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Proposal for a

**COUNCIL DECISION**

**on the association of the overseas countries and territories with the European Union  
("Overseas Association Decision")**

{SWD(2012) 193 final}  
{SWD(2012) 194 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### 1.1. General context

OCTs have been associated to the European Union since the entry into force in 1958 of the Treaty of Rome. They are islands located in the Atlantic, Antarctic, Arctic, Caribbean, Indian Ocean and Pacific regions. They are not sovereign countries but depend on four Member States of the EU: Denmark, France, the Netherlands and the United Kingdom. The association of the OCTs with the Union flows from the constitutional relations that these countries and territories have with the four Member States.

In general, OCTs have wide ranging autonomy, covering areas such as economic affairs, employment market, public health, home affairs and customs. Defence and foreign affairs usually remain within the remit of the Member States. The OCTs are not part of the Union's customs territory and are outside the Internal Market. The Union legislation therefore does not apply.

Being nationals of the EU Member States to which their countries and territories are constitutionally linked, OCT inhabitants hold EU citizenship. The OCTs' total population represents only 0.02% of the world population (1.2 million). Their total land mass represents only 80,000 sq km<sup>1</sup>.

Since the adoption in 2001 of the current Overseas Association Decision, the regional and international environments in which OCTs operate has considerably changed. New political priorities have emerged at European and international level, (such as environment, climate change, sustainable management of natural resources) as well as changes in global trade patterns. With the Europe 2020 Agenda, the European Commission proposed a strategy<sup>2</sup> articulated around three priorities: smart growth, sustainable growth and inclusive growth as a response to the economic and financial crisis.

For their part, the OCTs continue to face economic and social problems and/or struggle to found their economies on a sustainable basis. They are confronted with a number of difficulties linked to their fragile environments and the need to secure the environmental pillar of sustainable development.

The main challenge that OCTs face consists in putting their economies and societies on a sustainable development path by increasing their competitiveness, reducing their vulnerability, increasing environmental resilience, and cooperating with their neighbours and integrating in the regional and/or world economies, where this is possible. For the Union, the challenge resides in supporting the OCTs with the accomplishment of these goals and of the purpose of the association as defined in Article 198 of the Treaty on the functioning of the European Union, via a framework that is adapted to OCT needs, realities, particularities and diversity.

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<sup>1</sup> Not counting Greenland (the world's largest island) and the British Antarctic Territory, which respectively account for 2.2 million and 1.7 million sq. km.

<sup>2</sup> Communication COM(2010) 2020 final of 3 March 2010 "Europe 2020 – A strategy for smart, sustainable and inclusive growth"

## **1.2. Existing provisions**

The current rules and procedures of the EU-OCT association are laid down in Decision 2001/822/EC of the Council of 27 November 2001 on the association of the overseas countries and territories with the European Community, (OJ L 314/1, 30.11.2001), as amended by Decisions 2007/249/EC (OJ L 109/33, 26.04.2007) and XXXXXXXX (Decision regarding Saint-Barthélemy).

## **1.3. Consistency with other EU policies**

"Europe 2020" provides the benchmark against which the coherence of EU policies and the promotion of EU values, standards and interest need to be checked<sup>3</sup>. Coherence with the Europe 2020 strategy should be sought as far as its smart growth and sustainable priorities are concerned, promoting support to research, innovation as well as to information and communication technologies (ICT) and sustainable growth capacities as catalysts for socio-economic development.

The 2014-2020 OAD will play an important role in that respect. Indeed, the idea of establishing 'centres of experience and expertise' could relate to the implementation and promotion of high standards, including international standards, e.g. in the fields of environment and food safety and consumer health. The OCTs are all characterised by rich biodiversity. The sustainable use and protection of this biodiversity would benefit from better scientific documentation and access to research and innovation results. Likewise, the implementation of international standards within the area of food safety, animal and plant health could facilitate trade between OCTs and their trading partners, including EU Member States. The Union's commitment to environmental standards as well as its role as a global player in the fight against climate change could be of great value to both the Union and the OCTs. The Commission believes that biodiversity and other natural assets of the OCTs could be the object of a strengthened cooperation in the field of research, innovation and conservation. A partnership in the area of environment could be of mutual interest to both parties.

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

The revision of the Overseas Association Decision has been the subject of various stakeholders' consultations throughout the period 2008-2011. These include public consultations, but also regular ad hoc meetings between the OCTs, the Member States to which they are constitutionally linked and the European Commission, as well as dialogue in the context of the instances foreseen under Article 7 of the current Overseas Association Decision: annual fora , regular trilateral meetings and partnership working parties dedicated to environmental issues, trade issues, regional integration of the OCTs, financial services in the OCTs and the future EU-OCT relations.

### **2.1. Consultations**

The outcome of stakeholders' consultation highlighted the following issues:

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<sup>3</sup> COM (2010) 2020, 3 March 2010.

In their replies to the 2008 Green Paper<sup>4</sup>, stakeholders called for a change of the association's current focus on poverty reduction and development cooperation to a more reciprocal relationship focused on the sustainable development of the OCTs (i.e. a development model that conciliates economic activities and social well-being in the long run while preserving natural resources and ecosystems for future generations), which could, at the same time, support the promotion of EU values and standards in the wider world.

This was highlighted during the interventions at the stakeholders' conference in October 2008 which gathered over 100 interested parties from the OCTs' authorities, their Member States, the Union's institutions and bodies and civil society at large.

The Council of the European Union<sup>5</sup> also welcomed and expressed support to the change of paradigm.

In a Joint Position Paper<sup>6</sup> adopted in February 2011, the OCTs and their Member States called for a better recognition of the OCTs as part of the European family, an association further based on the mutual interests of the Union and the OCTs and a focus on potential and vulnerabilities of the OCTs. The document also calls the attention to the necessity to recognize and take the interests of the OCTs in the following areas: erosion of preferences and trade related issues, and building capacity.

It was also underlined that issues relating to environment, climate change and disaster risk reduction should constitute a priority for the future EU-OCT relations: sustainable use and protection of OCTs biodiversity and natural resources, environmental security, energy and renewable energy, ecosystems conservation, fight against climate change impacts and mitigation, preparedness and response to disasters, invasive species, sustainable fisheries. Stakeholders<sup>7</sup> called for an enhanced cooperation of the Union with the OCTs and outermost regions in the field of conservation of biodiversity and ecosystems services.

Solidarity between the Union and OCTs should be based on the fact that OCT inhabitants, as nationals of the related Member States, were also EU citizens. It was underlined that by helping OCTs to strengthen their competitiveness and resilience, reduce their vulnerability and implant themselves in their regional environment, the Union would actually be investing in strategic outposts able to promote Union's values in the world.

## **2.2. Collection and use of expertise:**

The EU-OCT association was analysed in various studies, commissioned either by the Commission or by the OCTs. These studies covered topics such as the trade regime contained in the OAD, the OCTs' environmental profiles, OCT statistical systems and capacities, OCT disaster preparedness as well as the cooperation of the Union with the OCTs during the period

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<sup>4</sup> COM(2008) 383 of 25 June 2008

<sup>5</sup> Conclusions 17801/09 of 22 December 2009

<sup>6</sup> See:

<http://www.octassociation.org/Visual%20Identity%20and%20Publications/Reports/joint%20position%20280211.pdf>

<sup>7</sup> In July 2008 a conference on "The European Union and its Overseas Entities: Strategies to counter Climate Change and Biodiversity Loss" was held in La Réunion Island gathered representatives of the European Commission, European Parliament, public authorities and civil stakeholders from the OCTs, outermost regions of the EU and EU Member States.

1999-2009<sup>8</sup>. The latter was presented and discussed with the stakeholders on the occasion of the annual OCT-EU Forum in March 2011.

The main recommendations of the different studies with regard to the Union's financial assistance to OCTs were the following:

- (1) to incorporate the political priorities that emerged in the last decade in the programming of EU-OCT cooperation;
- (2) to adapt rules and procedures of the programming of financial assistance so as to reduce response time of assistance;
- (3) to promote cooperation between OCTs and their neighbouring countries, amongst others through a better coordination of the respective financial instruments available to OCTs, ACP States and the outermost regions;
- (4) to facilitate access to Union's horizontal programmes for which OCTs are eligible.

The main recommendations of the different studies with regard to trade and trade related aspects of the Overseas Association Decision were the following:

- (1) to adapt the arrangements concerning trade in goods so as to take structural difficulties better into account, amongst others by introducing more flexible rules of origin for OCT goods exports to the Union;
- (2) to allow for the possibility for OCTs to engage in more favourable trade relations with other OCTs and developing countries, so as to reflect the increasing importance that trade in services has gained in world and regional economies in the last decade and to facilitate regional integration in this area;
- (3) to foresee support and capacity building for the development of OCT trade related policies as well as to assist OCTs in regulatory reform;
- (4) to support dissemination within OCTs of information regarding the conditions defining access to the EU market;
- (5) to maintain the direct dialogue between the European Commission and the OCTs on e.g. trade and trade related issues and ensure that OCT interests are taken into account in the context of EU trade negotiations.

With regard to environmental issues, the different studies recommended that the Union and the OCTs cooperate more in the following areas:

- (1) climate change,
- (2) natural disasters,
- (3) threats to wildlife and biodiversity, habitat destruction,

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<sup>8</sup> ECO Consult et al., Region Level Evaluation: Overseas Countries and Territories (OCT), contract N° EVA 2004/geo-acp, Final Report, July 2011 (hereafter ECO consult et al. (2011)).

- (4) illegal, unregulated and unreported fishing,
- (5) waste management,
- (6) water supply and sanitation.

### **2.3. Impact assessment**

In the impact assessment three policy options were examined in detail.

#### ***Policy option 1: Status Quo Renewal of the current Overseas Association Decision without any changes.***

Under Policy option 1, the structure and the content of the currently into force Association Decision would be maintained for the period 2014-2020.

Maintaining the status quo could legitimately be considered as a valid option for the future EU-OCT association as current arrangements were found to have been beneficial for the OCTs' social and economic development, amongst others by providing free access to the large EU market and the possibility of support for exploiting the export opportunities this represents. The EU-OCT cooperation in the period 1999-2009 was considered by external studies to have been coherent with both the association's objectives and the OCTs' political priorities and concluded that no marked contradictions or inconsistencies had occurred between EU-OCT cooperation and other Union policies. Though consistent with Part Four of the TFEU and its Preamble, option 1 would not accomplish the shared ambition of OCTs, their Member States and the Commission to reshape and modernise the EU-OCT relations on a reciprocal basis. Rather than modernising the relations and introducing a more reciprocal partnership, in which mutual interests could be better taken into account, the donor/beneficiary rationale which has traditionally underpinned EU-OCT relations would be maintained.

OCT goods and services access to the Union would remain subject to the existing rules and would lead to loss of market access for the OCTs (due to preference erosion). This would have a negative impact on the social and economic position of OCTs.

#### ***Policy option 2: Modernisation of the Overseas Association Decision and alignment with EU policy framework***

Option 2 would modernise and align the OAD with the Union policy framework. Its objectives and principles would be revised, taking into account the political orientations of the Council of the EU, the requests the OCTs and their Member States expressed on different occasions as well as the results of external studies.

Policy option 2 would enhance an EU-OCT cooperation based on the mutual interests the stakeholders identified throughout the consultation process. It would also promote a more efficient cooperation through a more focus and coordinated action between the Union, the OCTs and their Member States. Areas of cooperation recognized as priorities by the OCTs would receive an enhanced support from the Union (e.g.: conservation of biodiversity and ecosystem services, research and innovation).

Under policy option 2, the Union would support the OCTs to address sensitive issues undermining their sustainable development, such as climate change which they cannot tackle

alone. For such challenges, insular territories cannot develop successful measures alone, they need to find partners and be integrated in global responses.

Policy option 2 would offer to the OCTs a modernised trade regime with the Union that would 1) entail improved rules and origins and 2) guarantee a treatment for trade in services and establishment that would not be less favourable than the one given by the Union to other third partners, which is not the case under the current framework.

Policy option 2 would be consistent with Part Four of the TFEU and its Preamble. It would also translate the political orientations of the Council of the EU on the three objectives of competitiveness, resilience and cooperation. Under policy option 2, the association framework would take into account recent policy developments and would take stock of discussions that emerged in the last decade. Policy coherence would be ensured under this option and would be strengthened. The social, economic and environmental impacts would be more positive than under options 1.

Policy option 2 would better reflect the notion of mutual interests than it is currently the case. It would allow the integration of Union policy agenda priorities in the relations between the Union and the OCTs and the EU added value as a global partner in emerging global issues would be enhanced. In doing so, the OCTs better promote Union's values and standards in the wider world.

### ***Policy option 3: Several partnership agreements concluded***

Option 3 would entail a diversification of EU-OCT relations. In the area of trade and economic cooperation two approaches would be adopted. Certain OCTs could be included in other EU bilateral trade arrangements, namely Economic Partnership agreements (EPAs) or FTAs, where relevant and possible. For the remaining OCTs, an OCT trade regime equivalent to policy option 1 or 2 would be foreseen under the association framework. Whilst this would not cover the trade and economic cooperation with those OCTs which would have been included in other trade agreements, it could cover cooperation with all OCTs in all other areas. An alternative option would consist in having all cooperation with OCTs that would fall under an EPA or FTA take place in the context of these agreements. This would include that financial assistance would also take place outside of the association framework.

By integrating or associating OCTs to other trade agreements, some of the objectives of the EU-OCT association could be met. However, this would be done outside of the association as such. Furthermore, option 3 may not be fully adapted to the needs and realities of most or even all OCTs. There may be negative impacts also for the Union itself if significant compensation is required in order to incorporate the OCTs into existing agreements. By integrating OCTs in other trade agreements the associated countries and territories with constitutional links to Member States would legally and effectively cease to be OCTs. As the implementation of policy option 3 may result in the Union having to work out solutions for setting up different types of relations with each of the OCTs, the legal process would be very complicated and would need to be reiterated for every OCT. It would likely increase confusion as regards to their status and that of their inhabitants. Certain rules currently contained or being considered in the different agreements may not apply to OCT inhabitants to the extent that they are EU citizens. Thus, the implementation of policy option 3 may amplify the tension that exists between the territorial and personal scope of the TFEU. The confusion might be further increased by the provision of different types of cooperation under different kinds of frameworks.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Legal basis**

The EU-OCT association is based on Part Four of the Treaty on the Functioning of the European Union. The detailed rules and procedures of the OCT-EU association are laid down in Decisions of the Council on the basis of Article 203 of the Treaty on the Functioning of the European Union, which foresees that such acts are adopted through a special legislative procedure:

#### **3.2. Subsidiarity**

The detailed arrangements of the provisions in Part Four of the TFEU necessarily have to take place at Union level as the purpose of the association, the social and economic development and close economic ties between the OCTs and the Union as a whole, cannot be achieved via actions at Member State level. Moreover, with regard to the OCT trade regime, Member States' actions would not be possible as the common commercial policy falls within the domain of the Union's exclusive competence (Part Five, Title II of the TFEU).

The approach towards cooperation with the OCTs contained in the Commission's legislative proposal respects the principles of partnership, complementarity and subsidiarity. It proposes that the Union financial assistance to OCTs be based on programming documents, for which the competent OCT authorities and the Commission would be jointly responsible and which would define the cooperation strategies between the Union and the OCTs. These cooperation strategies would be based on the development objectives, strategies and priorities adopted by the competent OCT authorities. Activities would be decided upon in close consultation between the Commission, the OCTs and their Member States, in full respect of the respective institutional, legal and financial powers of each of the partners.

Without prejudice to the Commission's powers, the OCT authorities would have primary responsibility for implementing the operations agreed upon under the cooperation strategy. The Commission would be responsible for establishing the general rules and conditions regarding these programmes and projects.

#### **3.3. Proportionality**

The objectives of the association, as mentioned in Articles 198 and 199, call for a comprehensive partnership, which comprises an institutional framework and trade arrangements and covers many areas of cooperation as well as the basic principles governing Union financial assistance to OCTs. This calls for a wide ranging and far reaching legal instrument.

The objectives set out by the Treaty project themselves into the long term. This calls for a Decision of which the duration is sufficiently long. As during the 2014-2020 Multiannual Financial Framework OCTs will benefit from both the 11th European Development Fund and from the Union's general budget, an alignment of the duration of the Decision on that of the Multiannual Financial Framework is appropriate.

The Commission proposal puts forward an approach that is flexible and tailored to the situation of each OCT. It is proposed that the effectiveness of the EU-OCT cooperation be monitored through audits, *ex ante*, mid-term and *ex post* evaluations.

#### **4. BUDGETARY IMPLICATION**

In the Commission Communication<sup>9</sup> on "Preparation of the multiannual financial framework regarding the financing of Union cooperation for African, Caribbean and Pacific States and Overseas Countries and Territories for the 2014-2020 period (11th European Development Fund)", an amount of EUR 343.4 million is foreseen for cooperation with the OCTs.

The amount of EUR 343.4 million shall be allocated according to a Council Decision to be taken before 31 December 2013 for implementing the Association with the OCTs, of which EUR 338.4 million to finance territorial and regional programmes, and EUR 5 million in the form of an allocation to the EIB to finance interest subsidies and technical assistance in accordance with the Overseas Association Decision.

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<sup>9</sup> COM(2011) 837 of 7 December 2011

Proposal for a

**COUNCIL DECISION**

**on the association of the overseas countries and territories with the European Union  
("Overseas Association Decision")**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community<sup>10</sup> applies until 31 December 2013. Pursuant to Article 62 thereof, the Council must establish the provisions to be laid down for the subsequent application of the principles set out in Articles 198 to 202 of the Treaty on the functioning of the European Union.
- (2) In its conclusions of 22 December 2009 on the EU's relations with Overseas Countries and Territories (OCTs)<sup>11</sup>, the Council invited the Commission to submit a legislative proposal to revise the Overseas Association Decision before July 2012. The Council endorsed the Commission's proposal to base the future partnership between the Union and the OCTs on three key pillars comprising enhancing competitiveness, strengthening resilience and reducing vulnerability and promoting cooperation and integration between the OCTs and other partners and neighbouring regions.
- (3) The Commission held a public consultation between June and October 2008 and proposed a number of orientations for a new association decision. The results of this consultation were synthesised in a Communication entitled 'Elements for a new partnership between the European Union and the Overseas Countries and Territories (OCTs)'<sup>12</sup>.

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<sup>10</sup> OJ L 314, 30.11.2001, p. 1..

<sup>11</sup> Council document number: 17801/09.

<sup>12</sup> COM(2009) 623 final

- (4) The Treaty and its secondary legislation do not automatically apply to the OCTs, except for some provisions explicitly establishing the contrary. Although not third countries, the OCTs do not form part of the single market and must comply with the obligations imposed on third countries in respect of trade, notably rules of origin, health and plant health standards and safeguard measures.
- (5) The special relationship between the Union and the OCTs should move away from a classic development cooperation approach to a reciprocal partnership to support the OCTs' sustainable development. Moreover, the solidarity between the Union and the OCTs should be based on their unique relationship and their belonging to the same 'European family'.
- (6) The contribution of civil society to OCT development can be enhanced by strengthening civil society organisations in all spheres of cooperation.
- (7) Given the OCTs geographical position, cooperation between them and their neighbours, despite the different status vis-à-vis Union law of each actor in a given geographical area, shall be pursued in the interests of all sides, and with a particular focus on areas of common interest and the promotion the Union's values and standards.
- (8) The Union shall support the policies and strategies of an OCT in an area of mutual interest on the basis of the specific need, potential and choice of the OCT concerned.
- (9) The association should aim at ensuring the conservation, restoration and sustainable use of biological diversity and ecosystem services as a key element for the achievement of sustainable development.
- (10) The OCTs are host to wide terrestrial and marine biodiversity. Climate change can impact on OCTs' natural environment and constitutes a threat undermining their sustainable development. Actions in the fields of conservation of biodiversity and ecosystem services, disaster risk reduction, sustainable management of natural resources and promotion of sustainable energy will contribute to adaptation and mitigation of climate change in the OCTs.
- (11) The significant role which OCTs could play in contributing to the Union's commitments under Multilateral Environmental Agreements should be recognised in the relations between the Union and the OCTs.
- (12) It is important to support the OCTs in their efforts in becoming less dependent on fossil fuels, with a view to reducing their vulnerability to fuels access and price volatility, thus making their economy more resilient and less vulnerable to external shocks.
- (13) The Union may assist the OCTs to reduce their vulnerability to disasters and support the actions and measures they undertake for this purpose.
- (14) The effects of the OCTs' remoteness constitute a barrier to their competitiveness and thus it is important to improve the accessibility of the OCTs.
- (15) The Union and the OCTs recognise the importance of education as a lever for the OCTs' sustainable development.

- (16) Further economic and social development of the OCTs should be mutually supportive and aim at strengthening competitiveness of the OCTs' economy, as well as attaining social welfare and inclusion, in particular as regards vulnerable groups and persons with disabilities. To that end, cooperation between the Union and OCTs should include exchange of information and best practice in the relevant areas, including skills development and social protection, and promote the rights of persons with disabilities, bearing in mind the principles of the UN Convention on the Rights of Persons with Disabilities. Moreover, the association between the Union and OCTs should contribute to the promotion of decent work, including best practice in social dialogue, as well as respect for core labour standards, equal opportunities, non-discrimination and accessibility in the OCTs and regions where they are located.
- (17) The incidence of communicable diseases in the OCTs, such as dengue in the Caribbean and the Pacific and Chikungunya in the Indian Ocean region, can have significant negative health and economic impacts. Beyond decreasing the productivity of affected populations, epidemics in OCTs are likely to heavily impact tourism, which is a mainstay of many OCTs' economies. With large numbers of tourists and migrant workers travelling to OCTs, they are vulnerable to importation of infectious diseases. Inversely, the large flow of people travelling back from OCTs could be a vector of introduction of communicable diseases in Europe. Ensuring a "safe tourism" is therefore a critical factor for the sustainability of the OCT economies that heavily rely on tourism.
- (18) The association between the Union and the OCTs shall take into account and contribute to the preservation of the cultural diversity and identity of OCTs.
- (19) The Union recognises the importance to develop a more active partnership with the OCTs as regards to good governance and the fight against organised crime, trafficking in human beings, terrorism and corruption.
- (20) Trade and trade-related cooperation between the Union and the OCTs should contribute to the objective of sustainable development in economic development, social development and environmental protection dimensions.
- (21) Global changes, reflected in the continuing process of trade liberalisation, broadly implicate the Union, the principal trading partner of the OCTs, their ACP neighbours and other economic partners.
- (22) The OCTs are fragile island environments requiring adequate protection, including in respect of waste management. In respect of radioactive waste, Article 198 of the Euratom Treaty and the related secondary legislation provide for this, except with regard to Greenland, to which the Euratom Treaty does not apply. For other waste, it should be specified which Union rules are to apply in respect of the OCTs.
- (23) This Decision should provide for more flexible rules of origin, including new possibilities of cumulation of origin. Cumulation should be possible not only with OCTs and Economic Partnership Agreement (EPA) countries, but under certain conditions, also with products originating in countries with which the Union is applying a free trade agreement, and for products entering the Union duty-free quota-

free under the Union's General System of Preferences<sup>13</sup>, also subject to conditions. These conditions are necessary to prevent trade circumvention and ensure the proper functioning of the cumulation arrangements.

- (24) The procedures for certification of OCT origin should be updated, in the interests of the operators and administrations concerned in the OCTs. Provisions on administrative cooperation between the Union and the OCTs should also be updated accordingly.
- (25) Methods of administrative cooperation and a possibility to withdraw temporarily preferential treatment in respect of all or of certain products originating in the OCTs in cases of fraud, irregularities or systematic failure to comply with the rules concerning the origin of the products, or failure to provide administrative cooperation have to be established. In addition, sufficiently detailed safeguard and surveillance provisions should be laid down. This should allow OCTs and Union competent authorities as well as economic operators to rely on clear and transparent rules and procedures. Finally, it is a common interest to ensure the proper application of the procedures and arrangements that allow the OCTs to export goods to the EU duty-free quota-free. Therefore, it is appropriate to include a provision clarifying the consequences of administrative errors in the application of such procedures and arrangements leading to losses for the Union budget in terms of import duties. Such a provision should explicitly confirm that the financial burden of such losses incurred is not to be borne by the Union budget but by the Member State that has special relations with the OCT whose authorities have committed the error. That provision should not distinguish between goods coming from OCTs and goods coming from third countries and should cover both situations.
- (26) Taking into account the aims of integration and the developments of global trade in the area of services and establishment, it is necessary to support the development of services markets and investment possibilities by improving the market access of OCT services and investment to the Union market. In this regard the Union should offer to OCTs the best possible treatment offered to any other trading partner through comprehensive most favoured nation clauses, while ensuring more flexible possibilities for trade relations for OCTs by limiting the treatment offered by OCTs to the Union to what has been offered to other major trading economies.
- (27) Intellectual property rights are a crucial component for stimulating innovation and are a tool to promote economic and social development. They benefit countries by allowing them to protect intellectual creations and assets. Their protection and enforcement helps to facilitate trade, growth and foreign investment, as well as to combat the health and safety risks of counterfeit products. OCTs can benefit from a policy on intellectual property rights, in particular in the context of the preservation of biodiversity and the development of technology.
- (28) Sanitary and phyto-sanitary measures and technical barriers to trade may have an impact on trade and require cooperation. Trade and trade-related cooperation also should address competition policies and intellectual property rights, which affect the equitable distribution of the gains of trade.

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<sup>13</sup> Council Regulation (EC) No 732/2008 of 22 July applying a scheme of generalised tariff preferences from 1 January 2009 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007 (OJ L 211, 6.8.2008, p. 1).

- (29) To ensure that OCTs may participate under the best conditions in the Union's internal market as well as regional, sub-regional and international markets, it is important to develop the capacity of OCTs in relevant areas. These include the development of human resources and their skills, the development of small and medium enterprises, the diversification of economic sectors and the implementation of an appropriate legal framework in order to achieve a business climate conducive to investment.
- (30) Cooperation in the area of financial services between the Union and OCTs should contribute to build a safer, sounder, more transparent financial system that is essential to enhance global financial stability and to underpin sustainable growth. Efforts in that area should focus towards convergence with internationally agreed standards and approximation of OCT legislation with Union *acquis* on financial services. Adequate attention should be paid to strengthening administrative capacity of OCT authorities, including supervisors.
- (31) Financial assistance to the OCTs should be allocated on the basis of uniform, transparent and effective criteria, taking into account the needs and performances of the OCTs. Such criteria should take into account the size of the population, the level of Gross Domestic Product (GDP), the level of previous allocations from the European Development Fund (EDF) and constraints due to the geographical isolation of OCTs.
- (32) In the interest of efficiency, simplification and recognition of the management capacities of the OCT authorities, the financial resources granted to the OCTs should be managed on the basis of a reciprocal partnership. Moreover, the authorities of the OCTs should assume the responsibility for the formulation and implementation of the policies agreed upon between the parties as cooperation strategies.
- (33) The procedures regarding financial assistance provided for in Articles 9 and 82 delegate the main responsibility for 11th EDF programming and implementing cooperation to the OCTs in particular. Cooperation will be conducted predominantly in conformity with OCT territorial regulations and will underpin support for the monitoring, evaluation and audit of the operations programmed. In addition, it is necessary to clarify that OCTs are eligible to different sources of funding provided for in Article 76.
- (34) In order to adopt detailed rules for the preparation of the programming documents, their follow-up, audit, evaluation, review and implementation, as well as for reporting and financial corrections, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Part IV of this Decision. In order to take into account technological developments and changes in customs legislation, the power to adopt acts amending the Appendices to Annex VI, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should also be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the Council.
- (35) [The arrangements for association laid down in this Decision should not be applied to Bermuda in accordance with the wishes of the Government of Bermuda.]

(36) By virtue of this Decision, the Council should be able to produce an innovative response to all the factors mentioned above, which is both consistent and tailored to the variety of situations.

(37) This Decision should replace Decision 2001/822/EC,

HAS ADOPTED THIS DECISION:

# Part One

## General provisions of the Association of the Overseas Countries and Territories with the Union

### Chapter 1

#### General provisions

##### *Article 1*

##### *Purpose*

1. The association of the overseas countries and territories (OCTs) with the Union (hereinafter referred to as the "association") constitutes a partnership, based on Article 198 of the Treaty on the functioning of the European Union, to support the OCTs' sustainable development as well as to promote the values and standards of the Union in the wider world.
2. The partners to the association are the Union, the OCTs and the Member States to which they are linked.

##### *Article 2*

##### *Objectives, principles and values*

1. The association between the Union and the OCTs shall be based on objectives, principles and values shared by the OCTs, the Member States to which they are linked and the Union.
2. The association shall pursue the overall objectives laid down in Article 199 of the Treaty, by the enhancement of the OCT's competitiveness, the strengthening of the OCTs' resilience, the reduction of their vulnerability and the promotion of cooperation between them and other partners.
3. In pursuing those objectives, the association shall respect the fundamental principles of liberty, democracy, human rights and fundamental freedoms, the rule of law, good governance and sustainable development, all of which are common to the OCTs and the Member States to which they are linked
4. There shall be no discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in the areas of cooperation referred to in this Decision.

