki agenda, endorsed by the European Council of June 2003. They were invited to join the Convention by a decision of the Euro-Mediterranean Ministerial Conference of October 2007.

(4) The EU and Montenegro signed the Convention on 15 June 2011.

(5) The EU and Montenegro deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and 2 July 2012, respectively. As a consequence, in application of its Article 10(3), the Convention entered into force in

[1] OJ L 108, 29.4.2010, p. 3.
[2] OJ L 54, 26.2.2013, p. 4.

relation to the EU and Montenegro on 1 May 2012 and on 1 September 2012, respectively.

(6) Where the transition towards the Convention is not simultaneous for all Contracting Parties within the cumulation area, it should not lead to any less favourable situation than previously under the Protocol.

(7) Protocol 3 to the Agreement should therefore be amended so as to make reference to the Convention.

HAS DECIDED AS FOLLOWS:

Article 1

Protocol 3 to the Agreement, concerning the definition of the concept of 'originating products' and methods of administrative cooperation shall be replaced by the text set out in the Annex to this Decision.

Article 2

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

It shall apply from [1 September 2014].

Done at

For the Stabilisation and Association Council
The President

ANNEX

Protocol 3

concerning the definition of the concept of 'originating products' and methods of administrative cooperation

Article 1

Applicable rules of origin

For the purpose of implementing this Agreement, Appendix I and the relevant provisions of Appendix II to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin[1], hereafter 'the Convention' shall apply.

All references to the 'relevant agreement' in Appendix I and in the relevant provisions of Appendix II to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin shall be construed so as to mean this Agreement.

Article 2

Dispute settlement

Where disputes arise in relation to the verification procedures of Article 32 of Appendix I to the Convention which cannot be settled between the customs authorities requesting the verification and the customs authorities responsible for carrying out this verification, they shall be submitted to the Stabilisation and Association Council.

In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall take place under the legislation of that country.

Article 3

Amendments to the Protocol

The Stabilisation and Association Council may decide to amend the provisions of this Protocol.

Article 4

Withdrawal from the Convention

1. Should either the EU or Montenegro give notice in writing to the depositary of the Convention of their intention to withdraw from the Convention according to its Article 9, the EU and Montenegro shall immediately enter into negotiations on rules of origin for the purpose of implementing this Agreement.

2. Until the entry into force of such newly negotiated rules of origin, the rules of origin contained in Appendix I and, where appropriate, the relevant provisions of Appendix II to the Convention, applicable at the moment of withdrawal, shall continue to apply to this Agreement. However, as of the moment of withdrawal, the rules of origin contained in

[1] OJ L 54, 26.2.2013, p. 4.

Appendix I and, where appropriate, the relevant provisions of Appendix II to the Convention shall be construed so as to allow bilateral cumulation between the EU and Montenegro only.

Article 5

Transitional provisions – cumulation

1. Notwithstanding Article 3 of Appendix I to the Convention, the rules on cumulation provided for in Articles 3 and 4 of Protocol 3 to this Agreement, as adopted by the contracting parties on concluding the Agreement[2], shall continue to apply between the EU and Montenegro until the Convention has entered into application with relation to all Contracting Parties listed in these Articles 3 and 4.

2. Notwithstanding Articles 16(5) and 21(3) of Appendix I of the Convention, where cumulation involves only EFTA States, the Faroe Islands, the EU, Turkey and the participants in the Stabilisation and Association Process, the proof of origin may be a movement certificate EUR.1 or an origin declaration.

[2] OJ L 108, 29.4.2010, p. 3.