5. The partners recognise each other's rights to determine their sustainable development policies and priorities, to establish their own levels of domestic environmental and labour protection, and to adopt or modify accordingly the relevant laws and policies, consistently with commitment to the internationally recognised standards and agreements. In doing so, they shall strive to ensure high levels of environmental and labour protection.
6. In implementing this Decision, the partners shall be guided by the principles of transparency, subsidiarity and the need for efficiency and shall equally address the three pillars of OCTs' sustainable development: economic development, social development and environmental protection.

### *Article 3*

#### *Management of the association*

Management of the association shall be conducted by the Commission and the OCT authorities and, where necessary, by the Member State to which the OCT is linked, in accordance with respective institutional, legal and financial competences.

### *Article 4*

#### *Territorial application*

The association shall apply to the OCTs listed in Annex II to the Treaty [except for Bermuda].

### *Article 5*

#### *Mutual interests, complementarity and priorities*

1. The association is the framework for policy dialogue and cooperation on issues of mutual interest.
2. Priority shall be given to cooperation in areas of mutual interest, such as:
  - (a) the economic diversification of OCT economies, including their further integration in world and regional economies;
  - (b) the promotion of green growth;
  - (c) the sustainable management of natural resources, including the conservation and sustainable use of biodiversity and ecosystem services;
  - (d) the adaptation to and mitigation of impacts of climate change;
  - (e) the promotion of disaster risk reduction;
  - (f) the promotion of research, innovation and scientific cooperation activities;

- (g) the promotion of social, cultural and economic exchanges between the OCTs, their neighbours and other partners.
3. Cooperation in the areas of mutual interest aims at the promotion of OCT self-reliance and of the development of OCTs' capacities to formulate, implement and monitor strategies and policies set out in paragraph 2.

#### *Article 6*

##### *Promotion of the association*

1. With an aim to strengthen the relations between themselves, the Union and the OCTs endeavour to make the association known among their citizens, in particular by promoting the development of the links and cooperation between the authorities, academic community, civil society and businesses of OCTs on the one hand and their interlocutors within the Union on the other.
2. The Member States shall support the OCTs' efforts to strengthen and promote their relations with the Union as a whole.

#### *Article 7*

##### *Regional cooperation, regional integration and cooperation with other partners*

1. Subject to Article 3 of this Decision, the association aims at supporting the OCTs in their efforts to take part in relevant international, regional and/or sub-regional cooperation initiatives as well as regional or sub-regional integration processes, in line with their own aspirations and in accordance with objectives and priorities defined by the competent OCT authorities.
2. To this end, the Union and the OCTs may exchange information and best practices or establish any other form of close cooperation and coordination with other partners in the context of the OCTs' participation in regional and international organisations, where appropriate by means of international agreements.
3. The association aims at supporting cooperation between the OCTs and other partners in the areas of cooperation set out in Parts Two and Three of this Decision. In that respect, the objective of the association is to promote the cooperation between the OCTs and the outermost regions, referred to in Article 349 of the Treaty, their neighbouring African, Caribbean and Pacific (ACP) and non-ACP States. In order to achieve that objective, the Union shall improve coordination and synergies between cooperation programmes supported by different EU financial instruments.
4. The support to OCTs' participation in relevant regional integration organisations shall focus in particular on:
  - (a) capacity building of relevant regional organisations and institutions of which OCTs are members;

- (b) regional or sub-regional initiatives such as the implementation of sectoral reform policies relating to the areas of cooperation identified in Parts Two and Three of this Decision;
- (c) the awareness and knowledge of the OCTs on the impacts of regional integration processes in different areas;
- (d) OCT participation in the development of regional markets within the context of regional integration organisations;
- (e) cross-border investment between OCTs and their neighbours.

#### *Article 8*

##### *Specific treatment*

1. The association shall take into account the diversity of the OCTs in terms of economic development and capacity to fully benefit from regional cooperation and regional integration referred to in Article 7.
2. A specific treatment shall be established for isolated OCTs.
3. In order to enable isolated OCTs to overcome structural and other obstacles to their development, this specific treatment shall take account of their specific difficulties, inter alia, when determining the volume of financial assistance and the conditions attached thereto.
4. The OCTs which shall be considered to be isolated are listed in Annex I.

## **Chapter 2**

### **Actors of Cooperation**

#### *Article 9*

##### *General approach*

1. The association shall be based on a broad dialogue and consultations on issues of mutual interest between the OCTs, the Member States to which they are linked and the Commission, and, if appropriate, the European Investment Bank (EIB).
2. The OCTs shall organise, where appropriate, a dialogue and consultations with authorities and bodies such as:
  - (a) the competent local and other public authorities;
  - (b) the economic and social partners;

- (c) any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting of equality between men and women.

## *Article 10*

### *Actors of cooperation*

1. Actors of cooperation in the OCTs shall include:
  - (a) the OCTs' governmental authorities;
  - (b) the local authorities within the OCTs;
  - (c) public service providers and civil society organisations, such as social, business, employers' and trade union associations, and local, national or international non-governmental organisations;
  - (d) regional and sub-regional organisations.
2. The Member States to which the OCTs are linked shall inform the Commission within three months of the entry into force of this Decision of the governmental and local authorities referred to in the paragraphs 1(a) and (b).

## *Article 11*

### *Responsibilities of the Non-governmental actors*

1. Non-governmental actors may play a role in the exchange of information and consultations concerning the cooperation, and in particular for the preparation and implementation of cooperation assistance, projects or programmes. They may receive a delegation of financial management powers for implementing such projects or programmes for the purpose of supporting local development initiatives.
2. Non-governmental actors eligible for decentralised management of projects or programmes shall be identified by agreement between the OCT authorities, the Commission and the Member State to which the OCT is linked, taking into account the subject concerned, their expertise and field of activity. The process of identification shall be conducted in each OCT as part of the broad dialogue and consultations referred to in Article 9.
3. The association aims at contributing to the efforts of the OCTs to strengthen civil society organisations, concerning in particular their creation and development, and the development of the arrangements necessary for opening their involvement in the design, implementation and evaluation of development strategies and programmes.

## Chapter 3

### Institutional framework of the Association

#### *Article 12*

##### *Guiding principles for dialogue*

1. The Union, the OCTs and the Member States to which they are linked, shall regularly engage in a comprehensive and political dialogue.
2. The dialogue shall be conducted in full compliance with the respective institutional, legal and financial powers of the Union, of the OCTs and of the Member States to which they are linked. The dialogue shall be conducted in a flexible manner: it may be formal or informal, at an appropriate level or format and conducted within the framework referred to in Article 13.
3. The dialogue shall enable the OCTs to take a full part in the implementation of the association.
4. The dialogue shall focus, inter alia, on specific political issues of mutual concern or of general significance for the attainment of the objectives of the association.

#### *Article 13*

##### *Instances of the association*

1. The association shall establish the following instances of dialogue:
  - (a) an OCT-EU forum for dialogue (the OCT-EU Forum), shall meet annually to bring together OCT authorities, representatives of the Member States and the Commission. Members of the European Parliament, representatives of the EIB, and representatives of the outermost regions shall be associated with the OCT-EU Forum, where appropriate;
  - (b) on a regular basis, the Commission, the OCTs and the Member States to which they are linked shall hold trilateral consultations. These consultations shall be organised as a rule four times a year on the initiative of the Commission or at the request of the OCTs and of the Member States to which they are linked.
  - (c) in agreement between the OCTs, the Member States to which they are linked and the Commission, working parties, acting in an advisory capacity, shall be set up to follow the implementation of the association, in a form appropriate to the issues to be addressed. These working parties shall provide for technical discussions on matters which are of specific concern to the OCTs and the Member States to which they are linked, complementing the work that is being done in the OCT-EU Forum and / or in the trilateral consultations.

2. The Commission shall chair the OCT-EU Forum, the trilateral consultations and the working parties and shall provide their secretariat.

## **Part Two**

### **Areas of cooperation for sustainable development in the framework of the Association**

#### **Chapter 1**

#### **Environmental issues, climate change and disaster risk reduction**

##### *Article 14*

###### *General objectives and principles*

In the context of the association, cooperation in the field of environment, climate change and disaster risk reduction may concern:

- (a) support to the OCTs efforts to define and implement policies, strategies, action plans and measures;
- (b) support to OCTs' efforts to integrate in regional networks and initiatives;
- (c) the promotion of sustainable resource use and resource efficiency, and encouragement to the decoupling of economic growth from environmental degradation.

##### *Article 15*

###### *Sustainable management and conservation of biodiversity and ecosystem services*

In the context of the association, cooperation in the field of sustainable management and conservation of biodiversity and ecosystem services may concern:

- (a) the promotion of the establishment and effective management of marine and terrestrial protected areas and improved management of existing protected areas;
- (b) the encouragement of sustainable management of marine and terrestrial resources, which contribute to protecting important species, habitats and ecosystem functions outside protected areas;
- (c) the strengthening of conservation and sustainable use of marine and terrestrial biodiversity and ecosystems by:
  - (i) addressing the wider ecosystem challenge of climate change by maintaining healthy, resilient ecosystems and fostering green infrastructure and ecosystem-

based approaches to climate change adaptation and mitigation which often bring multiple benefits;

(ii) strengthening capacities at a local, regional and/or international scale, by promoting exchange of information, knowledge and best practice amongst all stakeholders including public authorities, landowners, private sector, researchers and civil society;

(iii) strengthening existing nature conservation programmes and related efforts within and outside conservation areas;

(iv) broadening the knowledge base and filling the knowledge gaps, including quantifying the value of ecosystem functions and services;

- (d) the encouragement and facilitation of regional cooperation in order to address issues such as invasive alien species or the impacts of climate change;
- (e) the development of mechanisms to lever resources including payments for ecosystem services.

#### *Article 16*

##### *Sustainable forest management*

In the context of the association, cooperation in the field of sustainable forest management may concern the promotion, the conservation and sustainable management of forests, including the use of trees to conserve the environment for erosion protection and desertification control, afforestation and management of timber exports.

#### *Article 17*

##### *Integrated coastal zone management*

In the context of the association, cooperation in the field of integrated coastal zone management may concern:

- (a) the support to the efforts of the OCTs towards an effective sustainable management of marine and coastal zones in defining strategic and integrated approaches to marine and coastal zone planning and management;
- (b) conciliation of economic and social activities such as fisheries and aquaculture, tourism, maritime transports with the potential of marine and coastal zones in terms of renewable energy, raw materials, whilst taking into account impacts of climate change and human activities.

#### *Article 18*

##### *Maritime Affairs*

In the context of the association, cooperation in the field of maritime affairs may concern:

- (a) the strengthening of the dialogue on issues of common interest in that field;
- (b) the promotion of marine knowledge and biotechnology, ocean energy, maritime surveillance, coastal zone management and an ecosystem based management;
- (c) the promotion of integrated approaches at international level.

#### *Article 19*

##### *Sustainable management of fish stocks*

1. In the context of the association, cooperation in the field of sustainable management of fish stocks shall be based on the following principles:
  - (a) commitment to responsible fisheries management and fishing practices;
  - (b) refraining from measures or activities that are inconsistent with the principles of sustainable exploitation of fisheries resources;
  - (c) without prejudice to existing or future bilateral fisheries partnership agreements between the Union and the OCTs, the Union and the OCTs shall aim to regularly consult each other on the conservation and management of the living marine resources and to exchange information on the ongoing state of resources within the context of the relevant instances of the association provided for in Article 13.
2. Cooperation in the field referred to in paragraph 1 may concern:
  - (a) the active promotion of good governance, best practices and responsible fisheries management in the conservation and sustainable management of fish stocks, including fish stocks of common interest and those managed by regional fisheries management organisations;
  - (b) dialogue and cooperation regarding the conservation of fish stocks including measures to fight illegal, unreported and unregulated fishing and effectively cooperating with and within regional fisheries management organisations. Dialogue and cooperation shall include control and inspection schemes, incentives and obligations for a more effective management of fisheries and coastal environments in the long term.

#### *Article 20*

##### *Sustainable water management*

1. In the context of the association, the Union and the OCTs may cooperate in the area of sustainable water management through water policy and institution building, protecting water resources, water supplies in rural and urban areas for domestic, industrial or agricultural purposes, storage, distribution and management of water resources and waste water management.

2. In the field of water supply and sanitation sector, particular attention shall be given to access in under-served areas to drinking water supply and sanitation services, which contribute directly to human resources development by improving the state of health and increasing productivity.
3. Cooperation in these areas shall be guided by the principle that the continuing need to extend the provision of basic services in water and sanitation to both urban and rural populations must be addressed in environmentally sustainable ways.

#### *Article 21*

##### *Waste management*

In the context of the association, cooperation in the field of waste management may concern the promotion of the use of the best environmental practice in all operations related to waste management, including the reduction of waste, recycling or other processes for the extraction of secondary raw materials and the disposal of the waste.

#### *Article 22*

##### *Sustainable energy*

In the context of the association, cooperation in the field of sustainable energy may concern:

- (a) energy production, in particular the development, promotion, use and storage of sustainable energies such as solar, hydro-electric, biomass, geothermal, wave, marine and wind energies;
- (b) energy policies and regulations, in particular the formulation of policies and adoption of regulations guaranteeing affordable and sustainable energy tariffs;
- (c) energy efficiency, in particular the development and introduction of energy efficiency standards and implementation of energy efficiency measures in different sectors (industrial, commercial, public and households), as well as accompanying educational and awareness activities;
- (d) transport, in particular the development, promotion and use of more environmental-friendly public and private transport means such as hybrid, electric or hydrogen vehicles, carpooling and cycling schemes;
- (e) town planning and construction, in particular the promotion and introduction of high environment quality standards and high energy performance in urban planning and construction;
- (f) tourism, in particular the promotion of energy self-sufficient (renewable energy based) and/or green tourism infrastructures.

### *Article 23*

#### *Climate change*

In the context of the association, cooperation in the field of climate change aims at supporting the initiatives of the OCTs concerning adaptation to climate change and its mitigation, and may cover:

- (a) the identification of territorial, regional and/or international actions, plans, or measures in view of adapting to climate change;
- (b) the integration of adaptation to climate change and its mitigation in public policies and strategies;
- (c) the elaboration and identification of statistical data and indicators, essential tools for policy making and implementation;
- (d) the promotion of the participation of the OCTs in regional and international instances of dialogue in order to foster exchange of knowledge and experience.

### *Article 24*

#### *Disaster risk reduction*

In the context of the association, cooperation in the field of disaster risk reduction may concern:

- (a) the development or perfection of systems of disaster prevention and preparedness, including prediction and early-warning systems, with a view to reducing the consequences of disasters;
- (b) the development of detailed knowledge of the exposure to the disasters and the current response capacities in the OCTs and in the regions where they are located;
- (c) the strengthening of existing measures of disaster prevention and preparation at local, national and regional levels;
- (d) the improvement of response capacities of the actors concerned, to render them more coordinated, effective and efficient;
- (e) the improvement of awareness-raising and information to the population regarding the exposure to risks, prevention, preparation and the response in the event of disaster, with due attention to the specific needs of persons with disabilities;
- (f) the strengthening of collaboration between key actors involved in civil protection;
- (g) the promotion of the participation of the OCTs in regional, European and/or international instances in order to allow a more regular exchange of information and a closer cooperation among the different partners in the event of disaster.

## Chapter 2

### Accessibility

#### *Article 25*

##### *General objectives*

1. In the context of the association, cooperation in the field of accessibility aims at:
  - (a) ensuring greater access of OCTs to global transport networks;
  - (b) ensuring greater access of OCTs to information and communication technologies and services.
2. Cooperation in the context referred to in paragraph 1 may encompass:
  - (a) policy and institution building;
  - (b) transport by road, rail, air, sea or inland waterway;
  - (c) storage facilities in sea- and airports.

#### *Article 26*

##### *Maritime transport*

1. In the context of the association, cooperation in the field of maritime transport aims at the development and promotion of cost-effective and efficient maritime transport services in the OCTs and may concern:
  - (a) the promotion of efficient shipment of cargo at economically and commercially meaningful rates;
  - (b) the facilitation of greater OCT participation in international shipping services;
  - (c) the encouragement of regional programmes;
  - (d) the support to local private sector involvement in shipping activities;
2. The Union and the OCTs shall promote shipping safety, security of crews and the prevention of pollution.

#### *Article 27*

##### *Air transport*

In the context of the association, cooperation in the field of air transport may concern:

- (a) the reform and modernisation of the OCT air transport industries;
- (b) the promotion of their commercial viability and competitiveness;
- (c) the facilitation of private sector investment and participation;
- (d) the promotion of exchange of knowledge and good business practice.

#### *Article 28*

##### *Air transport safety*

In the context of the association, cooperation in the field of air transport safety aims at supporting the OCTs in their efforts to comply with the relevant international standards and may cover inter alia:

- (a) the implementation of air navigation safety systems;
- (b) the implementation of airport security and strengthening of the capacity of civil aviation authorities to manage all aspects of operational security placed under their control;
- (c) the development of infrastructures and human resources.

#### *Article 29*

##### *Information and communication technologies services*

In the context of the association, cooperation in the field of information and communication technology (ICT) services aims at spurring, in the OCTs, innovation, economic growth and improvements in daily life for both citizens and businesses, including the promotion of accessibility for persons with disabilities. Cooperation shall, in particular, be directed at enhancing OCTs' regulatory capacity and may support the expansion of ICT networks and services through the following measures:

- (a) creation of a predictable regulatory environment that keeps pace with technological developments, stimulates growth and innovation and fosters competition and consumer protection;
- (b) dialogue on the various policy aspects regarding the promotion and monitoring of the information society;
- (c) exchange of information on standards and interoperability issues;
- (d) promotion of cooperation in the field of ICT research and in the field of ICT-based research infrastructures;
- (e) development of services and applications in domains of high societal impact.

## **Chapter 3**

### **Research and innovation**

#### *Article 30*

##### *Cooperation in research and innovation*

In the context of the association, cooperation in the field of research and innovation may cover science, technology, including information and communication technologies, with the aim to contribute to the OCTs' sustainable development and to promote excellence and industrial competitiveness within OCTs. In particular, cooperation may concern:

- (a) dialogue, coordination and creation of synergies between OCT and Union policies and initiatives with regard to science, technology and innovation;
- (b) policy and institutional building within OCTs and concerted actions at local, national or regional level, with a view to developing science, technology and innovation activities and their application;
- (c) cooperation between legal entities from the OCTs, the Union, the Member States and the third countries;
- (d) participation of individual OCT researchers, research bodies and legal entities from OCTs in the framework for cooperation related to research and innovation programmes within the Union;
- (e) training and international mobility of OCT researchers and exchange.

## **Chapter 4**

### **Youth, education, training, health, employment and social policy**

#### *Article 31*

##### *Youth*

1. The Union shall ensure that natural persons from OCTs, as defined in Article 49, can participate in initiatives of the Union concerning youth on the same basis as nationals of Member States.
2. The association aims at strengthening the ties between young people living in the OCTs and the Union, among others by promoting learning mobility of OCT youth and by fostering mutual understanding between young people.

## *Article 32*

### *Education and training*

1. In the context of the association, cooperation in the field of education and training may cover:
  - (a) the provision of high quality, inclusive education at primary, secondary and higher education level and in the area of vocational education and training;
  - (b) the support to the OCTs in defining and implementing education policies.
2. The Union shall ensure that natural persons from the OCTs, as defined in Article 49, can participate in education initiatives of the Union on the same basis as nationals of Member States.
3. The Union shall ensure that educational bodies and institutes from OCTs can take part in education related cooperation initiatives of the Union on the same basis as the educational bodies and institutes of the Member States.

## *Article 33*

### *Employment and social policy*

1. The Union and the OCTs shall maintain dialogue in the area of employment and social policy in order to contribute to the economic and social development of the OCTs and the promotion of decent work in the OCTs and regions where they are located. Such a dialogue shall also aim at supporting the efforts of the OCTs' authorities to develop policies and legislation in this area.
2. The dialogue shall mainly consist of exchange of information and best practices relating to policies and legislation in the area of employment and social policy that are of mutual interest to the Union and the OCTs. In this regard, areas such as skills development, social protection, social dialogue, equal opportunities, non-discrimination and accessibility for persons with disabilities, health and safety at work and other labour standards shall be taken into consideration.

## *Article 34*

### *Public health*

In the context of the association, cooperation in the field of public health aims at strengthening the OCTs' capacity for surveillance, early detection and response to outbreaks of communicable diseases through measures including:

- (a) actions to strengthen preparedness and response capacity against cross-border health threats such as infectious diseases which should be built on existing structures and should target unusual events;

- (b) capacity building through strengthening public health networks at regional level, facilitating exchange of information among experts and promoting adequate training;
- (c) development of tools and communication platforms as well as e-learning programs adapted to OCTs' particular needs.

## Chapter 5

### Culture

#### *Article 35*

##### *Cultural exchanges and dialogue*

1. In the context of the association, cooperation in the field of cultural exchanges and dialogue may concern:
  - (a) the self-reliant development of the OCTs, this being a process centred on people themselves and rooted in each people's culture;
  - (b) the support to the policies and measures adopted by the competent authorities of OCTs to enhance their human resources, increase their own creative capacities and promote their cultural identities;
  - (c) the participation by the population in the process of development.
  - (d) the development of a common understanding and enhanced exchange of information on cultural and audiovisual matters through dialogue.
2. Through their cooperation the Union and the OCTs shall seek to stimulate cultural exchanges between each other through:
  - (a) cooperation between the cultural and creative sectors of all partners;
  - (b) promotion of the circulation of cultural and creative works and operators between them;
  - (c) policy cooperation in order to foster policy development, innovation, audience building and new business models.

#### *Article 36*

##### *Audiovisual cooperation*

1. In the context of the association, cooperation in the audiovisual field aims at promoting each other's audiovisual productions and may cover the following actions:
  - (a) cooperation and exchange between the respective broadcasting industries;

- (b) encouraging exchange of audiovisual works;
  - (c) exchange of information and views on audiovisual and broadcasting policy and regulatory framework between competent authorities;
  - (d) encouraging visits to and participation in international events held in each other's territory as well as in third countries.
2. Co-produced audiovisual works shall be entitled to benefit from any scheme for the promotion of local or regional cultural content set up in the Union, the OCTs and the Member States to which they are linked.

### *Article 37*

#### *Performing arts*

In the context of the association, cooperation in the field of performing arts may concern:

- (a) the facilitation of increased contacts between practitioners of performing arts in areas such as professional exchanges and training including participation in auditions, development of networks and promotion of networking.
- (b) the encouragement of joint productions between producers of one or several Member States of the Union and one or several OCTs.
- (c) the encouragement of the development of international theatre technology standards and the use of theatre stage signs, including through appropriate standardisation bodies.

### *Article 38*

#### *Protection of cultural heritage sites and historic monuments*

In the context of the association, cooperation in the field of cultural heritage sites and historic monuments aims at allowing the promotion of exchanges of expertise and best practices through:

- (a) the facilitation of exchanges of experts;
- (b) the collaboration on professional training;
- (c) the awareness of the local public;
- (d) the counselling on the protection of the historic monuments and protected spaces and on the legislation and implementation of measures related to heritage, in particular its integration into local life.

## Chapter 6

### Fight against organised crime

#### *Article 39*

#### *Fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption*

1. In the context of the association, cooperation in the field of organised crime may include:
  - (a) the development of innovative and effective means of police and judicial cooperation, including cooperation with other stakeholders such as civil society, in the prevention of and fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption;
  - (b) support in order to increase the efficiency of OCTs' policies to prevent and fight against organised crime, trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption, as well as the production, distribution and trafficking of all kinds of narcotic drugs and psychotropic substances, preventing and reducing drug use and drug-related harms, taking into account work carried out in these areas by international bodies, through inter alia:
    - (i) training and capacity building in preventing and fighting organised crime, including trafficking in human beings, child sexual abuse and sexual exploitation, terrorism and corruption;
    - (ii) prevention including training, education and health promotion, treatment and rehabilitation of dependent drug users, including projects for the reintegration of dependent drug users into work and social environments;
    - (iii) development of effective enforcement measures;
    - (iv) technical, financial and administrative assistance on the development of effective policies and legislation on trafficking in human beings, in particular awareness raising campaigns, referral mechanisms and victim protection systems, involving all relevant stakeholders and civil society;
    - (v) technical, financial and administrative assistance relating to the prevention, treatment and reduction of harms related to drug use;
    - (vi) technical assistance to support the development of legislation and of policy against child sexual abuse and sexual exploitation;
    - (vii) technical assistance and training to support capacity building and encourage compliance with minimum international anti-corruption standards,

and notably bearing in mind those set out in the UN Convention against Corruption.

2. In the context of the association, the OCTs shall cooperate with the Union as regards the combat against money laundering in accordance with Articles 69 and 70.

## **Part Three**

### **Trade and trade related cooperation**

#### **TITLE I**

#### **GENERAL PROVISIONS**

##### *Article 40*

##### *General objectives*

The general objectives of the trade and trade related cooperation between the Union and the OCTs are to:

- (a) promote the economic and social development of the OCTs by establishing close economic relations between them and the Union as a whole;
- (b) stimulate the OCTs' effective integration in the regional and world economies and the development of trade in goods and services;
- (c) support OCTs in creating a favourable investment climate to support social and economic development of OCTs;
- (d) promote the stability, integrity and transparency of the global financial system, and good governance in the tax area;
- (e) support the process of diversification of OCT economies;
- (f) support OCT capacities to formulate and implement policies necessary for the development of their trade in goods and services;
- (g) support the OCTs' export and trading capacities;
- (h) support OCTs' efforts to converge their local legislation with Union legislation, where relevant;
- (i) provide possibilities for targeted cooperation and dialogue with the Union on trade and trade related areas.

## TITLE II

### ARRANGEMENTS FOR TRADE IN GOODS AND SERVICES AND ESTABLISHMENT

#### Chapter 1

#### Arrangements for trade in goods

##### *Article 41*

##### *Free access for originating goods*

1. Products originating in the OCTs shall be imported into the Union free of import duty.
2. The definition of originating products and the methods of administrative cooperation relating thereto are laid down in Annex VI.

##### *Article 42*

##### *Quantitative restrictions and measures having equivalent effect*

1. The Union shall not apply to imports of products originating in the OCTs any quantitative restrictions or measures having equivalent effect.
2. Paragraph 1 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality or public policy, the protection of health and life of humans, animals and plants, the protection of national treasures possessing artistic, historic or archaeological value, the conservation of exhaustible natural resources or the protection of industrial and commercial property.

Such prohibitions or restrictions shall in no case constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction of trade generally.

##### *Article 43*

##### *Measures adopted by the OCTs*

1. The authorities of the OCTs may retain or introduce in respect of imports of products originating in the Union, such customs duties or quantitative restrictions as they consider necessary in view of their respective development needs.
2. For the fields covered by this chapter, the OCTs shall grant to the Union a treatment no less favourable than the most favourable treatment applicable to any major trading economy as defined in paragraph 4.

3. The provisions of paragraph 2 shall not preclude an OCT from granting certain other OCTs or other developing countries more favourable treatment than that accorded to the Union.
4. For the purposes of this Title, a "major trading economy" means any developed country, or any country accounting for a share of world merchandise exports above one percent , or, without prejudice to paragraph 3, any group of countries acting individually, collectively or through an economic integration agreement accounting collectively for a share of world merchandise exports above 1.5 percent. For this calculation the latest available official data by the WTO on leading exporters in world merchandise trade (excluding intra-EU trade) shall be used.
5. The authorities of the OCTs shall communicate to the Commission within a period of three months following the entry into force of this Decision, the customs tariffs and lists of quantitative restrictions which they apply in compliance with this Decision.

The authorities of the OCTs shall also communicate to the Commission any subsequent amendments to such measures as and when they are adopted.

#### *Article 44*

##### *Non- discrimination*

1. The Union shall not discriminate between OCTs and the OCTs shall not discriminate between Member States of the Union.
2. In compliance with Article 64, the implementation of the specific provisions in this Decision and in particular its Articles 42(2) and 43, 46, 48, 50 and 58(3) shall not be deemed to constitute a discrimination.

#### *Article 45*

##### *Conditions for movements of waste*

1. Movements of waste between the Member States and the OCTs shall be controlled in accordance with international and Union law. The Union shall support the establishment and development of effective international cooperation in this area with a view to protecting the environment and public health.
2. The Union shall prohibit all direct or indirect export of waste to the OCTs, with the exception of exports of non-hazardous waste destined for recovery operations while at the same time the OCT authorities shall prohibit the direct or indirect import into their territory of such waste from the Union or any third country, without prejudice to specific international undertakings concerning these areas that have been made, or may be made in future, in the competent international fora.
3. As regards those OCTs, which, due to their constitutional status, are not Party to the Basel Convention, their relevant authorities shall expedite adoption of the necessary

internal legislation and administrative regulations to implement the provisions of the Basel Convention<sup>14</sup> in those OCTs.

4. In addition, the Member States to which OCTs are linked shall promote the adoption by the OCTs of the necessary internal legislation and administrative regulations to implement the following acts:
  - (a) Regulation (EC) No 1013/2006 of the European Parliament and of the Council<sup>15</sup>, as follows:
    - Article 40 as regards exports of waste to overseas countries or territories;
    - Article 46 as regards imports of waste from overseas countries or territories;
  - (b) Council Regulation (EC) No 1420/1999<sup>16</sup>;
  - (c) Commission Regulation (EC) No 1547/1999<sup>17</sup>;
  - (d) Directive 2000/59/EC of the European Parliament and of the Council<sup>18</sup> subject to the time limits for transposition laid down in Article 16 thereof.
5. One or more OCTs and the Member States to which they are linked may apply their own procedures to export of waste from the OCTs to that Member State.
6. In this case, the Member State to which the OCT is linked shall notify to the Commission the applicable legislation within six months from the entry into force of this Decision as well as any future relevant national legislation, and any subsequent amendments to such legislation.

#### *Article 46*

##### *Temporary withdrawal of preferences*

In order to ensure the proper implementation of this Decision, the Union may temporarily withdraw preferences from an OCT in accordance with the provisions set out in Annex VII.

#### *Article 47*

##### *Management of administrative errors*

In case of error by the competent OCT authorities in the issuance of certificates and methods of administrative cooperation, and where this error leads to losses affecting Union import

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<sup>14</sup> OJ L 39, 16.2.1993, p. 1.

<sup>15</sup> OJ L 190, 12.7.2006, p.1.

<sup>16</sup> OJ L 244, 14.9.2001, p. 19.

<sup>17</sup> OJ L 185, 17.7.1999, p. 1.

<sup>18</sup> OJ L 332, 28.12.2000, p. 81.

duties, the Member State with whom the OCT that has committed the error has special relations, shall compensate the Union budget for the loss incurred.

#### *Article 48*

##### *Safeguard and surveillance measures*

In order to ensure the proper implementation of this Decision, the Union may take safeguard and surveillance measures set out in Annex VIII.

## **Chapter 2**

### **Arrangements for trade in services and for establishment**

#### *Article 49*

##### *Definitions*

For the purposes of this Chapter:

- (a) 'natural person from an OCT' means persons ordinarily resident in an OCT who are nationals of a Member State or who enjoy a legal status specific to an OCT. This definition is without prejudice to the rights conferred by citizenship of the Union within the meaning of the Treaty;
- (b) 'legal person of an OCT' means a legal person of the OCT set up in accordance with the laws applicable in a given OCT, and having its registered office, its central administration, or its principal place of business in the territory in this OCT; should the legal person have only its registered office or central administration in the OCT, it shall not be considered as a legal person of the OCT, unless it engages in an activity which has a real and continuous link with the economy of that country or territory;
- (c) the respective definitions laid down in the economic integration agreements referred to in Article 50(1) shall apply to the treatment accorded between the Union and the OCTs.

#### *Article 50*

##### *Most favourable treatment*

1. With respect to any measures affecting trade in services and establishment in economic activities:
  - (a) the Union shall accord to natural and legal persons of the OCTs a treatment no less favourable than the most favourable treatment applicable to like natural

and legal persons of any third country with whom the Union concludes or has concluded an economic integration agreement;

- (b) An OCT shall accord to the natural and legal persons of the Union a treatment no less favourable than the most favourable treatment applicable to like natural and legal persons of any major trading economy with whom it has concluded an economic integration agreement after the entry into force of this Decision.
2. The obligations set out in paragraph 1 of this Article shall not apply to treatment granted:
- (a) in the framework of an internal market requiring the parties thereto to significantly approximate their legislation with a view to removing non-discriminatory obstacles to establishment and to trade in services
  - (b) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of the General Agreement on Trade in Services (GATS) or the GATS Annex on Financial Services. This is without prejudice to OCT specific measures under this Article;
  - (c) under any international agreement or arrangement relating wholly or mainly to taxation;
  - (d) under measures benefiting from the coverage of a most-favoured nation exemption listed in accordance with Article II.2 of the GATS.
3. The authorities of an OCT may with a view to promoting or supporting local employment, adopt regulations to aid their natural persons and local activities. In this event, the OCT authorities shall notify the Commission of the regulations they adopt so that it may inform the Member States.

### *Article 51*

#### *Professional qualifications*

With regard to the professions of doctor, dentist, midwife, general nurse, pharmacist and veterinary surgeon, the Council, acting unanimously on a proposal from the Commission, shall adopt the list of professional qualifications specific to the OCTs which are to be recognised in the Member States.

## TITLE III

### TRADE RELATED AREAS

## Chapter 1

### Trade and sustainable development

#### *Article 52*

##### *General approach*

Trade and trade related cooperation under the association aims at contributing to sustainable development in its economic, social and environmental dimensions.

In this context, the domestic environmental or labour laws and regulations of OCTs shall not be lowered in order to encourage trade or investment.

#### *Article 53*

##### *Environmental and climate change standards in trade*

1. Trade and trade related cooperation under the association aims at enhancing the mutual supportiveness between trade and environmental policies and obligations. Trade and trade related cooperation under the association shall take into account the principles of international environmental governance and multilateral environmental agreements.
2. The ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol shall be pursued. Cooperation shall be based on the development of the future international climate change framework in accordance with the Bali Action Plan and the implementation of decisions emanating from the UNFCCC Conferences of the Parties related to global temperature and emissions targets.
3. Measures to implement multilateral environmental agreements shall not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the partners or a disguised restriction of trade.

#### *Article 54*

##### *Labour standards in trade*

1. The association aims at promoting trade in such a way that it is conducive to full and productive employment and decent work for all.

2. The internationally recognised core labour standards, as defined by the relevant International Labour Organisation Conventions, shall be respected and implemented in law and practice. Such labour standards include in particular respect for freedom of association, right to collective bargaining, abolition of all forms of forced or compulsory labour, elimination of the worst forms of child labour, the minimum age for admission to employment and non-discrimination in respect to employment.
3. The violation of core labour standards cannot be invoked or otherwise used as a legitimate comparative advantage. They shall not be used for protectionist purposes.

#### *Article 55*

##### *Sustainable trade in fisheries products*

With a view to promoting the sustainable management of fish stocks, the association may include cooperation regarding the combat of illegal, unreported and unregulated fishing and related trade. Cooperation in this field aims at:

- (a) promoting the implementation of measures to combat illegal, unreported and unregulated fishing and related trade in OCTs;
- (b) facilitating cooperation between OCTs and regional fisheries management organisations, in particular with respect to the development and effective implementation of control and inspection schemes, incentives and measures for effective long term management of fisheries and marine ecosystems.

#### *Article 56*

##### *Sustainable timber trade*

In the context of the association, cooperation in the field of timber trade aims at promoting trade in legally harvested timber. Such cooperation may include dialogue on regulatory measures as well as exchange of information on market-based or voluntary measures such as forest certification or green procurement policies.

#### *Article 57*

##### *Sustainable development in trade*

1. In the context of the association, cooperation in the of field sustainable development may be pursued by:
  - (a) facilitating and promoting trade and investment in environmental goods and services and goods that contribute to the improvement of social conditions in OCTs;
  - (b) facilitating the removal of obstacles to trade or investment regarding goods and services of particular relevance for climate change mitigation, such as sustainable renewable energy and energy efficient products and services,

including through the adoption of policy frameworks conducive to the deployment of best available technologies and through the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade;

- (c) promoting trade in goods that contribute to social conditions and environmentally sound practices, including goods that are the subject of voluntary sustainability assurance schemes such as fair and ethical trade schemes, eco-labels, and certification schemes for natural resource-based products;
  - (d) promoting internationally recognised principles and guidelines in the area of corporate social responsibility, and encourage companies operating in the territory of OCTs to implement them;
  - (e) exchanging information and best practices in the area of corporate social responsibility.
2. In the design and implementation of measures aimed at protecting the environment or labour conditions that may affect trade or investment, the Union and the OCTs shall take account of available scientific and technical information, and relevant international standards, guidelines or recommendations, including the precautionary principle.
  3. The Union and the OCTs shall apply full transparency to develop, introduce and implement any measures aimed at protecting the environment and labour conditions affecting trade or investment.

## **Chapter 2**

### **Other trade related areas**

#### *Article 58*

##### *Current payments and capital movements*

1. No restrictions shall be imposed on any payments in freely convertible currency on the current account of balance of payments between residents of the Union and of the OCTs.
2. With regard to transactions on the capital account of balance of payments, the Member States and the OCT authorities shall impose no restrictions on the free movement of capital for direct investments in companies formed in accordance with the laws of the host Member State, country or territory and to ensure that the assets formed by such investment and any profit stemming therefrom can be realised and repatriated.

3. The Union and the OCTs shall be entitled to take the measures referred to in Articles 64, 65, 66, 75 and 215 of the Treaty on the Functioning of the European Union in accordance with the conditions laid down therein *mutatis mutandis*.
4. The OCT authorities, the Member State concerned or the Union shall inform one another immediately of any such measures and submit a timetable for their elimination as soon as possible.

*Article 59*  
*Competition policies*

The elimination of distortions to competition, with due consideration to the different levels of development and economic needs of the OCTs, shall involve the implementation of local, national or regional rules and policies including the control and, under certain conditions, the prohibition of agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition. Such prohibition also relates to the abuse by one or more undertakings of a dominant position in the territory of the Union or of the OCTs.

*Article 60*  
*Protection of intellectual property rights*

1. An adequate and effective level of protection of intellectual property rights, including means for enforcing such rights, shall be ensured in line with the highest international standards, where appropriate, with a view to reducing distortions and impediments to bilateral trade.
2. In the context of the association, cooperation in this field may concern the preparation of laws and regulations for the protection and enforcement of intellectual property rights, the prevention of the abuse of such rights by right holders and the infringement of such rights by competitors and support for regional intellectual property organisations involved in enforcement and protection, including the training of personnel.

*Article 61*  
*Technical barriers to trade*

The association may include cooperation in the fields of technical regulation for goods, standardisation, conformity assessment, accreditation, market surveillance and quality assurance with a view to removing unnecessary technical barriers to trade between the Union and the OCTs and to reduce differences in those areas.

## *Article 62*

### *Consumer policy, consumer health protection and trade*

In the context of the association, cooperation in the field of consumer policy, consumer health protection and trade may include the preparation of laws and regulations in the area of consumer policy and consumer health protection, with a view to avoiding unnecessary barriers to trade.

## *Article 63*

### *Sanitary and phyto-sanitary measures*

In the context of the association, cooperation in the field of sanitary and phyto-sanitary measures aims at:

- (a) facilitating trade between the Union and the OCTs as a whole and between OCTs and third countries, whilst safeguarding human, animal and plant health or life in accordance with the WTO SPS Agreement;
- (b) addressing problems arising from sanitary and phyto-sanitary measures;
- (c) ensuring transparency as regards sanitary and phyto-sanitary measures applicable to trade between the Union and the OCTs;
- (d) promoting the harmonisation of measures with international standards, in accordance with the WTO SPS Agreement;
- (e) supporting the effective participation of OCTs in organisations that set international sanitary and phyto-sanitary standards;
- (f) promoting consultation and exchanges between OCTs and European institutes and laboratories;
- (g) establishing and enhancing OCTs technical capacity to implement and monitor sanitary and phyto-sanitary measures;
- (h) promoting technology transfer in the area of sanitary and phyto-sanitary measures.

## *Article 64*

### *Prohibition of protectionist measures*

The provisions of Chapters 1 and 2 shall not be used as a means of arbitrary discrimination or a disguised restriction on trade.

## Chapter 3

### Monetary and tax matters

#### *Article 65*

##### *Tax carve out*

1. Without prejudice to the provisions of Article 66, the most favoured- nation treatment granted in accordance with the provisions of this Decision shall not apply to tax advantages which the Member States or OCT authorities are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic tax legislation in force.
2. Nothing in this Decision may be construed so as to prevent the adoption or enforcement of any measure aimed at preventing tax fraud or avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic tax legislation in force.
3. Nothing in this Decision shall be construed so as to prevent the respective competent authorities from distinguishing, in the application of the relevant provisions of their tax legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

#### *Article 66*

##### *Tax and customs arrangements for Union funded contracts*

1. The OCTs shall apply to contracts funded by the Union tax and customs arrangements no less favourable than those applied by them to the Member State to which the OCT is linked or to the states to which the most-favoured nation treatment is granted, or to international development organisations with which they have relations, whichever treatment is the most favourable.
2. Subject to paragraph 1, the following arrangements shall apply to contracts financed by the Union:
  - (a) the contract shall not be subject in the beneficiary OCT to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the OCT and a fee corresponding to the service rendered may be charged for it;
  - (b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the beneficiary OCT, provided that the natural or legal persons who realise such profit and/or income

have a permanent place of business in that OCT, or that the performance of the contract takes longer than six months;

- (c) enterprises which must import equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the legislation of the beneficiary OCT in respect of that equipment;
  - (d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary OCT free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;
  - (e) imports under supply contracts shall be admitted into the beneficiary OCT without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the OCT concerned shall be concluded on the basis of the ex-works price of the supplies, to which may be added such internal fiscal charges as may be applicable to those supplies in the OCT;
  - (f) fuels, lubricants and hydrocarbon binders and all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the legislation in force in the beneficiary OCT;
  - (g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limits of the legislation in force in the beneficiary OCT.
3. Any contractual matter not covered by paragraphs 1 and 2 shall remain subject to the legislation of the OCT concerned.

## **Chapter 4**

### **Trade capacity development**

#### *Article 67*

##### *General approach*

With a view to ensuring that OCTs derive the maximum benefit from the provisions of this Decision and that they may participate under the best possible conditions in the Union's internal market as well as regional, sub-regional and international markets, the association aims at contributing to the development of the OCTs' trade capacities by:

- (a) increasing the OCTs' competitiveness, self-reliance and economic resilience, through diversifying the range and increasing the value and volume of OCT trade in goods

and services and by strengthening the OCTs' ability to attract private investments in various sectors of economic activity;

- (b) improving cooperation in trade in goods, services and establishment between the OCTs and neighbouring countries.

#### *Article 68*

##### *Trade dialogue, cooperation and capacity development*

In the context of the association, trade dialogue, cooperation and capacity development initiatives may include:

- (a) strengthening the OCTs' capacities to define and implement policies necessary for the development of trade in goods and services;
- (b) encouraging the efforts of OCTs to put into place appropriate legal, regulatory and institutional frameworks as well as the necessary administrative procedures;
- (c) promoting private sector development, in particular SMEs;
- (d) facilitating market and product development, including product quality improvement;
- (e) contributing to the development of human resources and professional skills relevant to trade in goods and services;
- (f) enhancing the capacity of business intermediaries to provide OCT enterprises services pertinent to their exporting activities, such as market intelligence;
- (g) contributing to the creation of a business climate conducive to investment.

## **Chapter 5**

### **Cooperation in the area of financial services and taxation matters**

#### *Article 69*

##### *Cooperation on international financial services*

With a view to promote the stability, integrity and transparency of the global financial system, the association may include cooperation on international financial services. Such cooperation may concern:

- (a) the provision of effective and adequate protection of investors and other consumers of financial services;
- (b) the prevention and combat of money laundering and financing of terrorism;

- (c) the promotion of co-operation between different actors of the financial system, including regulators and supervisors;
- (d) the setup of independent and effective mechanisms for supervision of financial services.

#### *Article 70*

##### *Regulatory convergence in financial services*

The Union and the OCTs shall promote regulatory convergence with recognised international standards on regulation and supervision in the area of financial services including: the Basel Committee's "Core Principle for Effective Banking Supervision", the International Association of Insurance Supervisors' "Insurance Core Principles", the International Organisation of Securities Commissions' "Objectives and Principles of Securities Regulation", the OECD's "Agreement on exchange of information on tax matters", the G20 "Statement on Transparency and exchange of information for tax purposes", the Financial Stability Board's "Key Attributes of Effective Resolution Regimes for Financial Institutions" and the Financial Action Task Force's "Forty Recommendations on Money Laundering and Terrorist Financing".

The Union and the OCTs shall also promote convergence of OCT legislation with Union legislation on financial services.

#### *Article 71*

##### *Cooperation between regulatory and supervisory authorities*

The Union and the OCTs shall encourage the cooperation between relevant regulatory and supervisory authorities, including information exchange, sharing of expertise on financial markets and other such measures. Special attention shall be given to the development of administrative capacity of such authorities, inter alia through personnel exchange and joint training.

#### *Article 72*

##### *Cooperation in taxation matters*

The Union and the OCTs shall promote cooperation in the tax area in order to facilitate the collection of legitimate tax revenues and to develop measures for the effective implementation of the principles of good governance in the tax area, including transparency, exchange of information and fair tax competition.

# Part Four

## Instruments for sustainable development

### Chapter 1

#### General provisions

##### *Article 73*

##### *General objectives*

The Union shall contribute to the achievement of the association's overall objectives through the provision of:

- (a) adequate financial resources and appropriate technical assistance aimed at strengthening the OCTs' capacities to formulate and implement strategic and regulatory frameworks;
- (b) long term financing to promote private sector growth.

##### *Article 74*

##### *Definitions*

For the purposes of this Decision, the following definitions shall apply:

'programmable aid' means the non-repayable aid under the European Development Fund allocated to the OCTs in order to finance territorial or regional strategies and priorities set out in programming documents.

'programming' means the process of organisation, decision-making and allocation of indicative financial resources intended to implement, on a multi-annual basis, in an area referred to in Part II of this Decision, the action to achieve the association's objectives for the sustainable development of the OCTs.

'programming document' means the document which sets out the OCT's strategy, priorities and arrangements and translates the objectives and targets of the OCT for its sustainable development in an effective and efficient way to pursue the objectives of the association.

'development plans' referred to in Article 82 of this Decision means a coherent set of operations defined and financed exclusively by the OCTs in the framework of their own policies and strategies of development, and those agreed upon between an OCT and the Member State to which it is linked.

'territorial allocation' is the amount allocated to individual OCTs for the programmable aid under the European Development Fund in order to finance territorial strategies and priorities set out in programming documents.

'regional allocation' is the amount allocated for the programmable aid under the European Development Fund in order to finance regional cooperation strategies or thematic priorities common to several OCTs and set out in programming documents.

'financing decision' means the act adopted by the Commission specifying the details of the Union's financial contribution and authorizing to grant financial aid from the European Development Fund.

## *Article 75*

### *Principles of finance cooperation*

1. Union financial assistance shall be based on the principles of partnership, ownership, alignment on territorial systems, complementarity and subsidiarity.
2. Operations funded within the framework of this Decision can take the form of programmable or non-programmable aid.
3. Union financial assistance shall:
  - (a) be implemented with due regard to the OCTs respective geographical, social and cultural characteristics, as well as their specific potential;
  - (b) ensure that resource flows are accorded on a predictable and regular basis;
  - (c) be flexible and tailored to the situation in each OCT;
  - (d) be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners.
4. The authorities of the OCT concerned shall be responsible for implementing operations without prejudice to the powers of the Commission to ensure sound financial management in the use of Union funds.

## **Chapter 2**

### **Financial resources**

## *Article 76*

### *Sources of financing*

OCTs shall be eligible for the following sources of funding:

- (a) resources allocated for the OCTs under the Internal Agreement between the Member States of the Union establishing the 11<sup>th</sup> European Development Fund (EDF);
- (b) the Union programmes and instruments provided for in the Union's general budget;
- (c) funds managed by the European Investment Bank under the European Investment Bank's own resources, and the resources allocated to the EDF Investment Facility, in accordance with the conditions of the Internal Agreement between the Member States of the Union establishing the 11<sup>th</sup> EDF.

## **Chapter 3**

### **Specific provisions for the financial assistance under the 11<sup>th</sup> EDF**

#### *Article 77*

##### *Subject- matter and scope*

Within the framework of the strategy and priorities established by the OCT concerned at local or regional level, and without prejudice to humanitarian and emergency aid, financial support may be given to the following activities helping to achieve the objectives set out in this Decision:

- (a) sector policies and reforms as well as projects that are in coherence with them;
- (b) institutional development, capacity building and integration of environmental aspects;
- (c) technical cooperation;
- (d) additional support in the event of fluctuations in export earnings from exports of goods and services referred in Article 81.

#### *Article 78*

##### *Humanitarian and emergency aid*

1. Humanitarian and emergency aid shall be granted in the OCTs faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects. Humanitarian and emergency aid shall be maintained as long as necessary to deal with the urgent problems which arise in such situations.

Humanitarian and emergency aid shall be granted solely on the basis of the needs and interests of disaster victims.

2. The aim of humanitarian and emergency aid shall be to:

- (a) save human lives in crisis and post-crisis situations;
  - (b) contribute to the financing and delivery of humanitarian aid and to the direct access to it of its intended beneficiaries by all logistical means available;
  - (c) carry out short-term rehabilitation and reconstruction to enable the victims to benefit from a minimum of socio-economic integration and, as soon as possible, create the conditions for a resumption of development on the basis of long-term objectives;
  - (d) address the needs arising from the displacement of people (refugees, displaced persons and returnees) following natural or man-made disasters so as to meet, for as long as necessary, all the needs of refugees and displaced persons (wherever they may be) and facilitate action for their voluntary repatriation and re-integration in their country of origin;
  - (e) assist the OCTs in setting up short term disaster prevention and preparedness mechanisms, including for prediction and early warning, with a view to reducing the consequences of disasters.
3. Similarly aid may be granted to OCTs taking in refugees or returnees to meet acute needs not covered by emergency assistance.
  4. Aid provided for by this Article shall be financed from the Union budget. However, it may exceptionally be financed from the allocations laid down in Annex II, in addition to the funding from the budget heading concerned.
  5. Humanitarian and emergency aid operations shall be undertaken at the request of the OCT affected, the Commission, the Member State to which the OCT is linked, international organisations or local or international non-governmental organisations. Such aid shall be administered and implemented under procedures that facilitate rapid, flexible and effective operations.

#### *Article 79*

##### *Capacity development*

1. Financial assistance shall be used to support the OCTs with developing the necessary capacities to define, implement and monitor territorial and/or regional strategies and actions in view of achieving the general objectives for the areas of cooperation mentioned in Parts Two and Three.
2. The Union shall support the efforts of the OCTs in developing reliable statistical data regarding those areas.

## *Article 80*

### *Technical assistance*

1. On the initiative of the Commission, studies or technical assistance measures may be financed in order to ensure the preparation, monitoring, evaluation and supervision necessary for implementing this Decision and for its overall evaluation. Technical assistance provided locally shall be implemented in all instances in accordance with the rules applicable to decentralised financial management.
2. On the initiative of the OCTs, studies or technical assistance measures may be financed in relation to the implementation of the activities scheduled in the programming documents. The Commission may decide to finance such action either from the programmable aid or from the envelope earmarked for technical cooperation measures.

## *Article 81*

### *Additional support in the event of fluctuations in export earnings*

1. In order to mitigate the adverse effects of any short-term fluctuations in export earnings, in particular in the agricultural and mining sectors, which might jeopardise the attainment of the development objectives of the OCT concerned, a system of additional support shall be instituted within the financial allocation referred to in Annex II.
2. Support in the event of short-term fluctuations in export earnings shall be aimed to safeguard macroeconomic and sectoral reforms and policies that are at risk as a result of a drop in revenue and remedy the adverse effects of instability of export earnings in particular from agricultural and mining products.

The dependence of the OCT economies on exports, in particular in the agricultural and mining sectors, shall be taken into account in the allocation of resources referred to in Annex V. In this context the isolated OCTs referred to in Annex I shall receive more favourable treatment in accordance with the criteria set out in Annex V.

3. The additional resources shall be provided in accordance with the specific modalities of the support mechanism as set out in Annex V.
4. The Union shall also provide support for market-based insurance schemes designed for OCTs seeking to protect themselves against the risk of fluctuations in export earnings.

## *Article 82*

### *Programming*

1. For the purpose of this Decision, programmable aid shall be based on a programming document.

2. The programming document may take into account the territorial development plans or other plans agreed upon between the OCTs and the Member States to which they are linked.
3. Pursuant to article 9, the OCT authorities shall assume the primary responsibility for the formulation of strategies, priorities and arrangements through the preparation of programming documents in coordination with the Commission and the Member State to which the OCT is linked.
4. The OCT authorities shall be responsible for:
  - (a) establishing their priorities on which the strategy shall be based;
  - (b) formulating project and programme proposals submitted to and examined with the Commission.
5. The OCT authorities and the Commission shall be jointly responsible for approving the programming document.
6. The Commission shall adopt the financing decision corresponding to a programming document in accordance with the procedure provided for in Article 84.
7. The procedure provided in Article 84 shall also apply to substantial reviews which have the effect of modifying significantly the content of the programming and the corresponding financing decision. It shall not apply to non-substantial modifications such as technical adjustments or increasing or decreasing the size of the initial financial allocations by less than 20%, provided that these modifications do not affect the priority areas and objectives set out in the programming document. The Committee provided for in Article 84 shall be informed of such non-substantial modifications within one month after such modifications are introduced.

### *Article 83*

#### *Implementation*

1. The Commission shall implement OCT 11<sup>th</sup> EDF resources in any of the ways set out in the 11<sup>th</sup> EDF financial regulation and in accordance with the conditions set out in this Decision and in the measures implementing that Decision. To this end, it shall conclude financing agreements with the relevant authorities of the OCTs.
2. The OCT authorities shall be responsible for:
  - (a) preparing, negotiating and concluding contracts;
  - (b) implementing and managing projects and programmes;
  - (c) maintaining projects and programmes and ensuring their sustainability.
3. The relevant authorities of the OCTs and the Commission shall be jointly responsible for:

- (a) ensuring equality of conditions for participation in invitations to tender and contracts;
- (b) monitoring and evaluating the effects and results of projects and programmes;
- (c) ensuring the proper, prompt and efficient execution of projects and programmes.

#### *Article 84*

##### *EDF-OCT Committee*

1. The Commission shall, where appropriate, be assisted by the Committee created by the 11<sup>th</sup> EDF Internal Agreement.
2. When exercising the powers conferred on it by this Decision, the Committee shall be known as the 'EDF-OCT Committee'. The procedures of the Committee laid down in the Internal Agreement shall apply to the EDF-OCT Committee.
3. The Committee shall focus its work on the substantive issues of cooperation at OCT and regional level. In the interests of coherence, coordination and complementarity, it shall monitor the implementation of the Programming documents.
4. The Committee shall give its opinion on:
  - (a) draft programming documents and any amendments to them;
  - (b) the financing decisions for implementing this Part of the Decision.
5. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit laid down by the chairman. The opinion shall be delivered by the majority laid down in Article 8 of the Internal Agreement. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in paragraph 2 of that Article. The chairman shall not vote.
6. The Commission shall adopt the measures, which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of not more than three months from the date of such communication.
7. The Council, acting by the majority and in accordance with the weighting referred to in paragraph 5, may take a different decision within the period provided for in paragraph 6.
8. The Commission shall inform the Committee of the follow-up, evaluation and audit of Programming documents.
9. For the implementation of the 11th EDF, the respective provisions of the Internal Agreement establishing the 11th EDF shall be applicable.

## Article 85

### *Protecting the Union's financial interests and financial controls*

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and deterrent penalties.
2. The Commission and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds.

The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Council Regulation (Euratom, EC) No 2185/96<sup>19</sup> with a view to establishing whether there has been fraud, corruption or any other illegal activity in connection with a grant agreement or grant decision or a contract concerning Union funding.

Without prejudice to the first and second subparagraphs, agreements with third countries and international organisations and grant agreements and grant decisions and contracts resulting from the implementation of this Decision shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections, in accordance with the relevant EDF Financial Regulation.

3. OCTs shall bear primary responsibility for the financial supervision of the Union funds. This shall be carried out, where appropriate, in coordination with the Member State to which the OCT is linked in accordance with the applicable national legislation.
4. The Commission shall be responsible for:
  - (a) ensuring that management and control systems exist and function properly in the OCT concerned so as to ensure that the Union funds are used correctly and effectively;
  - (b) in the event of irregularities, sending recommendations or requests for corrective measures to remedy those irregularities and rectify any management shortcomings found.
5. The Commission, the OCT and, where appropriate, the Member State to which it is linked, shall cooperate on the basis of administrative arrangements at annual or biannual meeting to coordinate programmes, methodologies and the implementation of controls.

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<sup>19</sup> OJ L 292, 15.11.1996, p. 2.

6. With regard to financial corrections:
  - (a) the OCT shall be responsible in the first instance for detecting and correcting financial irregularities;
  - (b) however, in the event of shortcomings by the OCT concerned, the Commission shall take action, if the OCT fails to remedy the situation and attempts at conciliation are unsuccessful, to reduce or withdraw the balance of the overall allocation corresponding to the financing decision of the Programming Document.

## **Chapter 4**

### **Principles of eligibility**

#### *Article 86*

##### *Eligibility for territorial financing*

1. The OCTs public authorities shall be eligible for financial support provided for in this Decision.
2. Subject to the agreement of the authorities of the OCTs concerned, the following entities or bodies shall also be eligible for financial support provided for in this Decision:
  - (a) local, national and/or regional public or semi-public agencies, departments or local authorities of the OCTs and in particular their financial institutions and development banks;
  - (b) companies and firms of the OCTs and of regional groups;
  - (c) companies and firms of a Member State, so as to enable them, in addition to their own contribution, to undertake productive projects in the territory of an OCT;
  - (d) OCT or Union financial intermediaries promoting and financing private investments in the OCTs;
  - (e) actors of decentralised cooperation and other non-governmental actors from OCTs and from the Union, to enable them to undertake economic, cultural, social and educational projects and programmes in the OCTs in the framework of decentralised cooperation, as referred to in Article 11.

## *Article 87*

### *Eligibility for regional financing*

1. A regional allocation shall be used for operations benefiting and involving:
  - (a) two or more OCTs;
  - (b) one or more OCTs and one or more outermost regions referred to in Article 349 of the Treaty;
  - (c) one or more OCTs and one or more neighbouring ACP and/or non-ACP States;
  - (d) one or more OCTs, one or more outermost regions and one or more ACP and/or non-ACP States;
  - (e) two or more regional bodies of which OCTs are members;
  - (f) one or more OCTs and regional bodies of which OCTs, ACP States or one or more of the outermost regions are members;
  - (g) the OCTs and the Union as a whole.
2. The funding to enable participation of the ACP States, outermost regions and other countries shall be additional to funds allocated to the OCTs under this Decision.
3. The participation of ACP States, outermost regions and other countries to programmes established pursuant to this Decision shall be envisaged only to the extent that:
  - (a) the centre of gravity of the projects and programmes funded under the multi-annual financial framework of cooperation remains in an OCT;
  - (b) equivalent provisions exist in the framework of the EU's financial instruments;
  - (c) the principle of proportionality is respected.
4. Appropriate measures will allow for matching of funding of credits from the EDF and the Union budget to finance cooperation projects between the OCTs, the ACP Countries, the outermost regions as well as other countries, in particular simplified mechanisms for joint management of such projects.

## *Article 88*

### *Eligibility for Union programmes*

1. Natural persons from an OCT, as defined in Article 49, and, where applicable, the relevant public and/or private bodies and institutions in an OCT, shall be eligible for participation in and funding from all Union programmes, subject to the rules and objectives of the programmes and possible arrangements applicable to the Member State to which the OCT is linked.

2. OCTs shall also be eligible for support under programmes of the Union for cooperation with other countries, notably developing countries, subject to the rules, objectives and arrangements of these programmes.

## Part Five

### Final provisions

#### *Article 89*

##### *Delegation of powers to the Commission*

1. The Commission shall be empowered to adopt delegated acts complementing the rules in this Decision within 12 months of its entry into force, and amending the Appendices of Annex VI for the purpose of taking into account technological development and changes in customs legislation, in accordance with the procedure laid down in Article 90.
2. The additional provisions shall include:
  - (a) the procedure for programming;
  - (b) the procedures and criteria for the follow-up, audit, evaluation, review and implementation of the programming of this Decision, including the preparation of periodical or other reports;
  - (c) the detailed rules for implementing the financial corrections referred to in Article 85.

#### *Article 90*

##### *Exercise of the delegation*

1. The power to adopt delegate acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 89 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Decision.
3. The delegation of power referred to in Article 89 may be revoked at any time by the Council. A decision of revocation shall put an end to the delegation of power specified in that Decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it to the Council.
5. A delegated act adopted pursuant to Article 89 shall enter into force only if no objection has been expressed by the Council within a period of 2 months of notification of the act to the Council or if, before the expiry of that period, the

Council has informed the Commission that it will not object. That period shall be extended by 2 months at the initiative of the Council.

#### *Article 91*

##### *Change of status*

The Council, acting according to the Treaty, shall decide on any necessary adjustments to this Decision when:

- (a) an OCT becomes independent;
- (b) an OCT leaves the association;
- (c) an OCT becomes an outermost region;
- (d) an outermost region becomes an OCT.

#### *Article 92*

##### *Repeal*

Council Decision 2001/822/EC is hereby repealed. References to the repealed Decision shall be construed as references to this Decision.

#### *Article 93*

##### *Entry into force*

This Decision shall enter into force on 1 January 2014.

Annex VI shall apply as provided for in Article 65 of that Annex.

#### *Article 94*

##### *Publication*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*

**ANNEX I**

**LIST OF THE ISOLATED OCTs**

- Falkland Islands
- Saint Helena, Ascension Island, Tristan da Cunha
- St Pierre and Miquelon

## **ANNEX II**

### **UNION FINANCIAL ASSISTANCE: 11<sup>TH</sup> EDF**

#### *Article 1*

##### *Allocation between the various instruments*

1. For the purposes of this Decision, for the seven-year period from 1 January 2014 to 31 December 2020, the overall amount of the EU financial assistance of EUR [343.4 million] under the 11<sup>th</sup> EDF fixed by the Internal Agreement establishing the 11th EDF shall be allocated as follows:
  - (a) EUR [330.4 million] in the form of grants for programmable support for long-term development, humanitarian aid, emergency aid, refugee aid and additional support in the event of fluctuations in export earnings as well as for support for regional cooperation and integration;
  - (b) EUR [5 million] to finance interest subsidies and technical assistance in the context of the OCT Investment Facility referred to in Annex IV;
  - (c) EUR [8 million] to studies or technical assistance measures in accordance with Article 79 of this Decision, and to an overall evaluation of the Decision to be made four years before it expires at the latest.
2. The funds of the 11th EDF may not be committed after 31 December 2020, unless the Council decides otherwise unanimously, on a proposal from the Commission.
3. Should the funds provided for in paragraph 1 be exhausted before this Decision expires, the Council shall take the appropriate measures.

#### *Article 2*

##### *Administration of resources*

The EIB shall administer the loans made from its own resources referred to in Annex III, as well as the operations financed under the OCT Investment Facility referred to in Annex IV. All other financial resources under this Decision shall be administered by the Commission.

#### *Article 3*

##### *Allocation between the OCTs*

The amount of EUR [330.4 million] mentioned in Article 1(1)(a) shall be allocated on the basis of the needs and performance of the OCTs in accordance with the following criteria:

1. An amount A of EUR [205.3 million] shall be allocated to the OCTs other than Greenland [and Bermuda] in particular to finance the initiatives referred to in the programming document. Where appropriate, the programming document shall pay particular attention to actions aimed at strengthening governance and the institutional capacities of the beneficiary OCTs and, where relevant, the likely timetable of the envisaged actions.

The allocation of amount A shall take into account the size of the population, the level of Gross Domestic Product (GDP), the level of previous EDF allocations and constraints due to the geographical isolation of OCTs as mentioned in Article 8 of this Decision. Any allocation shall be such as to allow its effective use. It should be decided in conformity with the principle of subsidiarity.

2. EUR [105 million] shall be allocated to support regional cooperation and integration in accordance with Article 7 of this Decision, in particular regarding the priorities and areas of mutual interests mentioned in Article 5 and through consultation via the instances of the EU-OCT partnership mentioned in Article 13. It shall seek coordination with other Union financial instruments, cooperation between the OCTs and the outermost regions referred to in Article 349 of the Treaty.
3. A non-allocated reserve B of EUR [20 million] shall be set aside to:
  - (a) finance humanitarian and emergency assistance for the OCTs and, if necessary, the additional support in the event of fluctuations in export earnings, in accordance with Annex IV;
  - (b) make new allocations in accordance with the development of the needs and performance of the OCTs referred to under paragraph 1.

Performance shall be evaluated in an objective and transparent way, taking into account inter alia the use of the allocated resources, the effective implementation of the ongoing operations and the sustainable development measures adopted.

4. The Commission, following a mid-term review, may decide on the allocation of any non-allocated funds mentioned in this Article. The procedures for this review and the decision on any new allocation shall be adopted in accordance with Article 84 of this Decision.

### ANNEX III

## **UNION FINANCIAL ASSISTANCE: LOANS FROM THE EUROPEAN INVESTMENT BANK'S OWN RESOURCES**

### *Article 1*

#### *Amount*

An amount of up to EUR [100 million] shall be provided by the EIB for financing from its own resources in accordance with its own rules and procedures and the conditions provided for by its statutes and this Annex.

### *Article 2*

#### *European Investment Bank*

1. The EIB shall:
  - (a) contribute, through the resources it manages, to the economic and industrial development of the OCTs on a territorial and regional basis; and to this end, finance as a priority productive projects or other investments aimed at promoting the private sector in all economic sectors;
  - (b) establish close cooperation links with national and regional development banks and with banking and financial institutions of the OCTs and of the Union;
  - (c) in consultation with the OCT concerned, adapt the arrangements and procedures for implementing development finance cooperation, as set out in this Decision, if necessary, to take account of the nature of the projects and to act in accordance with the objectives of this Decision, within the framework of the procedures laid down by its statute.
2. Financing from the EIB's own resources shall be granted under the following terms and conditions:
  - (a) the reference rate of interest shall be the rate applied by the EIB for a loan with the same conditions as to currency, repayment period and securities on the day of signature of the contract or on the date of disbursement;
  - (b) however:
    - in principle, public sector projects shall be eligible for an interest rate subsidy of 3%;
    - for private sector projects which involve restructuring operations in the framework of privatisation or for projects with substantial and clearly demonstrable social or environmental benefits, loans may be extended with an interest rate subsidy the amount and form of which will be

decided with respect to the particular characteristics of the project. However, the interest rate subsidy shall not be higher than 3 %.

- The final interest rate shall, in any case, never be less than 50 % of the reference rate.
- (c) the amount of the interest rate subsidy calculated in terms of its value at the times of disbursement of the loan shall be charged against the interest subsidy allocation laid down in Annex IV, Article 2(11), and paid directly to the EIB;
- Interest subsidies may be capitalised or used in the form of grants to support project-related technical assistance, particularly for financial institutions in the OCTs.
- (d) the repayment period of loans made by the EIB from its own resources shall be determined on the basis of the economic and financial characteristics of the project, but may not exceed 25 years. These loans shall normally comprise a grace period fixed by reference to the construction period of the project.
3. For investments financed by the EIB from its own resources in public sector companies, specific project-related guarantees or undertakings may be required from the OCT concerned.

### *Article 3*

#### *Conditions for foreign exchange transfer*

1. The OCT concerned shall, in respect of operations under this Decision and in respect of which they have given their written approval:
- (a) grant exemption from all national or local duties, fiscal charges on interest, commission and amortisation of loans due in accordance with the law or laws of the OCTs concerned;
  - (b) place at the disposal of the beneficiaries the currency necessary for the payment of interest, commission and the amortisation of loans due in terms of financing contracts granted for the implementation of projects on their territories;
  - (c) make available to the EIB the foreign currency necessary for the transfer of all sums received by it in national currency at the exchange rate applicable between the Euro or other currencies of transfer and the national currency at the date of the transfer. These include all forms of remuneration, such as, *inter alia*, interest, dividends, commissions and fees, as well as the amortisation of loans and the proceeds from the sale of shares due in terms of financing contracts granted for the implementation of projects on their territories.
2. For the purposes of this Article, "OCTs concerned" shall mean the OCT benefitting from the operation.

## ANNEX IV

### UNION FINANCIAL ASSISTANCE: EIB INVESTMENT FACILITY

#### *Article 1*

##### *Objective*

The OCT Investment Facility (the Facility) set up by Decision 2001/822/EC with EDF funds to promote commercially viable enterprises is maintained.

The terms and conditions of financing in relation to the operations of the Facility and the loans from own resources of the EIB shall be as laid down in the Internal Agreement establishing the 11th EDF and in Annex III and in this Annex.

These resources may be channelled to eligible enterprises, either directly or indirectly, through eligible investment funds and/or financial intermediaries.

#### *Article 2*

##### *Resources of the Facility*

1. The resources of the Facility may be used, inter alia, to:
  - (a) provide risk capital in the form of:
    - equity participation in OCT enterprises, based or not in an OCT, including financial institutions;
    - quasi-capital assistance to OCT enterprises, including financial institutions;
    - guarantees and other credit enhancements which may be used to cover political and other investment-related risks, both for foreign and local investors or lenders;
  - (b) provide ordinary loans.
2. Equity participation shall, in general, be for non-controlling minority holdings and shall be remunerated on the basis of the performance of the project concerned.
3. Quasi-capital assistance may consist of shareholders' advances, convertible bonds, conditional, subordinated and participating loans or any other similar form of assistance. Such assistance may consist in particular of:
  - (a) conditional loans, the servicing and/or the duration of which shall be linked to the fulfilment of certain conditions with regard to the performance of the project; in the specific case of conditional loans for pre-investment studies or other project-related technical assistance, servicing may be waived if the investment is not carried out;

- (b) participating loans, the servicing and/or the duration of which shall be linked to the financial return of the project;
  - (c) subordinated loans, which shall be repaid only after other claims have been settled.
- 4. The remuneration of each operation shall be specified when the loan is made.
- 5. However:
  - (a) in the case of conditional or participating loans, the remuneration shall normally comprise a fixed interest rate of not more than 3% and a variable component related to the performance of the project;
  - (b) in the case of subordinated loans, the interest rate shall be market related.
- 6. Guarantees shall be priced so as to reflect the risks insured and the particular characteristics of the operation.
- 7. The interest rate of ordinary loans shall comprise a reference rate applied by the EIB for comparable loans with the same terms and conditions as to grace and repayment periods and a mark up determined by the EIB.
- 8. Ordinary loans may be extended on concessional terms and conditions in the following cases:
  - (a) for infrastructure projects in the least developed OCTs, in post-conflict OCTs or in post-natural disaster OCTs that are prerequisites for private sector development. In such cases, the interest rate of the loan will be reduced by 3%;
  - (b) for projects which involve restructuring operations in the framework of privatisation or for projects with substantial and clearly demonstrable social or environmental benefits. In such cases, loans may be extended with an interest rate subsidy the amount and form of which will be decided with respect to the particular characteristics of the project. However, the interest rate subsidy shall not be higher than 3%.
- 9. The final rate of loans falling under (a) or (b) shall, in any case, never be less than 50% of the reference rate.
- 10. The funds to be provided for these concessional purposes will be made available from the Facility and shall not exceed the overall allocation for investment financing by the Facility and by the EIB from its own resources.
- 11. Interest subsidies may be capitalised or may be used in the form of grants to support project-related technical assistance, particularly for financial institutions in the OCTs.

### *Article 3*

#### *Operations of the Facility*

1. The Facility shall operate in all economic sectors and support investments of private and commercially run public sector entities, including revenue generating economic and technological infrastructure critical for the private sector. The Facility shall:
  - (a) be managed as a revolving fund and aim at being financially sustainable. Its operations shall be on market-related terms and conditions and shall avoid creating distortions on local markets and displacing private sources of finances;
  - (b) support the OCT financial sector and have a catalytic effect by encouraging the mobilisation of long-term local resources and attracting foreign private investors and lenders to projects in the OCTs;
  - (c) bear part of the risk of the projects it funds, its financial sustainability being ensured through the portfolio as a whole and not from individual operations;
  - (d) seek to channel funds through OCT institutions and programmes that promote the development of small and medium-sized enterprises (SMEs).
2. The EIB shall be remunerated for the cost incurred in managing the Facility. The remuneration of the EIB shall include a fixed component of 0.5% a year of the initial endowment and a variable component of an amount of up to 1.5% a year of the portfolio of the Facility that is invested in projects in OCTs. The remuneration shall be financed out of the Facility.
3. On expiry of this Decision, and in the absence of a specific decision by the Council, the cumulative net reflows to the Facility shall be carried over to the next OCT Financial Instrument.

### *Article 4*

#### *Conditions for foreign exchange rate risk*

In order to minimise the effects of exchange rate fluctuations, the problems of exchange rate risk shall be dealt with in the following way:

- (a) in the case of equity participation designed to strengthen an enterprise's own funds, the exchange rate risk shall, as a general rule, be borne by the Facility;
- (b) in the case of risk capital financing for SMEs, the exchange rate risk shall as a general rule be shared, on the one hand, by the Union, and on the other hand, by the other parties involved. On average, the foreign exchange rate risk shall be shared equally;
- (c) where feasible and appropriate, particularly in countries characterised by macroeconomic and financial stability, the Facility will endeavour to extend loans in local OCT currencies, thus taking the foreign exchange risk.

## *Article 5*

### Financial controls

1. Investment Facility operations shall be subject to the control and discharge procedure laid down in the Statutes of the EIB for all of its operations.
2. The ECA's supervision of Investment Facility operations shall be carried out in accordance with the procedures agreed upon between the Commission, the Bank and the ECA, and in particular the Tripartite Agreement, entered into by the aforementioned parties on 27 October 2003, as amended, supplemented or modified from time to time.

## *Article 6*

### Privileges and immunities

1. The representatives of the EIB, while they are engaged in activities connected with or in implementation of this Decision, shall enjoy in the OCTs the customary privileges, immunities and facilities while carrying out their duties and while travelling to or from the place at which they are required to carry out such duties.
2. For its official communications and the transmission of all its documents, the EIB shall enjoy in the territory of the OCTs the treatment accorded to international organisations.
3. Official correspondence and other official communications of the EIB shall not be subject to censorship.

## ANNEX V

### **EU FINANCIAL ASSISTANCE: ADDITIONAL SUPPORT IN THE EVENT OF SHORT-TERM FLUCTUATIONS IN EXPORT EARNINGS**

#### *Article 1*

##### *Principles*

1. The degree of dependence of an OCT economy on the export of goods, and in particular from agricultural and mining products shall be a criterion for determining the allocation of long-term development.
2. In order to mitigate the adverse effects of instability of export earnings and safeguard the development programme jeopardised by the drop in revenue, additional financial support may be mobilised from the programmable resources for the country's long-term development on the basis of Articles 2 and 3.

#### *Article 2*

##### *Eligibility criteria*

1. Eligibility for additional resources shall be established by:
  - (a) a 10 %, or 2 % in the case of isolated OCTs as mentioned in Annex I, loss of export earnings from goods compared with the arithmetical average of the earnings in the first three years of the first four years preceding the application year; or
  - (b) a 10 %, or 2 % in the case of isolated OCTs as mentioned in Annex I, loss of export earnings from the total of agricultural or mineral products compared with the arithmetical average of the earnings in the first three years of the first four years preceding the application year for countries where the agricultural or mineral export revenues represent more than 40 % of total export revenues from goods.
2. Entitlement to additional support shall be limited to four successive years.
3. The additional resources shall be reflected in the public accounts of the country concerned. They shall be utilised in accordance with the implementing provisions to be laid down pursuant to Article 83 of this Decision. By agreement of both Parties the resources may be used to finance programmes included in the national budget. However a part of the additional resources may also be set aside for specific sectors.

### *Article 3*

#### *Advances*

The system for allocating additional resources shall provide for advances to cover any delays in obtaining consolidated trade statistics and to ensure that the resources in question can be included in the budget of the year following the application year. Advances shall be mobilised on the basis of provisional export statistics drawn up by the authorities of the OCTs and submitted to the Commission in advance of the official final consolidated statistics. The maximum advance shall be 80 % of the estimated amount of additional resources for the application year. The amounts thus mobilised shall be adjusted by common agreement between the Commission and the authorities of the OCT in the light of final consolidated export statistics and the final figure of the public deficit.

### *Article 4*

#### *Revision*

The provisions in this Annex shall be subject to review at the latest after two years from the entry into force of the implementing provisions referred to in Article 84 of this Decision and subsequently at the request of the Commission, a Member State or an OCT.

**ANNEX VI**

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**CONCERNING THE DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS" AND METHODS OF ADMINISTRATIVE COOPERATION**

**INDEX**

**TABLE OF CONTENTS**

Title I General provisions.....	64
Title II Definition of the concept of originating products .....	64
Title III Territorial requirements .....	64
Title IV Proofs of origin Section 1 Rules applying from the entry into force of the OAD .....	64
Title V Arrangements for Administrative cooperation .....	64
Title VI Ceuta and Melilla .....	64
Title VII Final Provisions.....	64
Appendices I to XIII.....	64

## TITLE I

### GENERAL PROVISIONS

#### *Article 1*

#### *Definitions*

For the purposes of this Annex the following definitions shall apply:

- (a) 'EPA countries' means regions or states which are part of the African, Caribbean and Pacific (ACP) Group of States and which have concluded agreements establishing, or leading to the establishment of, Economic Partnership Agreements (EPA), when such an EPA is either provisionally applied, or enters into force, whichever is the earlier.
- (b) 'manufacture' means any kind of working or processing including assembly;
- (c) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (d) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (e) 'goods' means both materials and products;
- (f) '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;
- (g) 'customs value' means the value as determined in accordance with the 1994 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation);
- (h) 'value of materials' in the list in Appendix II 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 OCT. Where the value of the originating materials used needs to be established, this point shall be applied *mutatis mutandis*;
- (i) '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 OCT, 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.

For the purpose of this definition, where the last working or processing has been subcontracted to a manufacturer, the term 'manufacturer' referred to in the first subparagraph of this paragraph may refer to the enterprise that has employed the subcontractor.

- (j) 'maximum content of non-originating materials' means the maximum content of non-originating materials which is permitted in order to consider a manufacture as working or processing sufficient to confer originating status on the product. It may be expressed as a percentage of the ex-works price of the product or as a percentage of the net weight of these materials used falling under a specified group of chapters, chapter, heading or sub-heading;
- (k) 'net weight' means the weight of the goods themselves without packing materials and packing containers of any kind;
- (l) 'chapters', 'headings' and 'sub-headings' mean the chapters, the headings and sub-headings (four- or six-digit codes) used in the nomenclature which makes up the Harmonised System with the changes pursuant to the Recommendation of 26 June 2004 of the Customs Cooperation Council;
- (m) 'classified' refers to the classification of a product or material under a particular heading or sub-heading of the Harmonised System;
- (n) 'consignment' means products which are either:
  - sent simultaneously from one exporter to one consignee; or
  - covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such document, by a single invoice.
- (o) 'exporter' means a person exporting the goods to the Union or to an OCT who is able to prove the origin of the goods, whether or not the person is the manufacturer and whether or not they themselves carry out the export formalities;
- (p) 'registered exporter' means an exporter who is registered with the competent authorities of the OCT concerned for the purpose of making out statements on origin for the purpose of exporting under this Decision;
- (q) 'statement on origin' means a statement made out by the exporter indicating that the products covered by it comply with the rules of origin of this Annex, for the purpose of allowing either the person declaring the goods for release for free circulation in the Union to claim the benefit of preferential tariff treatment or the economic operator in a OCT importing materials for further processing in the context of cumulation rules to prove the originating status of such goods.

## TITLE II

### DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS

#### *Article 2*

##### *General Requirements*

1. The following products shall be considered as originating in an OCT:
  - (a) products wholly obtained in an OCT within the meaning of Article 3;
  - (b) products obtained in an OCT incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing within the meaning of Article 4.
2. Originating products made up of materials wholly obtained or sufficiently worked or processed in two or more OCTs shall be considered as products originating in the OCT where the last working or processing took place.

#### *Article 3*

##### *Wholly obtained products*

1. The following shall be considered as wholly obtained in an OCT:
  - (a) mineral products extracted from its soil or from its seabed;
  - (b) plants and vegetable products grown or harvested there;
  - (c) live animals born and raised there;
  - (d) products from live animals raised there;
  - (e) products from slaughtered animals born and raised there;
  - (f) products obtained by hunting or fishing conducted there;
  - (g) products of aquaculture where the fish, crustaceans and molluscs are born and raised there;
  - (h) products of sea fishing and other products taken from the sea outside any territorial sea by its vessels;
  - (i) products made on board its factory ships exclusively from the products referred to in point (h);
  - (j) used articles collected there fit only for the recovery of raw materials;
  - (k) waste and scrap resulting from manufacturing operations conducted there;

- (l) products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;
  - (m) goods produced there exclusively from products specified in points (a) to (l).
2. The terms 'its vessels' and 'its factory ships' in paragraph 1(h) and (i) shall apply only to vessels and factory ships which meet each of the following requirements:
- (a) they are registered in an OCT or in a Member State,
  - (b) they sail under the flag of an OCT or of a Member State,
  - (c) they meet one of the following conditions:
    - they are at least 50% owned by nationals of the OCTs or of Member States; or
    - they are owned by companies;
      - (i) which have their head office and their main place of business in the OCTs or in Member States; and
      - (ii) which are at least 50% owned by OCTs, public entities of that country, nationals of that country or of Member States.
3. The conditions of paragraph 2 may each be fulfilled in Member States or in different OCTs. In this case, the products shall be deemed to have the origin of the OCT where the vessel or factory ship is registered in accordance with point (a) of paragraph 2.

#### *Article 4*

##### *Sufficiently worked or processed products*

1. Without prejudice to Articles 5 and 6, products which are not wholly obtained in an OCT within the meaning of Article 3 shall be considered to originate there, provided that the conditions laid down in the list in Appendix II for the goods concerned are fulfilled.
2. If a product which has acquired originating status in an OCT in accordance with paragraph 1 is further processed in that OCT and used as a material in the manufacture of another product, no account shall be taken of the non-originating materials which may have been used in its manufacture.
3. The determination of whether the requirements of paragraph 1 are met, shall be carried out for each product.

However, where the relevant rule is based on compliance with a maximum content of non-originating materials, in order to take into account fluctuations in costs and currency rates, the value of the non-originating materials may be calculated on an average basis as set out in paragraph 4.

4. In the case referred to in the second sub-paragraph of paragraph 3, an average ex-works price of the product and average value of non-originating materials used shall be calculated respectively on the basis of the sum of the ex-works prices charged for all sales of the products carried out during the preceding fiscal year and the sum of the value of all the non-originating materials used in the manufacture of the products over the preceding fiscal year as defined in the country of export, or, where figures for a complete fiscal year are not available, a shorter period which should not be less than three months.
5. Exporters having opted for calculations on an average basis shall consistently apply such a method during the year following the fiscal year of reference, or, where appropriate, during the year following the shorter period used as a reference. They may cease to apply such a method where during a given fiscal year, or a shorter representative period of no less than three months, they record that the fluctuations in costs or currency rates which justified the use of such a method have ceased.
6. The averages referred to in paragraph 4 shall be used as the ex-works price and the value of non-originating materials respectively, for the purpose of establishing compliance with the maximum content of non-originating materials.

#### *Article 5*

##### *Insufficient working or processing operations*

1. Without prejudice to paragraph 3, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 4 are satisfied:
  - (a) preserving operations to ensure that the products remain in good condition during transport and storage;
  - (b) breaking-up and assembly of packages;
  - (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
  - (d) ironing or pressing of textiles and textile articles;
  - (e) simple painting and polishing operations;
  - (f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;
  - (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
  - (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
  - (i) sharpening, simple grinding or simple cutting;
  - (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);

- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
  - (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
  - (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
  - (n) simple addition of water or dilution or dehydration or denaturation of products;
  - (o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
  - (p) a combination of two or more of the operations specified in points (a) to (o);
  - (q) slaughter of animals.
2. For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.
  3. All the operations carried out in an OCT on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

## *Article 6*

### *Tolerances*

1. By way of derogation from Article 4 and subject to paragraphs 2 and 3 of this Article, non-originating materials which, according to the conditions set out in the list in Appendix II are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:
  - (a) 15% of the weight of the product for products falling within Chapters 2 and 4 to 24, other than processed fishery products of chapter 16;
  - (b) 15% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonised System, for which the tolerances mentioned in Notes 6 and 7 of Appendix I shall apply.
2. Paragraph 1 shall not allow that any of the percentages for the maximum content of non-originating materials as specified in the rules laid down in the list in Appendix II are exceeded.
3. Paragraphs 1 and 2 shall not apply to products wholly obtained in an OCT within the meaning of Article 3. However, without prejudice to Article 5 and 11(2), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule

laid down in the list in Appendix I for that product requires that such materials be wholly obtained.

#### *Article 7*

##### *Bilateral cumulation*

1. Without prejudice to Article 2, materials originating in the Union shall be considered as materials originating in an OCT when incorporated into a product obtained there, provided that they have undergone working or processing which goes beyond the operations referred to in Article 5(1).
2. Without prejudice to Article 2, working or processing carried out in the Union shall be considered as having been carried out in an OCT, when the materials undergo subsequent working or processing there.
3. For the purpose of cumulation provided for in this Article, the origin of the materials shall be established in accordance with this Annex.

#### *Article 8*

##### *Cumulation with EPA countries*

1. Without prejudice to Article 2, materials originating in the EPA countries shall be considered as materials originating in an OCT when incorporated into a product obtained there, provided that they have undergone working or processing which goes beyond the operations referred to in Article 5 (1).
2. Without prejudice to Article 2, working or processing carried out in the EPA countries shall be considered as having been carried out in an OCT, when the materials undergo subsequent working or processing there.
3. For the purpose of paragraph 1 of this Article, the origin of the materials originating in an EPA country shall be determined in accordance with the rules of origin applicable to the EPA concerned and relevant provisions on proofs of origin and administrative cooperation.

The cumulation provided for in this Article shall not apply to the following:

- (a) materials originating in the Republic of South Africa which cannot be imported directly in the Union duty-free-quota-free in the framework of the EPA between the Union and the Southern African Development Community (SADC).
  - (b) materials listed in Appendix XIII.
4. The cumulation provided for in this Article may only be applied provided that:
    - (a) The EPA country supplying the materials and the OCT manufacturing the final product have undertaken to:
      - comply or ensure compliance with this Annex and,

- provide the administrative cooperation necessary to ensure the correct implementation of this Annex both with regard to the Union and between themselves;
  - (b) The undertakings referred to in point (a) have been notified to the Commission by the OCT involved.
5. Where countries have already complied with paragraph 4 before the entry into force of this Decision, a new undertaking shall not be required.

### *Article 9*

#### *Cumulation with other countries benefiting from duty-free quota-free to the market of the Union under GSP*

1. Without prejudice to Article 2, materials originating in countries and territories set out in paragraph 2 of this Article shall be considered as materials originating in an OCT when incorporated into a product obtained there, provided they have undergone working or processing which goes beyond the operations referred to in Article 5(1).
2. For the purposes of paragraph 1, materials shall originate from a country or territory:
  - (a) benefiting from the "Special arrangement for least developed countries" set out in the Generalised System of Preferences<sup>20</sup>;
  - (b) benefiting from duty-free quota-free access to the market of the Union at HS 6-digit level under the general provisions of the Generalised System of Preferences<sup>21</sup>;
3. The origin of the materials of the countries or territories concerned shall be determined according to the rules of origin laid down pursuant to Article 5(2) of Council Regulation (EC) No 732/2008 and in accordance with Articles 32 or 41.
4. The cumulation provided for in this paragraph shall not apply to the following:
  - (a) materials which at importation to the Union are subject to antidumping or countervailing duties when originating from the country which is subject to these antidumping or countervailing duties;
  - (b) tuna products classified under Harmonised System Chapters 3 and 16, which are covered by Article 6 of Council regulation (EC) N°732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011, and subsequent amending and corresponding legal acts;

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<sup>20</sup> Articles 11 and 12 of Council Regulation (EC) No 732/2008 of 22 July 2008 (OJ L 211, 6.8.2008, p. 1.).

<sup>21</sup> Article 6 of Regulation (EC) No 732/2008. Materials that benefit from duty free treatment by virtue of the special incentive arrangement for sustainable development and good governance of Articles 7 to 10 of the same Council Regulation, but not under the general arrangement of Article 6 of the same Council Regulation, are not covered by this provision.

- (c) materials which are covered by Articles 13, 20 and 21 of Council Regulation (EC) No 732/2008<sup>22</sup>, and subsequent amending and corresponding legal acts.

The competent authorities of the OCTs shall notify yearly to the Commission the materials, if any, to which cumulation under paragraph 1 has been applied.

5. The cumulation provided for in paragraph 1 of this Article may only be applied provided that:
- (a) the countries or territories involved in the cumulation have undertaken to comply or ensure compliance with this Annex and to provide the administrative co-operation necessary to ensure the correct implementation of this Annex, both with regard to the Union and between themselves;
  - (b) the undertaking referred to in point (a) has been notified to the Commission by the OCT concerned.
6. The Commission shall publish in the Official Journal of the European Union (C series) the date on which the cumulation provided for in this Article may be applied with those countries or territories listed in this Article which have fulfilled the necessary requirements.

## *Article 10*

### *Extended cumulation*

1. The Commission may grant, at the request of an OCT, cumulation of origin between an OCT and a country with which the Union has a free trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, provided that the following conditions are met:
- (a) the countries or territories involved in the cumulation have undertaken to comply or ensure compliance with this Annex and to provide the administrative co-operation necessary to ensure the correct implementation of this Annex, both with regard to the Union and between themselves;
  - (b) the undertaking referred to in point (a) has been notified to the Commission by the OCT concerned.
2. The request referred to in the first subparagraph shall be addressed to the Commission in writing. It shall indicate the third country or countries concerned, shall contain a list of the materials subject to cumulation and shall be supported by evidence that the conditions laid down in paragraphs 1(a) and (b) of this Article are met.
3. The origin of the materials used and the documentary proof of origin shall be determined in accordance with the rules laid down in the relevant free trade

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<sup>22</sup> OJ L 211, 6.8.2008, p. 1.

agreement. The origin of the products to be exported to the Union shall be determined in accordance with the rules of origin laid down in this Annex.

4. In order for the obtained product to acquire originating status, it shall not be necessary that the materials originating in the third country and used in the OCT in the manufacture of the product to be exported to the Union have undergone sufficient working or processing, provided that the working or processing carried out in the OCT concerned goes beyond the operations described in Article 5(1).
5. The Commission shall publish in the Official Journal of the European Union (C series) the date on which the extended cumulation takes effect, the Union's Free Trade Agreement partner involved in that cumulation, the applicable conditions and the list of materials in relation to which the cumulation applies.
6. The Commission shall adopt a measure granting the cumulation referred to in paragraph 1 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2)

### *Article 11*

#### *Unit of qualification*

1. The unit of qualification for the application of the provisions of this Annex shall be the particular product which is considered as the basic unit when determining classification using the Harmonized System.
2. When a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each individual item shall be taken into account when applying the provisions of this Annex.
3. Where, under general rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

### *Article 12*

#### *Accessories, Spare parts and tools*

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the ex-works price thereof, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

### *Article 13*

#### *Sets*

Sets, as defined in General Interpretative Rule 3 of the Harmonised System, shall be regarded as originating when all the component products are originating products.

When a set is composed of originating and non-originating products, the set as a whole shall however be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.

#### *Article 14*

##### *Neutral elements*

In order to determine whether a product is an originating product, no account shall be taken of the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) any other goods which do not enter, and which are not intended to enter, into the final composition of the product.

#### *Article 15*

##### *Accounting segregation*

1. If originating and non-originating fungible materials are used in the working or processing of a product, the customs authorities of the Member States may, at the written request of economic operators, authorise the management of materials in the Union using the accounting segregation method for the purpose of subsequent export to an OCT within the framework of bilateral cumulation, without keeping the materials on separate stocks.
2. The customs authorities of the Member States may make the granting of authorisation referred to in paragraph 1 subject to any conditions they deem appropriate.

The authorisation shall be granted only if by use of the method referred to in paragraph 3 it can be ensured that, at any time, the number of products obtained which could be considered as 'originating in the Union' is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

If authorised, the method shall be applied and the application thereof shall be recorded on the basis of the general accounting principles applicable in the Union.

3. The beneficiary of the method referred to in paragraph 2 shall make out or, until the application of the registered exporter system, apply for proofs of origin for the quantity of products which may be considered as originating in the Union. At the request of the customs authorities of the Member States, the beneficiary shall provide a statement of how the quantities have been managed.

4. The customs authorities of the Member States shall monitor the use made of the authorisation referred to in paragraph 1.

They may withdraw the authorisation in the following cases:

- (a) the beneficiary makes improper use of the authorisation in any manner whatsoever, or
- (b) the beneficiary fails to fulfil any of the other conditions laid down in this Annex.

## *Article 16*

### *Derogations*

1. Upon the Commission's initiative or in response to a request from a Member State or an OCT, an OCT may be granted a temporary derogation from the provisions of this Annex in any of the following cases:
  - (a) internal or external factors temporarily deprive it of the ability to comply with the rules for the acquisition of origin provided for in Article 2 where it could do so previously;
  - (b) it requires time to prepare itself to comply with the rules for the acquisition of origin provided for in Article 2;
  - (c) the development of existing industries or the creation of new industries justifies it.
2. The request referred to in paragraph 1 shall be addressed to the Commission in writing, by means of the form set out in Appendix X. It shall state the reasons for the request and shall contain appropriate supporting documents.
3. The examination of requests shall in particular take into account:
  - (a) the level of development or the geographical situation of the OCT concerned, having particular regard to the economic and social impact of the decision to be taken especially in respect of employment;
  - (b) cases where the application of the existing rules of origin would significantly affect the ability of an existing industry in the OCT concerned to continue its exports to the Union, with particular reference to cases where this could lead to cessation of its activities;
  - (c) specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by the rules of origin and where a derogation favouring the realisation of the investment programme would enable these rules to be satisfied by stages.

4. The Commission shall respond positively to all the requests which are duly justified in conformity with this Article and which cannot cause serious injury to an established Union industry.
5. The Commission shall take steps necessary to ensure that a decision is reached as quickly as possible and shall endeavour to adopt its position within 75 working days after the request is received by the Commission.
6. The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or to the length of time needed for the OCT to achieve compliance with the rules or to fulfil the targets which have been set by the derogation, taking into account the particular situation of the OCT concerned and its difficulties.
7. When a derogation is granted, it is subject to compliance with any requirements laid down as to information to be provided to the Commission concerning the use of the derogation and the management of the quantities for which the derogation was granted.
8. The Commission shall adopt a measure granting a temporary derogation referred to in paragraph 1 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

### **TITLE III**

#### **TERRITORIAL REQUIREMENTS**

##### *Article 17*

##### *Principle of territoriality*

1. Except as provided for in Articles 7 to 10, the conditions set out in this Annex for acquiring originating status shall be fulfilled without interruption in the OCT.
2. If originating products exported from the OCT to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that:
  - (a) the products returned are the same as those which were exported; and
  - (b) they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

##### *Article 18*

##### *Non-manipulation clause*

1. The products declared for release for free circulation in the Union shall be the same products as exported from the OCT in which they are considered to originate. They

shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition, prior to being declared for release for free circulation. Storage of products or consignments and splitting of consignments may take place where carried out under the responsibility of the exporter or of a subsequent holder of the goods and the products remain under customs supervision in the country or countries of transit.

2. Compliance with paragraph 1 shall be considered as satisfied unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* when cumulation under Articles 7 to 10 applies.

### *Article 19*

#### *Exhibitions*

1. Originating products, sent from an OCT for exhibition in a country other than an OCT, an EPA country or a Member State and sold after the exhibition for importation in the Union shall benefit on importation from the provisions of the Decision, provided it is shown to the satisfaction of the customs authorities that:
  - (a) an exporter has consigned these products from an OCT 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 exporter to a person in the Union;
  - (c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition;
  - (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.
2. A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.
3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

## TITLE IV

### PROOFS OF ORIGIN

#### SECTION 1 GENERAL REQUIREMENTS

##### *Article 20*

##### *Amounts expressed in euro*

1. For the application of the provisions of Articles 26, 31, 43 and 44 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 Articles 26, 31, 43 and 44 by reference to the currency in which the invoice is drawn up.
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 Commission by 15 October and shall apply from 1 January the following year. The 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-off amount may not differ from the amount resulting from the conversion by more than 5 per cent. 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 15 per cent 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 and their equivalents in national currencies of some Member States shall be reviewed by the Commission on its own initiative or at the request of a Member State or an OCT. When carrying out this review, the Commission shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

## SECTION 2

### PROCEDURES BEFORE THE APPLICATION OF THE REGISTERED EXPORTERS SYSTEM

#### *Article 21*

##### *Proof of origin*

Products originating in the OCT shall, on importation into the Union benefit from this Decision upon submission of either:

- (a) a movement certificate EUR.1, a specimen of which appears in Appendix III; or
- (b) in the cases specified in Article 26, a declaration, the text of which appears in Appendix VI, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the 'invoice declaration').

#### *Article 22*

##### *Procedure for the issue of a movement certificate EUR1*

1. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting OCT on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.
2. For this purpose, the exporter or his authorised representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Appendix III and IV. These forms shall be completed in accordance with the provisions of this Annex. If they are hand-written, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
3. The exporter applying for the issue of a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the customs authorities of the exporting OCT where the movement certificate EUR.1 is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.
4. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting OCT if the products concerned can be considered as products originating in an OCT, in the Union or in an EPA country and fulfil the other requirements of this Annex.

5. The issuing customs authorities shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Annex. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. The issuing customs authorities shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.
6. The date of issue of the movement certificate EUR.1 shall be indicated in Box 11 of the certificate.
7. A movement certificate EUR.1 shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

### *Article 23*

#### *Movement certificate EUR1 issued retrospectively*

1. Notwithstanding Article 22, a movement certificate EUR.1 may exceptionally be issued after exportation of the products to which it relates if:
  - (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
  - (b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.
2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.
3. The customs authorities may issue a movement certificate EUR.1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.
4. Movement certificates EUR.1 issued retrospectively must be endorsed with the following phrases in the 'Remarks' box (Box 7) of the movement certificate EUR.1.  
  
'ISSUED RETROSPECTIVELY'
5. The endorsement referred to in paragraph 4 shall be inserted in the 'Remarks' box of the movement certificate EUR.1.

## Article 24

### *Issue of duplicate movement certificate EUR1*

1. In the event of theft, loss or destruction of a movement certificate EUR.1, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.
2. The duplicate movement certificate EUR.1 shall be endorsed in the 'Remarks' box (Box 7) with the following word:  
  
'DUPLICATE'.
3. The endorsement referred to in paragraph 2 shall be inserted in the 'Remarks' box of the duplicate movement certificate EUR.1.
4. The duplicate, which must bear the date of issue of the original movement certificate EUR.1, shall take effect as from that date.

## Article 25

### *Issue of movement certificates EUR.1 on the basis of a proof of origin issued or made out previously*

When originating products are placed under the control of a customs office in the Union or in an OCT, it shall be possible to replace the original proof of origin by one or more movement certificates EUR.1 for the purpose of sending all or some of these products elsewhere within the Union or an OCT. The replacement movement certificate(s) EUR.1 shall be issued by the customs office under whose control the products are placed.

## Article 26

### *Conditions for making out an invoice declaration*

1. An invoice declaration as referred to in Article 21 (b) may be made out:
  - (a) by an approved exporter within the meaning of Article 27; or
  - (b) by any exporter for any consignment consisting of one or more packages containing originating products the total value of which does not exceed EUR 10,000.
2. An invoice declaration may be made out if the products concerned can be considered as products originating in an OCT, in an EPA country or in the Union and fulfil the other requirements of this Annex.
3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting country or territory, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.

4. An invoice declaration 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 Appendix VI, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country or territory. If the declaration is hand-written, it shall be written in ink in printed characters.
5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 27 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting country a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.
6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

#### *Article 27*

##### *Approved exporter*

1. The customs authorities of the exporting country may authorise any exporter to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Annex.
2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.
3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.
4. The customs authorities shall monitor the use of the authorisation by the approved exporter.
5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

#### *Article 28*

##### *Validity of proof of origin*

1. A proof of origin shall be valid for ten months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.

2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.
3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.

#### *Article 29*

##### *Submission of proof of origin*

Proofs of origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Decision.

#### *Article 30*

##### *Importation by instalments*

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System falling within Sections XVI and XVII or tariff headings 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

#### *Article 31*

##### *Exemptions from proof of origin*

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Annex and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.
2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed 500 EUR in the case of small packages or 1 200 EUR in the case of products forming part of travellers' personal luggage.

## *Article 32*

### *Information procedure for cumulation purposes*

1. For the purpose of Articles 2(2) and 7(1), the evidence of originating status within the meaning of this Annex of the materials coming from another OCT or from the Union shall be given by means of a movement certificate EUR.1 or by means of a supplier's declaration, provided by the exporter in the country from which the materials came. A specimen of a supplier's declaration appears in Appendix VII.
2. For the purpose of Articles 2(2) and 7(2), the evidence of working or processing carried out in another OCT or in the Union shall be given by means of a supplier's declaration, provided by the exporter in the country from which the materials came. A specimen of the supplier's declaration appears in Appendix VIII.
3. For the purpose of paragraphs 1 and 2, a separate supplier's declaration shall be given by the supplier for each consignment of materials on the commercial invoice related to that shipment or in an annex to that invoice, or on a delivery note or other commercial document related to that shipment which describes the materials concerned in sufficient detail to enable them to be identified.

The supplier's declaration may be made out on a pre-printed form.

The suppliers' declarations shall be signed in manuscript. However, where the invoice and the supplier's declaration are established using electronic data-processing methods, the supplier's declaration need not be signed in manuscript, provided that the responsible officer in the supplying company is identified to the satisfaction of the customs authorities in the country or territory where the suppliers' declarations were established. The said customs authorities may lay down conditions for the implementation of this paragraph.

The supplier's declarations are submitted to the competent customs office in the exporting OCT requested to issue the movement certificate EUR.1.

4. When Articles 8 and 10 are applied, the evidence of originating status in accordance with the provisions of the relevant free-trade agreement between the Union and the country concerned shall be given by the proofs of origin established by the relevant free-trade agreement.
5. When Article 9 is applied, the evidence of originating status in accordance with the provisions laid down in Commission Regulation (EEC) No 2454/93<sup>23</sup> shall be given by the proofs of origin established by the same Regulation.
6. In the cases referred to in the first, second, fourth and fifth paragraph, Box 7 of movement certificate EUR.1 or the invoice declaration shall, as the case may be,

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<sup>23</sup> OJ L 302, 19.10.1992, p. 1.

contain the indication 'OCT cumulation', 'EU cumulation', 'EPA cumulation', 'cumulation with GSP country' or 'extended cumulation with country x' or 'Cumul PTOM', 'Cumul UE', 'cumul avec pays APE', 'cumul avec pays SPG' or 'cumul étendu avec le pays x'.

### *Article 33*

#### *Supporting documents*

The documents referred to in Article 22(3) and Article 26(3) used for the purpose of proving that products covered by a movement certificate EUR.1 or an invoice declaration can be considered as products originating in an OCT or in the Union or in an EPA country and fulfil the other requirements of this Annex may consist inter alia of the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;
- (b) documents proving the originating status of materials used, issued or made out in an OCT, or in the Union or in an EPA State where these documents are used in accordance with domestic law;
- (c) documents proving the working or processing of materials in the OCT, in the Union, or in an EPA country, issued or made out in an OCT, in the Union or in an EPA country, where these documents are used in accordance with domestic law;
- (d) movement certificates EUR.1 or invoice declarations proving the originating status of materials used, issued or made out in the OCT, in the Union or in an EPA country and in accordance with this Annex.

### *Article 34*

#### *Preservation of proof of origin and supporting documents*

1. The exporter applying for the issue of a movement certificate EUR.1 shall keep for at least three years the documents referred to in Article 22(3).
2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Article 26(3).
3. The customs authorities of the exporting OCT issuing a movement certificate EUR.1 shall keep for at least three years the application form referred to in Article 22(2).
4. The customs authorities of the importing country shall keep for at least three years the movement certificates EUR.1 and the invoice declarations submitted to them.

## *Article 35*

### *Discrepancies and formal errors*

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.
2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

## **SECTION 3**

### **PROCEDURES FOR THE REGISTERED EXPORTER SYSTEM**

#### **SUB-SECTION 1**

#### **PROCEDURES AT EXPORT IN THE OCT**

## *Article 36*

### *General requirements*

Benefits from this Decision shall apply in the following cases:

- (a) in cases of goods satisfying the requirements of this Annex exported by a registered exporter within the meaning of Article 38;
- (b) in cases of any consignment of one or more packages containing originating products exported by any exporter, where the total value of the originating products consigned does not exceed EUR 10, 000.

## *Article 37*

### *Record of registered exporters*

1. The competent authorities of the OCTs shall establish and keep up to date at all times an electronic record of registered exporters located in that country. The record shall be immediately updated where an exporter is withdrawn from the register in accordance with Article 41(2).
2. The record shall contain the following information:

- (a) name and full address of the place where Registered Exporter is established/resides, including the identifier of the country or territory (ISO alpha 2 country code);
  - (b) number of Registered Exporter;
  - (c) products intended to be exported under this Decision (indicative list of Harmonised System chapters or headings as considered appropriate by the applicant);
  - (d) dates as from and until when the exporter is/was registered;
  - (e) the reason for withdrawal (registered exporter's request / withdrawal by competent authorities). This data shall only be available to competent authorities.
3. The competent authorities of the OCTs shall notify the Commission of the national numbering system used for designating registered exporters. The number shall begin with an ISO alpha 2 country code.

#### *Article 38*

##### *Request for registration*

To be registered, exporters shall lodge an application with the competent authorities of the OCTs referred to in Article 57(1), using the form a model of which is set out in Appendix XI. By the completion of the form exporters give consent to the storage of the information provided in the database of the Commission and to the publication of non-confidential data on the internet.

The application shall be accepted by the competent authorities only if it is complete.

#### *Article 39*

##### *Withdrawal of the registration*

1. Registered exporters who no longer meet the conditions for exporting any goods benefiting from this Decision, or no longer intend to export such goods, shall inform the competent authorities in the OCTs who shall immediately remove them from the record of registered exporters kept in that OCT.
2. Without prejudice to the system of penalties and sanctions applicable in the OCTs, where registered exporters intentionally or negligently draw up, or cause to be drawn up, a statement on origin or any supporting document which contains incorrect information which leads to irregularly or fraudulently obtaining the benefit of preferential tariff treatment, the OCT competent authorities shall withdraw the exporter from the record of registered exporters kept by the OCT concerned.

3. Without prejudice to the possible impact of irregularities found on pending verifications, withdrawal from the record of registered exporters shall take effect for the future, i.e. in respect of statements made out after the date of withdrawal.
4. Exporters who have been removed from the record of registered exporters by the competent authorities in accordance with paragraph 2 may only be re-introduced into the record of registered exporters once they have proved to the competent authorities in the OCT that they have remedied the situation which led to their withdrawal.

#### *Article 40*

##### *Supporting documents*

1. Exporters, registered or not, shall comply with the following obligations:
  - (a) they shall maintain appropriate commercial accounting records for production and supply of goods qualifying for preferential treatment;
  - (b) they shall keep available all evidence relating to the material used in the manufacture;
  - (c) they shall keep all customs documentation relating to the material used in the manufacture;
  - (d) they shall keep for at least three years from the end of the year in which the statement on origin was made out, or more if required by national law, records of:
    - the statements on origin they made out; and
    - their originating and non-originating materials, production and stock accounts.
2. The records referred to in point (d) of paragraph 1 may be electronic but shall allow the materials used in the manufacture of the exported products to be traced and their originating status to be confirmed.
3. The obligations provided for in paragraphs 1 and 2 shall also apply to suppliers who provide exporters with supplier's declarations certifying the originating status of the goods they supply.

#### *Article 41*

##### *Proof of origin*

1. A statement on origin shall be made out by the exporter when the products to which it relates are exported, if the goods concerned can be considered as originating in the OCT.
2. By derogation from paragraph 1, a statement on origin may exceptionally be made out after exportation (retrospective statement) on condition that it is presented in the

Member State of declaration for release for free circulation no longer than two years after the export.

3. The statement on origin shall be provided by the exporter to his customer in the Union and shall contain the particulars specified in Appendix XII. A statement on origin shall be made out in either English or French.

It may be made out on any commercial document allowing to identify the exporter concerned and the goods involved.

4. When cumulation under Articles 2 and 7 applies, the exporter of a product in the manufacture of which materials originating in an OCT or in the EU is used shall rely on the statement on origin provided by its supplier.
5. In these cases, the statement on origin made out by the exporter shall, as the case may be, contain the indication 'EU cumulation', 'OCT cumulation' or 'Cumul UE', 'cumul PTOM'.
6. When cumulation under Articles 8 and 10 applies, the exporter of a product in the manufacture of which materials originating in a country with which extended cumulation is permitted are used shall rely on the proof of origin provided by its supplier and issued in accordance with the provisions of the relevant free-trade agreement between the Union and the country concerned.

In this case, the statement on origin made out by the exporter shall contain the indication 'cumulation with EPA country' or 'extended cumulation with country x' or 'cumul avec pays APE' or 'cumul étendu avec le pays x'.

7. When cumulation of Article 9 applies, the evidence of originating status established in accordance with the provisions laid down in Regulation (EEC) No 2454/93, shall be given by the proofs of origin established by the same Regulation.

In this case, the statement on origin made out by the exporter shall contain the indication 'cumulation with GSP country' or 'cumul avec pays SPG'.

#### *Article 42*

##### *Submission of a proof of origin*

1. A statement on origin shall be made out for each consignment.
2. A statement on origin shall be valid for twelve months from the date of its making out by the exporter.
3. A single statement on origin may cover several consignments if the goods meet the following conditions:
  - (a) they are dismantled or non-assembled products within the meaning of general rule 2(a) of the Harmonized system;

- (b) they are falling within Section XVI or XVII or heading 7308 or 9406 of the Harmonized System; and
- (c) they are intended to be imported by instalments.

## **SUB-SECTION 2**

### **PROCEDURES AT RELEASE FOR FREE CIRCULATION IN THE UNION**

#### *Article 43*

##### *Submission of proof of origin*

1. The customs declaration for release for free circulation shall make reference to the statement on origin. The statement on origin shall be kept at the disposal of the customs authorities, which may request its submission for the verification of the declaration. Those authorities may also require a translation of the statement into the official language, or one of the official languages, of the Member State concerned.
2. Where the application of the benefits from this Decision is requested by the declarant, without a statement on origin being in his possession at the time of the acceptance of the customs declaration for release for free circulation, that declaration shall be considered as being incomplete within the meaning of Article 253(1) of Regulation (EEC) No 2454/93 and treated accordingly.
3. Before declaring goods for release for free circulation, the declarant shall take due care that the goods comply with the rules in this Annex by, in particular, checking:
  - (a) in the database referred to in Article 58 that the exporter is registered to make statements on origin, except where the total value of the originating products consigned does not exceed EUR 10,000; and
  - (b) that the statement on origin is made out in accordance with Appendix XII.

#### *Article 44*

##### *Exemption from proof of origin*

1. The following products shall be exempted from the obligation to make out and produce a statement on origin:
  - (a) products sent as small packages from private persons to private persons, the total value of which does not exceed EUR 500;
  - (b) products forming part of travellers' personal luggage, the total value of which does not exceed EUR 1200.
2. The products referred to in paragraph 1 shall meet the following conditions:

- (a) they are not imported by way of trade;
  - (b) they have been declared as meeting the conditions for benefiting from this Decision;
  - (c) there is no doubt as to the veracity of the declaration referred to in point (b).
3. For the purposes of point (a) of paragraph 2, imports shall not be considered as imports by way of trade if all the following conditions are met:
- (a) the imports are occasional;
  - (b) the imports consist solely of products for the personal use of the recipients or travellers or their families;
  - (c) it is evident from the nature and quantity of the products that no commercial purpose is in view.

#### *Article 45*

##### *Discrepancies and formal errors*

1. The discovery of slight discrepancies between the particulars included in a statement on origin and those mentioned in the documents submitted to the customs authorities for the purpose of carrying out the formalities for importing the products shall not ipso facto render the statement on origin null and void if it is duly established that that document does correspond to the products concerned.
2. Obvious formal errors such as typing errors on a statement on origin shall not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in that document.

#### *Article 46*

##### *Validity of proof of origin*

Statements on origin which are submitted to the customs authorities of the importing country after the period of validity mentioned in Article 41(2) may be accepted for the purpose of applying the tariff preferences, where failure to submit these documents by the final date set is due to exceptional circumstances. In other cases of belated presentation, the customs authorities of the importing country may accept the statements on origin where the products have been presented to customs before the said final date.

#### *Article 47*

##### *Procedure for importation by instalments*

1. The procedure referred to in Article 42(3) shall apply for a period determined by the customs authorities of the Member States.

2. The customs authorities of the Member States of importation supervising the successive releases for free circulation shall verify that the successive consignments are part of the dismantled or non-assembled products for which the statement on origin has been made out.

#### *Article 48*

##### *Replacement of a statement of origin*

1. Where products have not yet been released for free circulation, a statement on origin may be replaced by one or more replacement statements on origin, made out by the holder of the goods, for the purpose of sending all or some of the products elsewhere within the customs territory of the Union. For being entitled to make out replacement statements on origin, holders of the goods need not be registered exporters themselves.
2. Where a statement on origin is replaced, the original statement on origin shall indicate the following:
  - (a) the particulars of the replacement statement(s) on origin;
  - (b) the names and addresses of the consignor;
  - (c) the consignee(s) in the Union.

The original statement on origin shall be marked as "Replaced" or "Remplacée", as the case may be.

3. On the replacement statement on origin the following shall be indicated:
  - (a) all particulars of the re-consigned products;
  - (b) the date on which the original statement on origin was made out;
  - (c) all the necessary mentions as specified under Appendix XII;
  - (d) the name and address of the consignor of the products in the Union;
  - (e) the name and address of the consignee in the Union;
  - (f) the date and place of the replacement.

The person making out the replacement statement on origin may attach a copy of the initial statement on origin to the replacement statement on origin.

4. Paragraphs 1, 2 and 3 shall apply mutatis mutandis to statements replacing statements on origin that are themselves replacement statements on origin.
5. Paragraphs 1, 2 and 3 shall apply mutatis mutandis to statements replacing statements on origin further to the splitting of a consignment carried out in accordance with Article 18.

## *Article 49*

### *Verification of statements of origin*

1. The customs authorities may, where they have doubts with regard to the originating status of the products request the declarant to produce, within a reasonable time period which they shall specify, any available evidence for the purpose of verifying the accuracy of the indication on origin of the declaration or the compliance with the conditions under Article 18.
2. The customs authorities may suspend the application of the preferential tariff measure for the duration of the verification procedure laid down in Article 64 where:
  - (a) the information provided by the declarant is not sufficient to confirm the originating status of the products or the compliance with the conditions laid down in Article 17 (2) or Article 18;
  - (b) the declarant does not reply within the time period allowed for provision of the information referred to in paragraph 1.
3. While awaiting either the information requested from the declarant, referred to in paragraph 1, or the results of the verification procedure, referred to in paragraph 2, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

## *Article 50*

### *Denial of preferences*

1. The customs authorities of the Member State of importation shall refuse entitlement to the benefits of this Decision, without being obliged to request any additional evidence or send a request for verification to the OCT where:
  - (a) the goods are not the same as those mentioned in the statement on origin;
  - (b) the declarant fails to submit a statement on origin for the products concerned, where such a statement is required;
  - (c) without prejudice to point (b) of Article 36 and to Article 44 (1), the statement on origin in possession of the declarant has not been made out by an exporter registered in the OCT;
  - (d) the statement on origin is not made out in accordance with Appendix XII;
  - (e) the conditions of Article 18 are not met;
2. The customs authorities of the Member State of importation shall refuse entitlement to the benefits of this Decision, following a request for verification within the meaning of Article 60 addressed to the competent authorities of the OCTs, where the customs authorities of the Member State of importation:

- (a) have received a reply according to which the exporter was not entitled to make out the statement on origin;
- (b) have received a reply according to which the products concerned are not originating in the OCT concerned or the conditions of Article 17 (2) were not met;
- (c) had reasonable doubt as to the validity of the statement on origin or the accuracy of the information provided by the declarant regarding the true origin of the products in question when they made the request for verification; and
  - have received no reply within the time period permitted in accordance with Article 60;
  - or
  - have received a reply not providing adequate answers to the questions raised in the request.

## **TITLE V**

### **ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION**

#### **SECTION 1**

#### **GENERAL**

##### *Article 51*

##### *General Principles*

1. In order to ensure the proper application of the preferences, OCTs shall:
  - (a) put in place and to maintain the necessary administrative structures and systems required for the implementation and management in that country of the rules and procedures laid down in this Annex, including where appropriate the arrangements necessary for the application of cumulation;
  - (b) cooperate, through their competent authorities with the Commission and the customs authorities of the Member States.
2. The cooperation referred to in point (b) of paragraph 1 shall consist of:
  - (a) providing all necessary support in the event of a request by the Commission for the monitoring by it of the proper implementation of this Annex in the country concerned, including verification visits on the spot by the Commission or the customs authorities of the Member States;

- (b) without prejudice to Articles 49, 50, 55 and 56, verifying the originating status of products and the compliance with the other conditions laid down in this Annex, including verification visits on the spot, where requested by the Commission or the customs authorities of the Member States in the context of origin investigations;
  - (c) where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the OCT on its own initiative or at the request of the Commission or the customs authorities of the Member States shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions. The Commission and the customs authorities of the Member States may participate in the enquiries.
3. OCTs shall submit to the Commission, before 1 January 2015, a formal undertaking to comply with the requirements of paragraph 1.

## *Article 52*

### *Publication requirements and compliance*

1. The Commission shall publish in the *Official Journal of the European Union (C Series)* the list of OCTs and the date on which they are considered to meet the conditions referred to in Articles 51 and 54, or in Article 57. The Commission shall update this list when a new OCT fulfils the same conditions.
2. Products originating within the meaning of this Annex in an OCT shall benefit, on release for free circulation in the Union, from the tariff preferences only on condition that they were exported on or after the date specified in the list referred to in paragraph 1.
3. An OCT shall be considered to comply with Articles 51 and 54, or Article 57 on the date on which it has:
  - (a) made the notification referred to in Article 54(1) or 57(1) and, when relevant, Article 54(2) and,
  - (b) submitted the undertaking referred to in Article 51(1).
4. For the implementation of Section 3 of Title IV and Section 3 of Title V, OCTs shall submit information referred to in Article 57(1)(b) to the Commission at least three months before the actual application in their territories of the registered exporter system.

### *Article 53*

#### *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.

## **SECTION 2**

### **METHODS OF ADMINISTRATIVE COOPERATION BEFORE THE APPLICATION OF THE REGISTERED EXPORTER SYSTEM**

### *Article 54*

#### *Communication of stamps and addresses*

1. The OCTs shall notify to the Commission the names and addresses of the authorities situated in their territory which are:
  - (a) part of the governmental authorities of the country concerned and empowered to support the Commission and the customs authorities of the Member States through the administrative co-operation as provided for in this Title;
  - (b) customs authorities competent to issue movement certificates EUR.1 and carry out the subsequent verification of movement certificates EUR.1 and invoice declarations;
2. OCTs shall send to the Commission specimens of the stamps used.
3. The OCTs shall inform the Commission immediately of any changes to the information notified under paragraphs 1 and 2.
4. The Commission shall send this information to the customs authorities of the Member States.

### *Article 55*

#### *Verification of proofs of origin*

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Annex.
2. For the purposes of implementing the provisions of paragraph 2, the customs authorities of the importing country shall return the movement certificate EUR.1 and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country giving, where

appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof or origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.
4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.
5. The customs authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in an OCT, in the Union or in an EPA country and fulfil the other requirements of this Annex.
6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

#### *Article 56*

##### *Verification of suppliers' declarations*

1. Verification of suppliers' declaration may be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of the document or the accuracy or completeness of the information concerning the true origin of the materials in question.
2. The customs authorities to which a supplier's declaration is submitted may request the customs authorities of the country where the declaration was made to issue an information certificate, a specimen of which appears in Appendix IX. Alternatively, the customs authorities to which a supplier's declaration is submitted may request the exporter to produce an information certificate issued by the customs authorities of the State where the declaration was made.

A copy of the information certificate shall be preserved by the office which has issued it for at least three years.

3. The requesting customs authorities shall be informed of the results of the verification as soon as possible. The results must be such as to indicate positively whether the declaration concerning the status of the materials is correct.

4. For the purpose of verification, suppliers shall keep for not less than three years a copy of the document containing the declaration together with all necessary evidence showing the true status of the materials.
5. The customs authorities in the State where the supplier's declaration is established shall have the right to call for any evidence or to carry out any check which they consider appropriate in order to verify the correctness of any supplier's declaration.
6. Any movement certificate EUR.1 issued or made out on the basis of an incorrect supplier's declaration shall be considered null and void.

### **SECTION 3**

#### **METHODS OF ADMINISTRATIVE COOPERATION APPLICABLE FOR THE REGISTERED EXPORTER SYSTEM**

##### *Article 57*

###### *Communication of stamps and addresses*

1. The OCTs shall notify to the Commission the names and addresses of the authorities situated in their territory which are:
  - (a) part of the governmental authorities of the country concerned and empowered to support the Commission and the customs authorities of the Member States through the administrative co-operation as provided for in this Title;
  - (b) part of the governmental authorities of the country concerned, or act under the authority of the government, and empowered to register exporters and to withdraw them from the record of registered exporters;
2. The OCTs shall inform the Commission immediately of any changes to the information notified under paragraphs 1 and 2.
3. The Commission shall send this information to the customs authorities of the Member States.

##### *Article 58*

###### *Establishment of a database of registered exporters*

1. The Commission shall establish an electronic database of registered exporters on the basis of the information supplied by the governmental authorities of OCTs and the customs authorities of Member States.
2. Only the Commission shall have an access to the database and the data contained therein. The authorities referred to in paragraph 1 shall ensure that data communicated to the Commission are kept up to date, and are complete and accurate.

3. The data processed in the database referred to in paragraph 1 shall be disclosed to the public via the internet, with the exception of the confidential information contained in boxes 2 and 3 of the application to become a registered exporter referred to in Article 28.
4. Personal data processed in the database referred to in paragraph 1 shall be transferred or made available to third countries or international organisations only in accordance with Article 9 of Regulation (EC) N° 45/2001.
5. This Decision shall in no way affect the level of protection of individuals with regard to the processing of personal data under the provisions of Union and national law, and in particular does not alter either the obligations of Member States relating to their processing of personal data under Directive 95/46/EC or the obligations of the Union institutions and bodies relating to their processing of personal data under Regulation (EC) No 45/2001 when fulfilling their responsibilities.
6. Identification and registration data of exporters, constituted by the set of data listed in points 1, 3 (relating to description of activities), 4 and 5 of Appendix XI shall be published by the Commission on the internet only if the exporters concerned have freely given prior specific and informed written consent.
7. Exporters shall be provided with the information laid down in Article 11 of Regulation (EC) No 45/2001.
8. The rights of persons with regard to their registration data listed in Appendix XI and processed in national systems shall be exercised in accordance with the law of the Member State which stored their personal data implementing Directive 95/46/EC.
9. The rights of persons with regard to the processing of personal data in the central database referred to in paragraphs 1 to 4 shall be exercised in accordance with Regulation (EC) No 45/2001.
10. The national supervisory data protection authorities and the European Data Protection Supervisor, each acting within the scope of their respective competences, shall cooperate actively and ensure coordinated supervision of the database referred to in paragraphs 1 to 4.

#### *Article 59*

##### *Control of origin*

1. For the purpose of ensuring compliance with the rules concerning the originating status of products, the competent authorities of the OCT shall carry out
  - (a) verifications of the originating status of products at the request of the customs authorities of the Member States;
  - (b) regular controls on exporters on their own initiative.

Extended cumulation shall only be permitted under Article 10, if a country with which the Union has a free-trade agreement in force has agreed to provide the OCTs

with its support in matters of administrative cooperation in the same way as it would provide such support to the customs authorities of the Member States in accordance with the relevant provisions of the free-trade agreement concerned.

2. The controls referred to in point (b) of paragraph 1 shall ensure the continued compliance of exporters with their obligations. They shall be carried out at intervals determined on the basis of appropriate risk analysis criteria. For that purpose, the competent authorities of the OCTs shall require exporters to provide copies or a list of the statements on origin they have made out.
3. The competent authorities of the OCTs shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts and, where appropriate, those of producers supplying the exporter, including at the premises, or any other check considered appropriate.

## *Article 60*

### *Verifications of proof of origin*

1. Subsequent verifications of statements on origin shall be carried out at random or whenever the customs authorities of the Member States have reasonable doubts as to their authenticity, the originating status of the products concerned or the fulfilment of other requirements of this Annex.

Where the customs authorities of a Member State request the cooperation of the competent authorities of an OCT to carry out a verification of the validity of statements on origin, the originating status of products, or of both, it shall, where appropriate, indicate on its request the reasons why it has reasonable doubts on the validity of the statement on origin or the originating status of the products.

A copy of the statement on origin and any additional information or documents suggesting that the information given on that statement is incorrect may be forwarded in support of the request for verification.

The requesting Member State shall set a 6-month initial deadline to communicate the results of the verification, starting from the date of the verification request.

2. If in cases of reasonable doubt there is no reply within the period specified in paragraph 1 or if the reply does not contain sufficient information to determine the real origin of the products, a second communication shall be sent to the competent authorities. This communication shall set a further deadline of not more than 6 months.

## *Article 61*

### *Other provisions*

1. Section III of Title V and Section III of Title VI shall apply *mutatis mutandis* to:
  - (a) exports from the Union to an OCT for the purpose of bilateral cumulation;

- (b) exports from one OCT to another for the purpose of OCT cumulation as provided for in Article 2 (2).
2. Union exporters shall be considered by the customs authority of a Member State at their request as registered exporters for the purposes of the benefits from this Decision where they fulfil the following conditions:
- (a) they have an EORI number in accordance with Articles 4k to 4t of Regulation (EEC) No 2454/93;
  - (b) they have the status of 'approved exporter' under a preferential arrangement;
  - (c) they provide in their request addressed to the customs authority of the Member State the following data set out in the form a model of which appears in Appendix XI:
    - the details set out in boxes 1 and 4;
    - the undertaking set out in box 5.

## **TITLE VI**

### **CEUTA AND MELILLA**

#### *Article 62*

1. The provisions of this Annex concerning the issue, use and subsequent verification of proofs of origin shall apply mutatis mutandis to products exported from an OCT to Ceuta and Melilla and to products exported from Ceuta and Melilla to an OCT for the purposes of bilateral cumulation.
2. Ceuta and Melilla shall be considered as a single territory.
3. The Spanish customs authorities shall be responsible for the application of this Annex in Ceuta and Melilla.

## TITLE VII

### FINAL PROVISIONS

#### *Article 63*

##### *Derogation to the registered exporter system*

1. By way of derogation, the Commission may adopt decisions allowing to apply Articles 21 to 35 and Articles 54 to 56 on exports from one or several OCTs after 1 January 2017.

The derogation shall be limited to the duration necessary for the OCT concerned to be in a position to apply Articles 38 to 50 and Articles 57 to 61.

2. The OCTs wishing to take advantage of the derogation provided for in paragraph 1 shall address a request to the Commission. The request shall indicate the time needed until the OCT concerned is considered to be in a position to apply Articles 38 to 50 and Articles 57 to 61.
3. The Commission shall adopt a measure granting a temporary derogation referred to in paragraph 1 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

#### *Article 64*

##### *Committee procedures*

1. The Commission shall be assisted by the Customs Code Committee established by Article 247a of Regulation (EEC) No 2913/92.
2. Where reference is made to this paragraph, Article 5 of regulation (EU) No 182/2011 shall apply.

#### *Article 65*

##### *Application*

1. This Annex shall apply from the date of entry into force of this Decision.
2. Article 52(3)(b) shall apply from 1 January 2015.
3. Article 8(3)(b) shall apply until 30 September 2015.
4. Articles 21 to 35 and Articles 54 to 56 shall apply until 31 December 2016.
5. Articles 38 to 50 and Articles 57 to 61 shall apply from 1 January 2017.

## **APPENDIX I**

### **INTRODUCTORY NOTES**

#### **Note 1 – General introduction**

This Annex lays down the conditions pursuant to Article 4 under which products shall be considered to originate in the OCT concerned. There are four different types of rules, which vary according to the product:

- (a) through working or processing a maximum content of non-originating materials is not exceeded;
- (b) through working or processing the 4-digit Harmonized System heading or 6-digit Harmonized System sub-heading of the manufactured products becomes different from the 4-digit Harmonized System heading or 6-digit sub-heading respectively of the materials used;
- (c) a specific working and processing operation is carried out;
- (d) working or processing is carried out on certain wholly obtained materials.

#### **Note 2 – The structure of the list**

- 2.1. Columns 1 and 2 describe the product obtained. Column 1 gives the chapter number, 4-digit heading or 6-digit sub-heading number used in the Harmonised System, as appropriate. Column 2 gives the description of goods used in that system for that heading or chapter. For each entry in columns 1 and 2, subject to Note 2.4, one or more rules ("qualifying operations") are set out in column 3. These qualifying operations concern only non-originating materials. Where, in some cases, the entry in column 1 is preceded by "ex", this signifies that the rule in column 3 applies only to the part of that heading as described in column 2.
- 2.2. Where several Harmonised System headings or sub-headings are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rule in column 3 applies to all products which, under the Harmonised System, are classified in headings of the chapter or in any of the headings or sub-headings grouped together in column 1.
- 2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rule in column 3.
- 2.4. Where two alternative rules are set out in column 3, separated by "or", it is at the choice of the exporter which one to use.

#### **Note 3 – Examples of how to apply the rules**

- 3.1. Article 4(2), concerning products having acquired originating status which are used in the manufacture of other products, shall apply, regardless of whether this status has been acquired inside the factory where these products are used or in another factory in the OCT or in the Union.

- 3.2. Pursuant to Article 5, the working or processing carried out must go beyond the list of operations mentioned in that Article. If it does not, the goods shall not qualify for the granting of the benefit of preferential tariff treatment, even if the conditions set out in the list below are met.

Subject to the provision referred to in the first sub-paragraph, the rules in the list represent the minimum amount of working or processing required, and the carrying-out of more working or processing also confers originating status; conversely, the carrying-out of less working or processing cannot confer originating status. Thus, if a rule provides that non-originating material, at a certain level of manufacture, may be used, the use of such material at an earlier stage of manufacture is allowed, and the use of such material at a later stage is not.

- 3.3. Without prejudice to Note 3.2, where a rule uses the expression “Manufacture from materials of any heading”, then materials of any heading(s) (even materials of the same description and heading as the product) may be used, subject, however, to any specific limitations which may also be contained in the rule.

However, the expression “Manufacture from materials of any heading, including other materials of heading ...” or “Manufacture from materials of any heading, including other materials of the same heading as the product” means that materials of any heading(s) may be used, except those of the same description as the product as given in column 2 of the list.

- 3.4. When a rule in the list specifies that a product may be manufactured from more than one material, this means that one or more materials may be used. It does not require that all be used.
- 3.5. Where a rule in the list specifies that a product must be manufactured from a particular material, the rule does not prevent the use also of other materials which, because of their inherent nature, cannot satisfy this condition.

#### **Note 4 – General provisions concerning certain agricultural goods**

- 4.1. Agricultural goods falling within Chapters 6, 7, 8, 9, 10, 12 and heading 2401 which are grown or harvested in the territory of an OCT shall be treated as originating in the territory of that country, even if grown from seeds, bulbs, rootstock, cuttings, grafts, shoots, buds, or other live parts of plants imported from another country.
- 4.2. In cases where the content of non-originating sugar in a given product is subject to limitations, the weight of sugars of headings 1701 (sucrose) and 1702 (e.g., fructose, glucose, lactose, maltose, isoglucose or invert sugar) used in the manufacture of the final product and used in the manufacture of the non-originating products incorporated in the final product is taken into account for the calculation of such limitations.

### **Note 5 - Terminology used in respect of certain textile products**

- 5.1. The term “natural fibres” is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun.
- 5.2. The term “natural fibres” includes horsehair of heading 0503, silk of headings 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.
- 5.3. The terms “textile pulp”, “chemical materials” and “paper-making materials” are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.
- 5.4. The term “man-made staple fibres” is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings 5501 to 5507.

### **Note 6 - Tolerances applicable to products made of a mixture of textile materials**

- 6.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10% or less of the total weight of all the basic textile materials used. (See also Notes 6.3 and 6.4)
- 6.2. However, the tolerance mentioned in Note 6.1 may be applied only to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk;
- wool;
- coarse animal hair;
- fine animal hair;
- horsehair;
- cotton;
- paper-making materials and paper;
- flax;
- true hemp;
- jute and other textile bast fibres;
- sisal and other textile fibres of the genus *Agave*;

- coconut, abaca, ramie and other vegetable textile fibres;
- synthetic man-made filaments;
- artificial man-made filaments;
- current-conducting filaments;
- synthetic man-made staple fibres of polypropylene;
- synthetic man-made staple fibres of polyester;
- synthetic man-made staple fibres of polyamide;
- synthetic man-made staple fibres of polyacrylonitrile;
- synthetic man-made staple fibres of polyimide;
- synthetic man-made staple fibres of polytetrafluoroethylene;
- synthetic man-made staple fibres of poly(phenylene sulphide);
- synthetic man-made staple fibres of poly(vinyl chloride);
- other synthetic man-made staple fibres;
- artificial man-made staple fibres of viscose;
- other artificial man-made staple fibres;
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped;
- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped;
- products of heading 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film;
- other products of heading 5605;
- glass fibres;
- metal fibres.

*Example:*

A yarn, of heading 5205, made from cotton fibres of heading 5203 and synthetic staple fibres of heading 5506, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the origin rules may be used, provided that their total weight does not exceed 10% of the weight of the yarn.

*Example:*

A woollen fabric, of heading 5112, made from woollen yarn of heading 5107 and synthetic yarn of staple fibres of heading 5509, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin rules, or woollen yarn which does not satisfy the origin rules, or a combination of the two, may be used, provided that their total weight does not exceed 10% of the weight of the fabric.

*Example:*

Tufted textile fabric, of heading 5802, made from cotton yarn of heading 5205 and cotton fabric of heading 5210, is only a mixed product if the cotton fabric is itself a mixed fabric made from yarns classified in two separate headings, or if the cotton yarns used are themselves mixtures.

*Example:*

If the tufted textile fabric concerned had been made from cotton yarn of heading 5205 and synthetic fabric of heading 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product.

- 6.3. In the case of products incorporating “yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped”, the tolerance is 20% in respect of this yarn.
- 6.4. In the case of products incorporating “strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film”, the tolerance is 30% in respect of this strip.

#### **Note 7 - Other tolerances applicable to certain textile products**

- 7.1. Where, in the list, reference is made to this Note, textile materials which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the ex-works price of the product.
- 7.2. Without prejudice to Note 7.3, materials, which are not classified within Chapters 50 to 63, may be used freely in the manufacture of textile products, whether or not they contain textiles.

*Example:*

If a rule in the list provides that, for a particular textile item (such as trousers), yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within Chapters 50 to 63. For the same reason, it does not prevent the use of slide-fasteners, even though slide-fasteners normally contain textiles.

- 7.3. Where a percentage rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

**Note 8 - Definition of specific processes and simple operations carried out in respect of certain products of Chapter 27**

- 8.1. For the purposes of headings ex 2707 and 2713, the “specific processes” are the following:

- (a) vacuum-distillation;
- (b) redistillation by a very thorough fractionation-process<sup>24</sup>;
- (c) cracking;
- (d) reforming;
- (e) extraction by means of selective solvents;
- (f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally-active earth, activated earth, activated charcoal or bauxite;
- (g) polymerisation;
- (h) alkylation;
- (i) isomerisation.

- 8.2. For the purposes of headings 2710, 2711 and 2712, the “specific processes” are the following:

- (a) vacuum-distillation;
- (b) redistillation by a very thorough fractionation-process<sup>25</sup>;
- (c) cracking;
- (d) reforming;
- (e) extraction by means of selective solvents;
- (f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally-active earth, activated earth, activated charcoal or bauxite;

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<sup>24</sup> See additional explanatory Note 4(b) to Chapter 27 of the Combined Nomenclature.

<sup>25</sup> See additional explanatory Note 4(b) to Chapter 27 of the Combined Nomenclature.

- (g) polymerisation;
- (h) alkylation;
- (i) isomerisation;
- (j) in respect of heavy oils of heading ex 2710 only, desulphurisation with hydrogen, resulting in a reduction of at least 85% of the sulphur-content of the products processed (ASTM D 1266-59 T method);
- (k) in respect of products of heading 2710 only, deparaffining by a process other than filtering;
- (l) in respect of heavy oils of heading ex 2710 only, treatment with hydrogen, at a pressure of more than 20 bar and a temperature of more than 250°C, with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment, with hydrogen, of lubricating oils of heading ex 2710 (e.g. hydrofinishing or decolourisation), in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;
- (m) in respect of fuel oils of heading ex 2710 only, atmospheric distillation, on condition that less than 30% of these products distils, by volume, including losses, at 300 °C, by the ASTM D 86 method;
- (n) in respect of heavy oils other than gas oils and fuel oils of heading ex 2710 only, treatment by means of a high-frequency electrical brush-discharge.
- (o) in respect of crude products (other than petroleum jelly, ozokerite, lignite wax or peat wax, paraffin wax containing by weight less than 0.75% of oil) of heading ex 2712 only, de-oiling by fractional crystallisation.

8.3. For the purposes of headings ex 2707 and 2713, simple operations, such as cleaning, decanting, desalting, water-separation, filtering, colouring, marking, obtaining a sulphur-content as a result of mixing products with different sulphur-contents, or any combination of these operations or like operations, do not confer origin.

## APPENDIX II

### LIST OF PRODUCTS AND WORKING OR PROCESSING OPERATIONS WHICH CONFER ORIGINATING STATUS

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
Chapter 1	Live animals	All the animals of Chapter 1 are wholly obtained
Chapter 2	Meat and edible meat offal	Manufacture in which all the meat and edible meat offal in the products of this chapter is wholly obtained
ex Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates, except for:	All fish and crustaceans, molluscs and other aquatic invertebrates are wholly obtained
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen	Manufacture in which all the materials of Chapter 3 used are wholly obtained
0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption	Manufacture in which all the materials of Chapter 3 used are wholly obtained
ex 0306	Crustaceans, whether in shell or not, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	Manufacture in which all the materials of Chapter 3 used are wholly obtained
ex 0307	Molluscs, whether in shell or not, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	Manufacture in which all the materials of Chapter 3 used are wholly obtained
Chapter 4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included;	Manufacture in which: – all the materials of Chapter 4 used are wholly obtained; and – the weight of sugar <sup>26</sup> used does not exceed 40% of the weight of the final product
ex Chapter 5	Products of animal origin, not elsewhere specified or included, except for:	Manufacture from materials of any heading
ex 0511 91	Inedible fish eggs and roes	All the eggs and roes are wholly obtained
Chapter 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	Manufacture in which all the materials of Chapter 6 used are wholly obtained

<sup>26</sup>

See Introductory Note 4.2.

<b>Harmonised System heading</b>	<b>Description of product</b>	<b>Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)</b>
(1)	(2)	(3)
Chapter 7	Edible vegetables and certain roots and tubers	Manufacture in which all the materials of Chapter 7 used are wholly obtained
Chapter 8	Edible fruit and nuts; peel of citrus fruits or melons	Manufacture in which: <ul style="list-style-type: none"> <li>– all the fruit, nuts and peels of citrus fruits or melons of Chapter 8 used are wholly obtained, and</li> <li>– the weight of sugar<sup>27</sup> used does not exceed 40% of the weight of the final product</li> </ul>
Chapter 9	Coffee, tea, maté and spices;	Manufacture from materials of any heading
Chapter 10	Cereals	Manufacture in which all the materials of Chapter 10 used are wholly obtained
ex Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten; except for:	Manufacture in which all the materials of Chapters 10 and 11, headings 0701 and 2303, and sub-heading 0710 10 used are wholly obtained
ex 1106	Flour, meal and powder of the dried, shelled leguminous vegetables of heading 0713	Drying and milling of leguminous vegetables of heading 0708
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	Manufacture from materials of any heading, except that of the product
Chapter 13	Lac; gums, resins and other vegetable saps and extracts	Manufacture from materials of any heading, in which the weight of sugar <sup>28</sup> used does not exceed 40% of the weight of the final product
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	Manufacture from materials of any heading
ex Chapter 15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; except for:	Manufacture from materials of any sub-heading, except that of the product
1501 to 1504	Fats from pig, poultry, bovine, sheep or goat, fish, etc	Manufacture from materials of any heading except that of the product
1505, 1506 and 1520	Wool grease and fatty substances derived therefrom (including lanolin). Other animal fats and oils and their fractions, whether or not refined, but not chemically modified.. Glycerol, crude; glycerol waters and glycerol lyes.	Manufacture from materials of any heading
1509 and 1510	Olive oil and its fractions	Manufacture in which all the vegetable materials used are wholly obtained
1516 and 1517	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not	Manufacture from materials of any heading, except that of the product

<sup>27</sup> See Introductory Note 4.2.

<sup>28</sup> See Introductory Note 4.2.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	refined, but not further prepared  Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading 1516	
Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	Manufacture:  – from materials of any heading, except meat and edible meat offal of Chapter 2 and materials of Chapter 16 obtained from meat and edible meat offal of Chapter 2, and  – in which all the materials of Chapter 3 and materials of Chapter 16 obtained from fish and crustaceans, molluscs and other aquatic invertebrates of Chapter 3 used are wholly obtained
ex Chapter 17	Sugars and sugar confectionery; except for:	Manufacture from materials of any heading, except that of the product
1702	Other sugars, including chemically pure lactose and glucose, in solid form; sugar syrups; artificial honey, whether or not mixed with natural honey; caramel	Manufacture from materials of any heading, except that of the product, in which the weight of the materials of headings 1101 to 1108, 1701 and 1703 used does not exceed 30% of the weight of the final product
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture from materials of any heading, except that of the product, in which:  – the individual weight of sugar <sup>29</sup> and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and  – the total combined weight of sugar <sup>30</sup> and the materials of Chapter 4 used does not exceed 60% of the weight of final product
Chapter 18	Cocoa and cocoa preparations	Manufacture from materials of any heading, except that of the product, in which  – the individual weight of sugar <sup>31</sup> and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and  – the total combined weight of sugar <sup>32</sup> and the materials of Chapter 4 used does not exceed 60% of the weight of final product
Chapter 19	Preparations of cereals, flour, starch or milk; pastrycooks' products	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, and  – the weight of the materials of headings 1006 and 1101 to 1108 used does not exceed 20% of the weight of the final product, and  – the individual weight of sugar <sup>33</sup> and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and  – the total combined weight of sugar <sup>34</sup> and the materials of Chapter 4 used does not exceed 60% of the weight of final product

<sup>29</sup> See Introductory Note 4.2.

<sup>30</sup> See Introductory Note 4.2.

<sup>31</sup> See Introductory Note 4.2.

<sup>32</sup> See Introductory Note 4.2.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
ex Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants; except for:	Manufacture from materials of any heading, except that of the product, in which the weight of sugar <sup>35</sup> used does not exceed 40% of the weight of the final product
2002 and 2003	Tomatoes, mushrooms and truffles prepared or preserved otherwise than by vinegar of acetic acid	Manufacture in which all the materials of Chapters 7 used are wholly obtained
Chapter 21	Miscellaneous edible preparations; except for:	Manufacture from materials of any heading, except that of the product, in which: <ul style="list-style-type: none"> <li>– the individual weight of sugar<sup>36</sup> and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and</li> <li>– the total combined weight of sugar<sup>37</sup> and the materials of Chapter 4 used does not exceed 60% of the weight of final product</li> </ul>
Chapter 22	Beverages, spirits and vinegar	Manufacture from materials of any heading, except that of the product and headings 2207 and 2208, in which: <ul style="list-style-type: none"> <li>– all the materials of sub-headings 0806 10, 2009 61, 2009 69 used are wholly obtained, and</li> <li>– the individual weight of sugar<sup>38</sup> and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and</li> <li>– the total combined weight of sugar<sup>39</sup> and the materials of Chapter 4 used does not exceed 60% of the weight of final product</li> </ul>
ex Chapter 23	Residues and waste from the food industries; prepared animal fodder; except for:	Manufacture from materials of any heading, except that of the product
ex 2302 ex 2303	Residues of starch manufacture	Manufacture from materials of any heading, except that of the product, in which the weight of the materials of Chapter 10 used does not exceed 20% of the weight of the final product
2309	Preparations of a kind used in animal feeding	Manufacture from materials of any heading, except that of the product, in which: <ul style="list-style-type: none"> <li>– all the materials of Chapters 2 and 3 used are wholly obtained, and</li> <li>– the weight of materials of Chapter 10 and 11 and headings 2302 and 2303 used does not exceed 20% of the weight of the final product, and</li> <li>– the individual weight of sugar<sup>40</sup> ) and of the materials of Chapter 4 used does not exceed 40% of the weight of the final product, and</li> <li>– the total combined weight of sugar and the materials of Chapter 4 used does not exceed 60% of the weight of final product</li> </ul>
ex Chapter 24	Tobacco and manufactured tobacco substitutes; except for:	Manufacture from materials of any heading in which the weight of materials of Chapter 24 used does not exceed 30% of the total weight of materials of Chapter 24 used
2401	Unmanufactured tobacco; tobacco refuse	All unmanufactured tobacco and tobacco refuse of Chapter 24 is wholly obtained

<sup>33</sup> See Introductory Note 4.2.

<sup>34</sup> See Introductory Note 4.2.

<sup>35</sup> See Introductory Note 4.2.

<sup>36</sup> See Introductory Note 4.2.

<sup>37</sup> See Introductory Note 4.2.

<sup>38</sup> See Introductory Note 4.2.

<sup>39</sup> See Introductory Note 4.2.

<sup>40</sup> See Introductory Note 4.2.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture from materials of any heading, except that of the product and of heading 2403, and in which the weight of materials of heading 2401 used does not exceed 50% of the total weight of materials of heading 2401 used
ex Chapter 25	Salt; sulphur; earths and stone; plastering materials, lime and cement; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically-sealed containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	Manufacture from materials of any heading, except that of the product. However, natural magnesium carbonate (magnesite) may be used
Chapter 26	Ores, slag and ash	Manufacture from materials of any heading, except that of the product
ex Chapter 27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	Operations of refining and/or one or more specific process(es) <sup>41</sup> <i>or</i> Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50% of the ex-works price of the product
2710	Petroleum oils and oils obtained from bituminous materials, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous materials, these oils being the basic constituents of the preparations; waste oils	Operations of refining and/or one or more specific process(es) <sup>42</sup> <i>or</i> Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50% of the ex-works price of the product
2711	Petroleum gases and other gaseous hydrocarbons	Operations of refining and/or one or more specific process(es) <sup>43</sup> <i>or</i> Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50% of the ex-works price of the product

<sup>41</sup> For the special conditions relating to “specific processes”, see Introductory Notes 8.1 and 8.3.

<sup>42</sup> For the special conditions relating to “specific processes”, see Introductory Note 8.2.

<sup>43</sup> For the special conditions relating to “specific processes”, see Introductory Note 8.2.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
2712	Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured	Operations of refining and/or one or more specific process(es) <sup>44</sup> <i>or</i> Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50% of the ex-works price of the product
2713	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous materials	Operations of refining and/or one or more specific process(es) <sup>45</sup> <i>or</i> Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50% of the ex-works price of the product
ex Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes; except for:	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 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 29	Organic chemicals; except for:	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 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 2905	Metal alcoholates of alcohols of this heading and of ethanol; except for:	Manufacture from materials of any heading, including other materials of heading 2905. However, metal alcoholates of this heading may be used, provided that their total value does not exceed 20% of the ex-works price of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
2905 43; 2905 44; 2905 45	Mannitol; D-glucitol (sorbitol); Glycerol	Manufacture from materials of any sub-heading, except that of the product. However, materials of the same sub-heading as the product may be used, provided that their total value does not exceed 20% of the ex-works price of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 30	Pharmaceutical products	Manufacture from materials of any heading
Chapter 31	Fertilisers	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 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other	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 <i>or</i>

<sup>44</sup>

For the special conditions relating to “specific processes”, see Introductory Note 8.2.

<sup>45</sup>

For the special conditions relating to “specific processes”, see Introductory Notes 8.1 and 8.3.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	maistics; inks	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for:	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  <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3302?		
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster, except for:	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  <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 3404	Artificial waxes and prepared waxes: – With a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax	Manufacture from materials of any heading
Chapter 35	Albuminoidal substances; modified starches; glues; enzymes	Manufacture from materials of any heading, except that of the product, in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	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  <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 37	Photographic or cinematographic goods	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  <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 38	Miscellaneous chemical products; except for:	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  <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3824 60	Sorbitol other than that of sub-heading 2905 44	Manufacture from materials of any sub-heading, except that of the product and except materials of sub-heading 2905 44. However, materials of the same sub-heading as the product may be used, provided that their total value does not exceed 20% of the ex-works price of the product  <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
ex Chapter 39	Plastics and articles thereof; except for:	Manufacture from materials of any heading, except that of the product. <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 3907	- Copolymer, made from polycarbonate and acrylonitrile-butadiene-styrene copolymer (ABS)	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 50% of the ex-works price of the product <sup>46</sup> <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
	– Polyester	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture from polycarbonate of tetrabromo-(bisphenol A) <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 40	Rubber and articles thereof; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber:	
	– Retreaded pneumatic, solid or cushion tyres, of rubber	Retreading of used tyres
	– Other	Manufacture from materials of any heading, except those of headings 4011 and 4012 <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 41	Raw hides and skins (other than furskins) and leather; except for:	Manufacture from materials of any heading, except that of the product
4101 to 4103	Raw hides and skins of bovine (including buffalo) or equine animals (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not dehaired or split; raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not with wool on	Manufacture from materials of any heading

<sup>46</sup>

In the case of the products composed of materials classified within both headings 3901 to 3906, on the one hand, and within headings 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	or split, other than those excluded by note 1(c) to Chapter 41; other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not dehaired or split, other than those excluded by note 1(b) or 1(c) to Chapter 41	
4104 to 4106	Tanned or crust hides and skins, without wool or hair on, whether or not split, but not further prepared	Re-tanning of tanned or pre-tanned hides and skins of sub-headings 4104 11, 4104 19, 4105 10, 4106 21, 4106 31 or 4106 91,  <i>or</i> Manufacture from materials of any heading, except that of the product
4107, 4112, 4113	Leather further prepared after tanning or crusting	Manufacture from materials of any heading, except that of the product. However, materials of sub-headings 4104 41, 4104 49, 4105 30, 4106 22, 4106 32 and 4106 92 may be used only if a re-tanning operation of the tanned or crust hides and skins in the dry state takes place
Chapter 42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk worm gut)	Manufacture from materials of any heading, except that of the product  <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 43	Furskins and artificial fur; manufactures thereof; except for:	Manufacture from materials of any heading, except that of the product  <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
4301	Raw furskins (including heads, tails, paws and other pieces or cuttings, suitable for furrier's use), other than raw hides and skins of heading 4101, 4102 or 4103	Manufacture from materials of any heading
ex 4302	Tanned or dressed furskins, assembled:	
	– Plates, crosses and similar forms	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins
	– Other	Manufacture from non-assembled, tanned or dressed furskins
4303	Articles of apparel, clothing accessories and other articles of fur skin	Manufacture from non-assembled tanned or dressed furskins of heading 4302
ex Chapter 44	Wood and articles of wood; wood charcoal; except for:	Manufacture from materials of any heading, except that of the product  <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or end-jointed	Planing, sanding or end-jointing
ex 4408	Sheets for veneering (including those obtained by slicing laminated wood) and	Splicing, planing, sanding or endjointing

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	for plywood, of a thickness not exceeding 6 mm, spliced, and other wood sawn lengthwise, sliced or peeled of a thickness not exceeding 6 mm, planed, sanded or end-jointed	
ex 4410 to ex 4413	Beadings and mouldings, including moulded skirting and other moulded boards	Beading or moulding
ex 4415	Packing cases, boxes, crates, drums and similar packings, of wood	Manufacture from boards not cut to size
ex 4418	– Builders' joinery and carpentry of wood	Manufacture from materials of any heading, except that of the product. However, cellular wood panels, shingles and shakes may be used
	– Beadings and mouldings	Beading or moulding
ex 4421	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading, except drawn wood of heading 4409
Chapter 45	Cork and articles of cork	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 50	Silk; except for:	Manufacture from materials of any heading, except that of the product
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste
5004 to ex 5006	Silk yarn and yarn spun from silk waste	Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning or twisting <sup>(47)</sup>
5007	Woven fabrics of silk or of silk waste:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn or twisting, in each case accompanied by weaving

<sup>47</sup>

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
		<p><i>or</i></p> <p>Weaving accompanied by dyeing</p> <p><i>or</i></p> <p>Yarn dyeing accompanied by weaving</p> <p><i>or</i></p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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<sup>(48)</sup></p>
ex Chapter 51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric; except for:	Manufacture from materials of any heading, except that of the product
5106 to 5110	Yarn of wool, of fine or coarse animal hair or of horsehair	Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning <sup>(49)</sup>
5111 to 5113	Woven fabrics of wool, of fine or coarse animal hair or of horsehair:	<p>Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving</p> <p><i>or</i></p> <p>Weaving accompanied by dyeing</p> <p><i>or</i></p> <p>Yarn dyeing accompanied by weaving</p> <p><i>or</i></p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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<sup>(50)</sup></p>
ex Chapter 52	Cotton; except for:	Manufacture from materials of any heading, except that of the product
5204 to 5207	Yarn and thread of cotton	Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning <sup>(51)</sup>
5208 to 5212	Woven fabrics of cotton:	<p>Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving</p> <p><i>or</i></p> <p>Weaving accompanied by dyeing or by coating</p> <p><i>or</i></p> <p>Yarn dyeing accompanied by weaving</p> <p><i>or</i></p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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<sup>(52)</sup></p>
ex Chapter 53	Other vegetable textile fibres; paper yarn and	Manufacture from materials of any heading, except that of the product

48

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

49

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

50

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

51

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

52

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	woven fabrics of paper yarn; except for:	
5306 to 5308	Yarn of other vegetable textile fibres; paper yarn	Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning <sup>(53)</sup>
5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving <i>or</i> Weaving accompanied by dyeing or by coating <i>or</i> Yarn dyeing accompanied by weaving <i>or</i> Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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 <sup>(54)</sup>
5401 to 5406	Yarn, monofilament and thread of man-made filaments	Extrusion of man-made fibres accompanied by spinning OR spinning of natural fibres <sup>(55)</sup>
5407 and 5408	Woven fabrics of man-made filament yarn:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving <i>or</i> Weaving accompanied by dyeing or by coating <i>or</i> Twisting or texturing accompanied by weaving provided that the value of the non-twisted/non-textured yarns used does not exceed 47.5% of the ex-works price of the product <i>or</i> Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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 <sup>(56)</sup>
5501 to 5507	Man-made staple fibres	Extrusion of man-made fibres
5508 to 5511	Yarn and sewing thread of man-made staple fibres	Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning <sup>(57)</sup>
5512 to 5516	Woven fabrics of man-made staple fibres:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving <i>or</i> Weaving accompanied by dyeing or by coating <i>or</i> Yarn dyeing accompanied by weaving <i>or</i>

53

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

54

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

55

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

56

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

57

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

58

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
		Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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 <sup>(58)</sup>
Ex Chapter 56	Wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof; except for:	Extrusion of man-made fibres accompanied by spinning or spinning of natural fibres or Flocking accompanied by dyeing or printing <sup>(59)</sup>
5602	Felt, whether or not impregnated, coated, covered or laminated:	
	- Needleloom felt	Extrusion of man-made fibres accompanied by fabric formation, However: – polypropylene filament of heading 5402, – polypropylene fibres of heading 5503 or 5506, or – polypropylene filament tow of heading 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40% of the ex-works price of the product or Fabric formation alone in the case of felt made from natural fibres <sup>(60)</sup>
	- Other	Extrusion of man-made fibres accompanied by fabric formation, or Fabric formation alone in the case of other felt made from natural fibres <sup>(61)</sup>
5603	Nonwovens, whether or not impregnated, coated, covered or laminated	Extrusion of man-made fibres, or use of natural fibres, accompanied by nonwoven techniques including needle punching
5604	Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics:	
	- Rubber thread and cord, textile covered	Manufacture from rubber thread or cord, not textile covered
	- Other	Extrusion of man-made fibres accompanied by spinning or spinning of natural fibres <sup>(62)</sup>
5605	Metallised yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with	Extrusion of man-made fibres accompanied by spinning or spinning of natural and/or man-made staple fibres <sup>(63)</sup>

59

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

60

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

61

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

62

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	metal	
5606	Gimped yarn, and strip and the like of heading 5404 or 5405, gimped (other than those of heading 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn	Extrusion of man-made fibres accompanied by spinning or spinning of natural and/or man-made staple fibres or Spinning accompanied with flocking or Flocking accompanied by dyeing <sup>(64)</sup>
Chapter 57	Carpets and other textile floor coverings:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving or Manufacture from coir yarn or sisal yarn or jute yarn or Flocking accompanied by dyeing or by printing Or Tufting accompanied by dyeing or by printing Extrusion of man-made fibres accompanied by non-woven techniques including needle punching <sup>(65)</sup> However: – polypropylene filament of heading 5402, – polypropylene fibres of heading 5503 or 5506, or – polypropylene filament tow of heading 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40% of the ex-works price of the product Jute fabric may be used as a backing
Ex Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery; except for:	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving or Weaving accompanied by dyeing or flocking or coating or Flocking accompanied by dyeing or by printing or Yarn dyeing accompanied by weaving or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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 <sup>(66)</sup>
5805	Hand-woven tapestries of the types Gobelins,	Manufacture from materials of any heading, except that of the product

63

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

64

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

65

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

66

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	Flanders, Aubusson, Beauvais and the like, and needle-worked tapestries (for example, petit point, cross stitch), whether or not made up	
5810	Embroidery in the piece, in strips or in motifs	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	Weaving accompanied by dyeing or by flocking or by coating or Flocking accompanied by dyeing or printing
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon:	
	- Containing not more than 90% by weight of textile materials	Weaving
	- Other	Extrusion of man-made fibres accompanied by weaving
5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902	Weaving accompanied by dyeing or by coating or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Weaving accompanied by dyeing or by coating <sup>(67)</sup>
5905	Textile wall coverings:	
	- Impregnated, coated, covered or laminated with rubber, plastics or other materials	Weaving accompanied by dyeing or by coating
	- Other	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by weaving or Weaving accompanied by dyeing or by coating or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5% of the ex-

<sup>67</sup>

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>68</sup>

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
		works price of the product <sup>(68)</sup> :
5906	Rubberised textile fabrics, other than those of heading 5902:	
	- Knitted or crocheted fabrics	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by knitting or Knitting accompanied by dyeing or by coating or Dyeing of yarn of natural fibres accompanied by knitting <sup>(69)</sup> -
	- Other fabrics made of synthetic filament yarn, containing more than 90% by weight of textile materials	Extrusion of man-made fibres accompanied by weaving
	- Other	Weaving accompanied by dyeing or by coating or Dyeing of yarn of natural fibres accompanied by weaving
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio back-cloths or the like	Weaving accompanied by dyeing or by flocking or by coating or Flocking accompanied by dyeing or by printing or 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
5908	Textile wicks, woven, plaited or knitted, for lamps, stoves, lighters, candles or the like; incandescent gas mantles and tubular knitted gas mantle fabric therefor, whether or not impregnated:	
	- Incandescent gas mantles, impregnated	Manufacture from tubular knitted gas-mantle fabric
	- Other	Manufacture from materials of any heading, except that of the product
5909 to 5911	Textile articles of a kind suitable for industrial use:	
	- Polishing discs or rings other than of felt of heading 5911	Weaving
	- Woven fabrics, of a kind commonly used in papermaking or other technical uses, felted or not, whether or not impregnated or coated, tubular or endless with single or multiple warp and/or weft, or flat woven	Extrusion of man-made fibres or Spinning of natural and/or of man-made staple fibres, in each case accompanied by weaving or Weaving accompanied by dyeing or coating Only the following fibres may be used: — coir yarn

<sup>69</sup>

For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	with multiple warp and/or weft of heading 5911	-- yarn of polytetrafluoroethylene <sup>70</sup> , -- yarn, multiple, of polyamide, coated impregnated or covered with a phenolic resin, -- yarn of synthetic textile fibres of aromatic polyamides, obtained by polycondensation of <i>m</i> -phenylenediamine and isophthalic acid, -- monofil of polytetrafluoroethylene <sup>71</sup> , -- yarn of synthetic textile fibres of poly( <i>p</i> -phenylene terephthalamide), -- glass fibre yarn, coated with phenol resin and gimped with acrylic yarn <sup>72</sup> , -- copolyester monofilaments of a polyester and a resin of terephthalic acid and 1,4-cyclohexanediethanol and isophthalic acid
	- Other	Extrusion of man-made filament yarn OR spinning of natural or man-made staple fibres, accompanied by weaving ( <sup>73</sup> )  <i>or</i> Weaving accompanied by dyeing or coating
Chapter 60	Knitted or crocheted fabrics	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by knitting  <i>or</i> Knitting accompanied by dyeing or by flocking or by coating  <i>or</i> Flocking accompanied by dyeing or by printing  <i>or</i> Dyeing of yarn of natural fibres accompanied by knitting  <i>or</i> Twisting or texturing accompanied by knitting provided that the value of the non-twisted/non-textured yarns used does not exceed 47.5% of the ex-works price of the product
Chapter 61	Articles of apparel and clothing accessories, 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) ( <sup>74</sup> )( <sup>75</sup> )
	- Other	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by knitting (knitted to shape products)  <i>or</i> Dyeing of yarn of natural fibres accompanied by knitting (knitted to shape products) ( <sup>76</sup> )

<sup>70</sup> The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.  
<sup>71</sup> The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.  
<sup>72</sup> The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.  
<sup>73</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.  
<sup>74</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.  
<sup>75</sup> See Introductory Note 7.  
<sup>76</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
Ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted; except for:	Weaving accompanied by making-up (including cutting) 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, decatizing, 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 <sup>(77)</sup> ( <sup>78</sup> )
ex 6202, ex 6204, ex 6206, ex 6209 and ex 6211	Women's, girls' and babies' clothing and clothing accessories for babies, embroidered	Weaving accompanied by making-up (including cutting) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>(79)</sup>
ex 6210 and ex 6216	Fire-resistant equipment of fabric covered with foil of aluminised polyester	Weaving accompanied by making-up (including cutting) or Coating provided that the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product accompanied by making-up (including cutting) <sup>(80)</sup>
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) <sup>(81)</sup> ( <sup>82</sup> )
	- Other	Spinning of natural and/or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by knitting (knitted to shape products) <i>or</i> Dyeing of yarn of natural fibres accompanied by knitting (knitted to shape products) <sup>(83)</sup>
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like:	
	- Embroidered	Weaving accompanied by making-up (including cutting) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>(84)</sup> 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, decatizing, 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 <sup>(85)</sup> ( <sup>86</sup> )

<sup>77</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>78</sup> See Introductory Note 7.

<sup>79</sup> See Introductory Note 7.

<sup>80</sup> See Introductory Note 7.

<sup>81</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>82</sup> See Introductory Note 7.

<sup>83</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>84</sup> See Introductory Note 7.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	- Other	Weaving accompanied by making-up (including cutting) or Making-up followed by printing accompanied by at least two preparatory finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, 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 <sup>(87)</sup> <sup>(88)</sup>
6217	Other made up clothing accessories; parts of garments or of clothing accessories, other than those of heading 6212:	
	- Embroidered	Weaving accompanied by making-up (including cutting) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>(89)</sup>
	- Fire-resistant equipment of fabric covered with foil of aluminised polyester	Weaving accompanied by making-up (including cutting) or Coating provided that the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product accompanied by making-up (including cutting) <sup>(90)</sup>
	- Interlinings for collars and cuffs, cut out	Manufacture from materials of any heading, except that of the product, and in which the value of all the materials used does not exceed 40% of the ex-works price of the product
	- Other	Weaving accompanied by making-up (including cutting) <sup>(91)</sup>
Ex Chapter 63	Other made-up textile articles; sets; worn clothing and worn textile articles; rags; except for:	Manufacture from materials of any heading, except that of the product
6301 to 6304	Blankets, travelling rugs, bed linen etc.; curtains etc.; other furnishing articles:	
	- Of felt, of nonwovens	Extrusion of man-made fibres or use of natural fibres in each case accompanied by non-woven process including needle punching and making-up (including cutting) <sup>(92)</sup>
	- Other:	
	-- Embroidered	Weaving or knitting accompanied by making-up (including cutting) (reference to tolerance to be added) <sup>93</sup> or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>(94)</sup>
	-- Other	Weaving or knitting accompanied by making-up (including cutting)

85 For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

86 See Introductory Note 7.

87 For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

88 See Introductory Note 7.

89 See Introductory Note 7.

90 See Introductory Note 7.

91 See Introductory Note 7.

92 For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

93 See Introductory Note 7.

94 See Introductory Note 7.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
6305	Sacks and bags, of a kind used for the packing of goods	Extrusion of man-made fibres or spinning of natural and/or man-made staple fibres accompanied by weaving or knitting and making-up (including cutting) <sup>(95)</sup>
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods:	
	- Of nonwovens	Extrusion of man-made fibres or natural fibres in each case accompanied by any non-woven techniques including needle punching
	- Other	Weaving accompanied by making-up (including cutting) <sup>(96)</sup> <sup>(97)</sup> or Coating provided that the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product accompanied by making-up (including cutting)
6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15% of the ex-works price of the set
Ex Chapter 64	Footwear, gaiters and the like; parts of such articles; except for:	Manufacture from materials of any heading, except from assemblies of uppers affixed to inner soles or to other sole components of heading 6406
6406	Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof	Manufacture from materials of any heading, except that of the product
Chapter 65	Headgear and parts thereof	Manufacture from materials of any heading, except that of the product
Chapter 66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, and parts thereof:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	Manufacture from materials of any heading, except that of the product
ex Chapter 68	Articles of stone, plaster, cement, asbestos, mica or similar materials, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate

<sup>95</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>96</sup> For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

<sup>97</sup> See Introductory Note 7.

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
ex 6812	Articles of asbestos; articles of mixtures with a basis of asbestos or of mixtures with a basis of asbestos and magnesium carbonate	Manufacture from materials of any heading
ex 6814	Articles of mica, including agglomerated or reconstituted mica, on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)
Chapter 69	Ceramic products	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 70	Glass and glassware, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
7006	Glass of heading 7003, 7004 or 7005, bent, edge-worked, engraved, drilled,	
	– Glass-plate substrates, coated with a dielectric thin film, and of a semiconductor grade in accordance with SEMII-standards <sup>98</sup>	Manufacture from non-coated glass-plate substrate of heading 7006
	– Other	Manufacture from materials of heading 7001
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture from materials of any heading, except that of the product <i>or</i> Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50% of the ex-works price of the product
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018)	Manufacture from materials of any heading, except that of the product <i>or</i> Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50% of the ex-works price of the product <i>or</i> Hand-decoration (except silk-screen printing) of hand-blown glassware, provided that the total value of the hand-blown glassware used does not exceed 50% of the ex-works price of the product
ex Chapter 71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
7106, 7108 and 7110	Precious metals:	

<sup>98</sup>

SEMII – Semiconductor Equipment and Materials Institute Incorporated

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	- Unwrought	Manufacture from materials of any heading, except those of headings 7106, 7108 and 7110 or Electrolytic, thermal or chemical separation of precious metals of heading 7106, 7108 or 7110 or Fusion and/or alloying of precious metals of heading 7106, 7108 or 7110 with each other or with base metals
	- Semi-manufactured or in powder form	Manufacture from unwrought precious metals
ex 7107, ex 7109 and ex 7111	Metals clad with precious metals, semi-manufactured	Manufacture from metals clad with precious metals, unwrought
7115	Other articles of precious metal or of metal clad with precious metal	Manufacture from materials of any heading, except that of the product
7117	Imitation jewellery	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture from base metal parts, not plated or covered with precious metals, provided that the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 72	Iron and steel; except for:	Manufacture from materials of any heading, except that of the product
7207	Semi-finished products of iron or non-alloy steel	Manufacture from materials of heading 7201, 7202, 7203, 7204, 7205 or 7206
7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 or 7207
7217	Wire of iron or non-alloy steel	Manufacture from semi-finished materials of heading 7207
7218 91 and 7218 99	Semi-finished products	Manufacture from materials of heading 7201, 7202, 7203, 7204, 7205 or sub-heading 7218 10
7219 to 7222	Flat-rolled products, bars and rods, angles, shapes and sections of stainless steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7218
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading 7218
7224 90	Semi-finished products	Manufacture from materials of heading 7201, 7202, 7203, 7204, 7205 or sub-heading 7224 10
7225 to 7228	Flat-rolled products, hot-rolled bars and rods, in irregularly wound coils; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished materials of heading 7206, 7207, 7218 or 7224
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading 7224
ex Chapter 73	Articles of iron or steel; except for:	Manufacture from materials of any heading, except that of the product
ex 7301	Sheet piling	Manufacture from materials of heading 7207
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing	Manufacture from materials of heading 7206

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	
7304, 7305 and 7306	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading 7206, 7207, 7208, 7209, 7210, 7211, 7212, 7218, 7219, 7220 or 7224
ex 7307	Tube or pipe fittings of stainless steel	Turning, drilling, reaming, threading, deburring and sandblasting of forged blanks, provided that the total value of the forged blanks used does not exceed 35 % of the ex-works price of the product
7308	Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Manufacture from materials of any heading, except that of the product. However, welded angles, shapes and sections of heading 7301 may not be used
ex 7315	Skid chain	Manufacture in which the value of all the materials of heading 7315 used does not exceed 50% of the ex-works price of the product
ex Chapter 74	Copper and articles thereof; except for:	Manufacture from materials of any heading, except that of the product
7403	Refined copper and copper alloys, unwrought	Manufacture from materials of any heading
Chapter 75	Nickel and articles thereof	Manufacture from materials of any heading, except that of the product
ex Chapter 76	Aluminium and articles thereof; except for:	Manufacture from materials of any heading, except that of the product
7601	Unwrought aluminium	Manufacture from materials of any heading
7607	Aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Manufacture from materials of any heading, except that of the product and heading 7606
Chapter 77	Reserved for possible future use in the Harmonised System	
ex Chapter 78	Lead and articles thereof; except for:	Manufacture from materials of any heading, except that of the product
7801	Unwrought lead:	
	- Refined lead	Manufacture from materials of any heading
	- Other	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 7802 may not be used
Chapter 79	Zinc and articles thereof:	Manufacture from materials of any heading, except that of the product

<b>Harmonised System heading</b>	<b>Description of product</b>	<b>Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)</b>
(1)	(2)	(3)
Chapter 80	Tin and articles thereof	Manufacture from materials of any heading, except that of the product
Chapter 81	Other base metals; cermets; articles thereof	Manufacture from materials of any heading
ex Chapter 82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8206	Tools of two or more of the headings 8202 to 8205, put up in sets for retail sale	Manufacture from materials of any heading, except those of headings 8202 to 8205. However, tools of headings 8202 to 8205 may be incorporated into the set, provided that their total value does not exceed 15% of the ex-works price of the set
8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades therefor	Manufacture from materials of any heading, except that of the product. However, knife blades and handles of base metal may be used
8214	Other articles of cutlery (for example; hair clippers, butchers' or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used
ex Chapter 83	Miscellaneous articles of base metal; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 8302	Other mountings, fittings and similar articles suitable for buildings, and automatic door closers	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8302 may be used, provided that their total value does not exceed 20% of the ex-works price of the product
ex 8306	Statuettes and other ornaments, of base metal	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8306 may be used, provided that their total value does not exceed 30% of the ex-works price of the product
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8401	Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8408	Compression-ignition internal combustion piston engines (diesel or semi-	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	diesel engines	
8427	Fork-lift trucks; other works trucks fitted with lifting or handling equipment	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8482	Ball or roller bearings	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8501, 8502	Electric motors and generators; Electric generating sets and rotary converters	Manufacture from materials of any heading, except that of the product and of heading 8503 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8513	Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading 8512	Manufacture from materials of any heading, except that of the product. <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8519	Sound recording and sound reproducing apparatus	Manufacture from materials of any heading, except that of the product and of heading 8522 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Manufacture from materials of any heading, except that of the product and of heading 8522 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8525	Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and other video camera recorders	Manufacture from materials of any heading, except that of the product and of heading 8529 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture from materials of any heading, except that of the product and of heading 8529 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
8527	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	Manufacture from materials of any heading, except that of the product and of heading 8529 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8528	Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus	Manufacture from materials of any heading, except that of the product and of heading 8529 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8535 to 8537	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits; connectors for optical fibres, optical fibre bundles or cables; boards, panels, consoles, desks, cabinets and other bases, for electric control or the distribution of electricity	Manufacture from materials of any heading, except that of the product and of heading 8538 <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8540 11 and 8540 12	Cathode ray television picture tubes, including video monitor cathode ray tubes	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8542 31 to 8542 33 and 8542 39	Monolithic integrated circuits	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product <i>or</i> The operation of diffusion, in which integrated circuits are formed on a semi-conductor substrate by the selective introduction of an appropriate dopant, whether or not assembled and/or tested in a non-party
8544	Insulated (including enamelled or anodised) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8547	Insulating fittings for electrical machines,	Manufacture in which the value of all the materials used does not exceed 50% of the ex-

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	appliances or equipment, being fittings wholly of insulating materials apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly, other than insulators of heading 8546; electrical conduit tubing and joints therefore, of base metal lined with insulating material	works price of the product
8548	Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds:	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof; except for:	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 88	Aircraft, spacecraft, and parts thereof, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 8804	Rotochutes	Manufacture from materials of any heading, including other materials of heading 8804 <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 89	Ships, boats and floating structures	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof, except	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product

Harmonised System heading	Description of product	Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)
(1)	(2)	(3)
	for:	
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9033	Parts and accessories (not specified or included elsewhere in this Chapter) for machines, appliances, instruments or apparatus of Chapter 90	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 91	Clocks and watches and parts thereof	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
Chapter 93	Arms and ammunition; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 94	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	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex Chapter 95	Toys, games and sports requisites; parts and accessories thereof, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
ex 9506	Golf clubs and parts thereof	Manufacture from materials of any heading, except that of the product. However, roughly-shaped blocks for making golf-club heads may be used
ex Chapter 96	Miscellaneous manufactured articles, except for:	Manufacture from materials of any heading, except that of the product <i>or</i> Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
9601 and 9602	Worked ivory, bone, tortoiseshell, horn, antlers, coral, mother-of-pearl and other animal carving material, and articles of these materials (including articles obtained by moulding.  Worked vegetable or mineral carving material and articles of these materials; moulded or carved articles of wax, of stearin, of natural gums or natural resins or of modelling pastes, and other moulded or carved articles, not elsewhere specified or included; worked,	Manufacture from materials of any heading

<b>Harmonised System heading</b>	<b>Description of product</b>	<b>Qualifying operation (Working or processing, carried out on non-originating materials, which confers originating status)</b>
(1)	(2)	(3)
	unhardened gelatine (except gelatine of heading 3503) and articles of unhardened gelatine	
9603	Brooms, brushes (including brushes constituting parts of machines, appliances or vehicles), hand-operated mechanical floor sweepers, not motorized, mops and feather dusters; prepared knots and tufts for broom or brush making; paint pads and rollers, squeegees (other than roller squeegees)	Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the product
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15% of the ex-works price of the set
9606	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 70% of the ex-works price of the product
9608	Ball-point pens; felt-tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencilholders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609	Manufacture from materials of any heading, except that of the product. However, nibs or nib-points of the same heading as the product may be used
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials used does not exceed 70% of the ex-works price of the product
9613 20	Pocket lighters, gas fuelled, refillable	Manufacture in which the total value of the materials of heading 9613 used does not exceed 30% of the ex-works price of the product
9614	Smoking pipes (including pipe bowls) and cigar or cigarette holders, and parts thereof	Manufacture from materials of any heading
Chapter 97	Works of art, collectors' pieces and antiques	Manufacture from materials of any heading, except that of the product

### **APPENDIX III**

#### **Form for movement certificate EUR.1**

1. Movement certificates EUR.1 shall be made out on the form of which a specimen appears in this Appendix. This form shall be printed in one or more of the languages in which this Decision is drawn up. Certificates shall be made out in one of these languages and in accordance with the provisions of the domestic law of the exporting State if they are handwritten, they shall be completed in ink and in capital letters.
2. Each certificate shall measure 210 x 297mm, a tolerance of up to plus 8mm or minus 5mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25g/m<sup>2</sup>. It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.
3. The exporting States may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

### MOVEMENT CERTIFICATE

<b>1. Exporter</b> <i>(name, full address, country)</i>	<b>EUR.1 No A 000.000</b>		
See notes overleaf before completing this form			
<b>3. Consignee</b> <i>(name, full address, country) (Optional)</i>	<b>2. Certificate used in preferential trade between</b>  <b>and</b>  <i>(insert appropriate countries, groups of countries or territories)</i>		
	<b>4. Country, group of countries or territory in which the products are considered as originating</b>	<b>5. Country, group of countries or territory of destination</b>	
<b>6. Transport details</b> <i>(Optional)</i>	<b>7. Remarks</b>		
<b>8. Item number; Marks and numbers; Number and kind of package (°); Description of goods</b>	<b>9. Gross mass (kg) or other measure (litres, m<sup>3</sup>, etc.)</b>	<b>10. Invoices</b>  <i>(Optional)</i>	
<b>11. CUSTOMS ENDORSEMENT</b>  Declaration certified  Export document (°)  Form _____ No _____  Customs office _____  Issuing country or territory  _____ Stamp  Date _____  _____  <i>(Signature)</i>		<b>12. DECLARATION BY THE EXPORTER</b>  I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.    Place and date _____  _____  <i>(Signature)</i>	

(1) If goods are not packed, indicate number of articles or state "In bulk" as appropriate

(2) Complete only where the regulations of the exporting country or territory require

13. Request for verification, to:	14. Result of verification
	Verification carried out shows that this certificate (*) <input type="checkbox"/> was issued by the customs office indicated and that the information contained therein is accurate. <input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended).
Verification of the authenticity and accuracy of this certificate is requested	
<hr/> <p style="text-align: center;"><i>(Place and date)</i></p> <p style="text-align: center;">Stamp</p>	<hr/> <p style="text-align: center;"><i>(Place and date)</i></p> <p style="text-align: center;">Stamp</p>
<hr/> <p style="text-align: center;"><i>(Signature)</i></p>	<hr/> <p style="text-align: center;"><i>(Signature)</i></p> <hr/> <p>(*) Insert X in the appropriate box.</p>

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

**APPENDIX IV**

**Application for a movement certificate EUR.1**

1. Exporter <i>(name, full address, country)</i>	<b>EUR.1</b> <span style="float:right"><b>No A 000.000</b></span>	
	See notes overleaf before completing this form	
	2. Application for a certificate to be used in preferential trade between .....	
3. Consignee <i>(name, full address, country) (Optional)</i>	and ..... <i>(insert appropriate countries or groups of countries or territories)</i>	
	4. country, group of countries or territory in which the products are considered as originating	5. Country group of countries or territory of destination
6. Transport details (Optional)	7. Remarks	
8. Item number; Mark and number; Number and kind of packages <sup>1</sup> ; Description of goods	9. gross mass (kg) or other measure (litres, m <sup>3</sup> , etc.)	10. Invoice (Optional)

(1) If goods are not packed, indicate number of articles or state 'in bulk' as appropriate.

**APPENDIX V**

**Declaration by the exporter**

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enabled these goods to meet the above conditions:

.....

.....

.....

.....

SUBMIT the following supporting documents <sup>(1)</sup>:

.....

.....

.....

.....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

.....  
*(Place and date)*

.....  
*(Signature)*

(1) For example, import documents, movement certificates, manufacturer's declarations, etc. referring to the products used in manufacture or to the goods re-exported in the same state.

## **APPENDIX VI**

### **INVOICE DECLARATION**

The invoice 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.

#### **Spanish version**

El exportador de los productos incluidos en el presente documento (autorización aduanera n° ...<sup>(1)</sup>) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ...<sup>(2)</sup>.

#### **Czech version**

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení ...<sup>(1)</sup>) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v ...<sup>(2)</sup>.

#### **Danish version**

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ...<sup>(1)</sup>), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ...<sup>(2)</sup>.

#### **German version**

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ...<sup>(1)</sup>) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anderes angegeben, präferenzbegünstigte ...<sup>(2)</sup> Ursprungswaren sind.

#### **Estonian version**

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ...<sup>(1)</sup>) deklareerib, et need tooted on ...<sup>(2)</sup> sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

#### **Greek version**

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο (άδεια τελωνείου υπ' αριθ. ...<sup>(1)</sup>) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησιακής καταγωγής ...<sup>(2)</sup>.

#### **English version**

The exporter of the products covered by this document (customs authorization No ...<sup>(1)</sup>) declares that, except where otherwise clearly indicated, these products are of ...<sup>(2)</sup> preferential origin.

#### **French version**

L'exportateur des produits couverts par le présent document (autorisation douanière n° ...<sup>(1)</sup>) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ...<sup>(2)</sup>.

#### **Italian version**

L'esportatore delle merci contemplate nel presente documento (autorizzazione doganale n. ...<sup>(1)</sup>) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...<sup>(2)</sup>.

#### **Latvian version**

Eksportētājs produktiem, kuri ietverti šajā dokumentā (muitas pilnvara Nr. ...<sup>(1)</sup>), deklarē, ka, izņemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no ...<sup>(2)</sup>.

#### **Lithuanian version**

Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr ...<sup>(1)</sup>) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra ...<sup>(2)</sup> preferencinės kilmės prekės.

#### **Hungarian version**

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: ...<sup>(1)</sup>) kijelentem, hogy eltérő jelzés hiányában az áruk kedvezményes ...<sup>(2)</sup> származásúak.

#### **Maltese version**

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. ...<sup>(1)</sup>) jiddikjara li, hliief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali ...<sup>(2)</sup>.

#### **Dutch version**

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ...<sup>(1)</sup>), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn <sup>(2)</sup>.

#### **Polish version**

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr ...<sup>(1)</sup>) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają ...<sup>(2)</sup> preferencyjne pochodzenie.

#### **Portuguese version**

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autorização aduaneira n.º ...<sup>(1)</sup>), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ...<sup>(2)</sup>.

#### **Slovenian version**

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št ...<sup>(1)</sup>) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno ...<sup>(2)</sup> poreklo.

#### **Slovak version**

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia ...<sup>(1)</sup>) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v ...<sup>(2)</sup>.

#### **Finnish version**

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ...<sup>(1)</sup>) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperä tuotteita <sup>(2)</sup>.

#### **Swedish version**

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ...<sup>(1)</sup>) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung <sup>(2)</sup>.

#### **Bulgarian version**

Износителят на продуктите, обхванати от този документ (митническо разрешение № ...<sup>(1)</sup>) декларира, че освен където е отбелязано друго, тези продукти са с ... преференциален произход <sup>(2)</sup>.

#### **Romanian version**

Exportatorul produselor ce fac obiectul acestui document (autorizația vamală nr. ...<sup>(1)</sup>) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferențială ...<sup>(2)</sup>.

.....(3)

(Place and date)

.....(4)

(Signature of the exporter, in addition the name of the person signing the declaration has to be indicated in clear script)

1 When the invoice declaration is made out by an approved exporter, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

2 Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

3 These indications may be omitted if the information is contained on the document itself.

4 In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

**APPENDIX VII**

**SUPPLIER'S DECLARATION FOR PRODUCTS HAVING PREFERENTIAL ORIGIN STATUS**

I, the undersigned, declare that the goods listed on this invoice .....<sup>(1)</sup>

were produced in .....<sup>(2)</sup> and satisfy the rules of origin governing preferential trade between the OCTs and the European Union.

I undertake to make available to the customs authorities, if required, evidence in support of this declaration.

.....<sup>(3)</sup>

.....<sup>(4)</sup>

.....<sup>(5)</sup>

*Note*

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration. The footnotes do not have to be reproduced.

<sup>(1)</sup> - If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows: "..... listed on this invoice and marked .....were produced ....."

- If a document other than an invoice or an annex to the invoice is used (see Article 32(3)), the name of the document concerned shall be mentioned instead of the word "invoice"

<sup>(2)</sup> The European Union, Member State, EPA country or OCT. Where an EPA country or an OCT is given, a reference must also be made to the European Union customs office holding any EUR.1 (s) concerned, giving the No of the certificate(s) concerned and, if possible, the relevant customs entry No involved.

<sup>(3)</sup> Place and date

<sup>(4)</sup> Name and function in company

<sup>(5)</sup> Signature

**APPENDIX VIII**

**SUPPLIER'S DECLARATION FOR PRODUCTS NOT HAVING PREFERENTIAL ORIGINAL STATUS**

I, the undersigned, declare that the goods listed on this invoice .....<sup>(1)</sup>  
were produced in .....<sup>(2)</sup>  
and incorporate the following components or materials which do not have APE, OCT or European Union origin for preferential trade:

.....<sup>(3)</sup> .....<sup>(4)</sup> .....<sup>(5)</sup>  
.....  
.....  
.....<sup>(6)</sup>

I undertake to make available to the customs authorities, if required, evidence in support of this declaration.

.....<sup>(7)</sup> .....<sup>(8)</sup>  
.....<sup>(9)</sup>

*Note*

The above mentioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration. The footnotes do not have to be reproduced.

- <sup>(1)</sup> - If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows: "..... listed on this invoice and marked ..... were produced ....."
- If a document other than an invoice or an annex to the invoice is used (see Article 32(3)), the name of the document concerned shall be mentioned instead of the word "invoice"
- <sup>(2)</sup> The European Union, Member State, APE country or OCT.
- <sup>(3)</sup> Description is to be given in all cases. The description must be adequate and should be sufficiently detailed to allow the tariff classification of the goods concerned to be determined.
- <sup>(4)</sup> Customs values to be given only if required
- <sup>(5)</sup> Country of origin to be given only if required. The origin to be given must be a preferential origin, all other origins to be given as "third country".
- <sup>(6)</sup> "and have undergone the following processing in [the European Union] [Member State] [APE country] [OCT] [] .....", to be added with a description of the processing carried out if this information is required.
- <sup>(7)</sup> Place and date
- <sup>(8)</sup> Name and function in company
- <sup>(9)</sup> Signature

## **APPENDIX IX**

### **Information Certificate**

1. The form of information certificate given in this Annex shall be used and be printed in one or more of the official languages in which the Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting State. Information certificates shall be completed in one of those languages; if they are handwritten, they shall be completed in ink in capital letters. They shall bear a serial number, whether or not printed, by which they can be identified.
2. The information certificate shall measure 210 x 297mm, a tolerance of up to plus 8mm or minus 5mm in the length may be allowed. The paper must be white, sized for writing, not containing mechanical pulp and weighing not less than 25g/m<sup>2</sup>.
3. The national administrators may reserve the right to print the forms themselves or may have them printed by printers approved by them. In the latter case, each form must include a reference to such approval. The forms shall bear the name and address of the printer or a mark by which the printer can be identified.



REQUEST FOR VERIFICATION	RESULT OF VERIFICATION
<p>The undersigned customs official requests verification of the authenticity and accuracy of this information certificate.</p>	<p>Verification carried out shows that this certificate <sup>(1)</sup></p> <p>a) was issued by the Customs Office indicated and that the information contained therein is accurate (*)</p> <p>b) does not meet the requirements as to authenticity and accuracy (see notes appended).(*)</p>
<p>..... (Place and date)</p> <p>Official stamp</p> <p>..... (Official's signature)</p>	<p>..... (Place and date)</p> <p>Official stamp</p> <p>..... (Official's signature)</p> <p>(*) Delete where not applicable.</p>

#### CROSS REFERENCES

- (1) Name of individual or business and full address.
- (2) Optional information.
- (3) Kg, hl, m<sup>3</sup> or other measures.
- (4) Packaging shall be considered as forming a whole with the goods contained therein. However, this provision shall not apply to packaging which is not of the normal type for the article packed, and which has a lasting utility value of its own, apart from its function as packaging.
- (5) The value must be indicated in accordance with the provisions on rules of origin.

**APPENDIX X**

**FORM FOR APPLICATION FOR A DEROGATION**

**1. COMMERCIAL DESCRIPTION OF THE FINISHED PRODUCT**

**1.1 Customs classification (H.S. code)**

**2. COMMERCIAL DESCRIPTION OF NON-ORIGINATING MATERIALS**

**2.1 Customs classification (H. S. code)**

**3. ANTICIPATED ANNUAL QUANTITY OF EXPORTS TO THE UNION (EXPRESSED IN WEIGHT, N° OF ARTICLES, METERS OR OTHER UNIT)**

**4. VALUE OF FINISHED PRODUCTS**

**5. VALUE OF THE NON-ORIGINATING MATERIALS**

**6. ORIGIN OF NON-ORIGINATING MATERIALS**

**7. REASONS WHY THE RULE OF ORIGIN FOR THE FINISHED PRODUCT CANNOT BE FULFILLED**

**8. DURATION REQUESTED FOR DEROGATION**

From dd/mm/yyyy to dd/mm/yyyy

**9. POSSIBLE DEVELOPMENTS TO OVERCOME THE NEED FOR A DEROGATION**

**10. INFORMATION ABOUT THE COMPANY**

Capital structure of the firm concerned/Amount of investments made or foreseen/Staff employed or expected to be employed

**APPENDIX XI**

**APPLICATION TO BECOME A REGISTERED EXPORTER**

**1. Exporter's name, full address and country (*Non Confidential*)**

**2. Contact details including telephone and fax number as well as e-mail address where available (*Confidential*)**

**3. Description of your activities, specifying whether your main activity is producing or trading (*Non Confidential*) and, where applicable, industrial process (*Confidential*).**

**4. Indicative description of goods which qualify for preferential treatment, including indicative list of Harmonised System four-digit headings (or chapters where goods traded fall within more than twenty Harmonised System headings).**

**5. Undertaking by exporter**

**The undersigned hereby declares that the above details are correct and:**

- certifies not to have had a previous registration withdrawn and, should this be the case, certifies to have remedied the situation which led to such withdrawal;
- undertakes to make out statements on origin only for goods which qualify for preferential treatment and comply with the origin rules specified for those goods in this Annex;
- undertakes to maintain appropriate commercial accounting records for production / supply of goods qualifying for preferential treatment and to keep them for at least three years from the date of making out of the statement on origin;

- undertakes to accept any control on the accuracy of his statements on origin, including verification of accounting records and visits to his premises by the Commission or Member States' authorities;
- undertakes to request his removal from the record of registered exporters should he no longer meet the conditions for exporting any goods under this Decision or no longer intend to export such goods.

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Place, date and signature of authorised signatory; designation and/or title

**6. Prior specific and informed consent of exporter to the publication of his/her personal data on the internet**

The undersigned is hereby informed that the information supplied may be stored on a database of the Commission and that the particulars may be disclosed to the public via the internet, with the exception of the information which is marked in this application as confidential. He accepts the publication and disclosure of this information via the internet. The undersigned may withdraw his consent to the publication of this information via the internet by sending [electronic mail, fax, written correspondence] to the following address:

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Place, date and signature of authorised signatory; designation and/or title

**7. Box for official use by governmental authority**

The applicant is registered under the following number:

Registered Number: \_\_\_\_\_

Date of registration \_\_\_\_\_

**Period of validity from** \_\_\_\_\_

**Signature and stamp** \_\_\_\_\_

*Important remark to the attention of the applicant: Please note that all data marked "non confidential" will be included in a database accessible to the public; data marked "confidential" will be accessible to your competent governmental authorities and competent authorities of the Union and its Member States*

## APPENDIX XII

### STATEMENT ON ORIGIN

To be made out on any commercial documents showing the name and full address of the exporter and consignee as well as a description of the goods and the date of issue (1)

#### *French version*

L'exportateur (Numéro d'exportateur enregistré – excepté lorsque la valeur des produits originaires contenus dans l'envoi est inférieure à EUR 10.000 (2)) des produits couverts par le présent document déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle . . . (3) au sens des règles d'origine de la Décision d'association des pays et territoires d'outre-mer et que le critère d'origine satisfait est ... ..(4)

#### *English version*

The exporter (Number of Registered Exporter – unless the value of the consigned originating products does not exceed EUR 10,000 (2)) of the products covered by this document declares that, except where otherwise clearly indicated, these products are of . . . preferential origin (3) according to rules of origin of the Decision on the association of the overseas countries and territories and that the origin criterion met is ... ..(4)

- 
- (1) Where the statement on origin replaces another statement in accordance with Article 51, this shall be indicated and the date of issue of the original statement shall also always be mentioned.
  - (2) Where the statement on origin replaces another statement, the subsequent holder of the goods establishing such a statement shall indicate his name and full address followed by the mention 'acting on the basis of the statement on origin made out by [name and full address of the exporter in the OCT], registered under the following number [Number of Registered Exporter of the exporter in the OCT]'.
  - (3) Country of origin of products to be indicated. When the statement on origin relates, in whole or in part, to products originating in Ceuta and Melilla within the meaning of Article 67, the exporter must clearly indicate them in the document on which the statement is made out by means of the symbol "CM".
  - (4) Products wholly obtained: enter the letter "P"; Products sufficiently worked or processed: enter the letter "W" followed by the Harmonized Commodity Description and coding System (Harmonised System) heading at the four-digit level of the exported product (example "W" 9618); where appropriate, the above mention shall be replaced with one of the following indications: 'EU cumulation', 'OCT cumulation', 'cumulation with EPA country' 'extended cumulation with country x' or 'Cumul UE', 'cumul OCT', 'cumul avec pays APE', 'cumul étendu avec le pays x'.

**APPENDIX XIII**

**PRODUCTS EXCLUDED FROM CUMULATION PROVISIONS REFERRED TO IN  
ARTICLE 8 UNTIL 1 OCTOBER 2015**

<b>HS/CN-Code</b>	<b>Description</b>
1701	Cane or beet sugar and chemically pure sucrose, in solid form.
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel.
Ex 1704 90 corresponding to 1704 90 99	Sugar confectionery, not containing cocoa (excl. chewing gum; liquorice extract containing more than 10% by weight of sucrose but not containing other added substances; white chocolate; pastes, including marzipan in immediate packings of a net content of 1 kg or more; throat pastilles and cough drops; sugar-coated (panned) goods; gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery; boiled sweets; toffees; caramels and similar sweet; compressed tablets)
Ex 1806 10 corresponding to 1806 10 30	Cocoa powder, containing 65% or more but less than 80% by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose
Ex 1806 10 corresponding to 1806 10 90	Cocoa powder containing 80 % or more by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose
Ex 1806 20 corresponding to 1806 20 95	Food preparations containing cocoa in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg (excl. cocoa powder, preparations containing 18% or more by weight of cocoa butter or containing a combined weight of 25% or more of cocoa butter and milkfat; chocolate milk crumb; chocolate flavour coating; chocolate and chocolate products; sugar confectionery and substitutes thereof made from sugar substitution products, containing cocoa; spreads containing cocoa; preparations containing cocoa for making beverages)
Ex 1901 90 corresponding to 1901 90 99	Food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included, food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included (excl. food preparations containing nor or less than 1.5% milkfat, 5% sucrose (including invert sugar) or isoglucose, 5% glucose or starch; food preparations in powder form of goods of headings 0401 to 0404; preparations for infant use, put up for retail sale; mixes and doughs for the preparation of bakers' wares of heading 1905)
Ex 2101 12 corresponding to 2101 12 98	Products with a basis of coffee (excl. extracts, essences and concentrates of coffee and preparations with a basis of these extracts, essences or concentrates)
Ex 2101 20 corresponding to 2101 20 98	Products with a basis of tea or maté (excl. extracts, essences and concentrates of tea or maté and preparations with a basis of these extracts, essences or concentrates)
Ex 2106 90 corresponding to 2106 90 59	Flavoured or coloured sugar syrups (excl. isoglucose syrups, lactose syrup, glucose syrup and maltodextrine syrup)
Ex 2106 90 corresponding to 2106 90 98	Food preparations not elsewhere specified or included (excl. protein concentrates and textured protein substances; compound alcoholic preparations, other than those based on odoriferous substance, of a kind used for the manufacture of beverages; flavoured or coloured sugar syrups; preparations containing no less than 1.5% milkfat; 5% sucrose or isoglucose, 5% glucose or starch)
Ex3302 10 corresponding to 3302 10 29	Preparations based on odoriferous substances of a kind used as raw materials in the drinks industries containing all flavouring agents characterising a beverage with an actual alcoholic strength by volume not exceeding 0.5% (excl. preparations containing no less than 1.5% milkfat, 5% sucrose or isoglucose, 5 glucose or starch)

## ANNEX VII

### TEMPORARY WITHDRAWAL OF PREFERENCES

#### *Article 1*

##### *Principles concerning the withdrawal of preferences*

1. The preferential arrangements provided for under Article 41 of this Decision may be withdrawn temporarily, in respect of all or of certain products originating in an OCT, in cases of:
  - (a) fraud;
  - (b) irregularities or systematic failure to comply with or to ensure compliance with the rules concerning the origin of the products and with the procedures related thereto;
  - (c) or failure to provide the administrative cooperation referred to in paragraph 2 and Title V of Annex VI as required for the implementation and policing of the arrangements referred to in Articles 41 to 48 of this Decision.
  
2. The administrative cooperation referred to in paragraph 1 requires, inter alia, that an OCT:
  - (a) communicates to the Commission and updates the information necessary for the implementation of the rules of origin and the policing thereof;
  - (b) assist the Union by carrying out, at the request of the customs authorities of the Member States, subsequent verification of the origin of the goods, and communicate its results in time;
  - (c) carry out or arrange for appropriate inquiries to identify and prevent contravention of the rules of origin;
  - (d) assist the Union by allowing the Commission, in coordination and close cooperation with the competent authorities of the Member States, to conduct Union inquiries on its territory, in order to verify the authenticity of documents or the accuracy of information relevant for granting the benefit of the arrangements referred to in Article 41 of this Decision;
  - (e) comply with or ensure compliance with the rules of origin in respect of cumulation, within the meaning of Articles 7 to 10 of Annex VI;
  - (f) assist the Union in the verification of conduct where there is the presumption of origin-related fraud. The existence of fraud may be presumed where imports of products under the preferential arrangements provided for in this Decision massively exceed the usual levels of the beneficiary OCT's exports.

## Article 2

### *Withdrawal of preferential arrangements*

1. The Commission may temporarily withdraw the preferential arrangements provided for in this Decision, in respect of all or of certain products originating in a beneficiary country, where it considers that there is sufficient evidence that a temporary withdrawal would be justified for the reasons referred to in paragraphs 1 and 2 of Article 1 of this Annex, provided that it has first:
  - (a) consulted the Committee referred to in Article 10 of Annex VIII in accordance with the procedure referred to in Article 3 paragraph 2;
  - (b) called on the Member States to take such precautionary measures as are necessary, in order to safeguard the Union's financial interests and/or secure compliance by the beneficiary country with its obligations; and
  - (c) published a notice in the *Official Journal of the European Union* stating that there are grounds for reasonable doubt about the application of the preferential arrangements and/or compliance by the beneficiary country with its obligations, which may call into question its right to continue to enjoy the benefits granted by this Decision.

The Commission shall inform the OCT(s) concerned of any decision taken in accordance with this paragraph, before it becomes effective. The Commission shall also notify the Committee referred to in Article 10 of Annex VIII.

2. The period of temporary withdrawal shall not exceed six months. On conclusion of the period, the Commission shall decide either to terminate the temporary withdrawal after informing the Committee referred to in Article 10 of Annex VIII or to extend the period of temporary withdrawal in accordance with the procedure referred to in paragraph 1 of this Article.
3. Member States shall communicate to the European Commission all relevant information that may justify the withdrawal of preferences or its extension.

## Article 3

### *Committee procedure*

1. For the purpose of the implementation of Article 2, the Commission shall be assisted by the Committee referred to in Article 10 of Annex VIII.
2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## **ANNEX VIII**

### **SAFEGUARD AND SURVEILLANCE PROCEDURES**

#### *Article 1*

##### *Definitions relative to surveillance and safeguard measures*

For the purpose of the Articles 2 to 10 of this Annex relating to surveillance and safeguard measures:

- (a) ‘like product’ means a product which is identical, i.e. alike in all respects, to the product under consideration, or, in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration;
- (b) ‘interested parties’ means those parties involved in the production, distribution and/or sale of the imports mentioned in paragraph 1 and of like or directly competing products;
- (c) ‘serious difficulties’ shall exist where Union producers suffer deterioration in their economic and/or financial situation.

#### *Article 2*

##### *Principles of safeguard measures*

1. Where a product originating in an OCT referred to in Article 41 of this Decision is imported in volumes and/or at prices which cause, or threaten to cause, serious difficulties to Union producers of like or directly competing products, the necessary safeguard measures may be taken in accordance with the paragraphs.
2. For the purpose of implementing paragraph 1, priority shall be given to such measures as would least disturb the functioning of the Association. These measures shall not exceed the limits of what is strictly necessary to remedy the difficulties that have arisen. They cannot exceed the withdrawal of the preferential treatment granted by this Decision.
3. When safeguard measures are taken or modified, particular attention shall be paid to the interests of the OCTs involved.

#### *Article 3*

##### *Initiation of proceedings*

1. The Commission shall investigate whether safeguard measures should be taken if there is sufficient *prima facie* evidence that the conditions of Article 2 of this Annex are met.

2. An investigation shall be initiated upon request by a Member State, by any legal person or any association not having legal personality, acting on behalf of Union producers, or on the Commission's own initiative if it is apparent to the Commission that there is sufficient prima facie evidence, as determined on the basis of factors referred to in Article 2 of this Annex, to justify such initiation. The request to initiate an investigation shall contain evidence that the conditions for imposing the safeguard measure set out in Article 2 of this Annex are met. The request shall be submitted to the Commission. The Commission shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the request to determine whether there is sufficient prima facie evidence to justify the initiation of an investigation.
3. Where it is apparent that there is sufficient prima facie evidence to justify the initiation of a proceeding the Commission shall publish a notice in the Official Journal of the European Union. Initiation shall take place within one month of the request received pursuant to paragraph 2. Should an investigation be initiated, the notice shall provide all necessary details about the procedure and deadlines, including the possibility of recourse to the Hearing Officer of the Directorate General for Trade of the European Commission.
4. The rules and procedures concerning the conduct of the investigation are laid down in Article 4.
5. If the OCT authorities so require and without prejudice to the deadlines referred to in this Article, a trilateral consultation referred to in Article 13 of this Decision shall be organised. The outcome of the trilateral consultation shall be transmitted to the consultative committee.

#### *Article 4*

##### *Investigations*

1. Following the initiation of the proceeding, the Commission shall commence an investigation. The period as set out in paragraph 3 shall start on the day the decision to initiate the investigation is published in the *Official Journal of the European Union*.
2. The Commission may request Member States to supply information and Member States shall take whatever steps are necessary in order to give effect to any such request. If that information is of general interest and is not confidential within the meaning of Article 11 of this Annex, it shall be added to the non-confidential files as provided for in paragraph 8.
3. The investigation shall be concluded within twelve months of its initiation.
4. The Commission shall seek all information it considers necessary to make a determination with regard to the conditions set out in Article 2 of this Annex, and, where it considers it appropriate, endeavour to verify that information.
5. In the investigation the Commission shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of the Union industry, in particular, the market share, changes in the level of sales, production, productivity,

capacity utilisation, profits and losses, and employment. This list is not exhaustive and other relevant factors may also be taken into consideration by the Commission.

6. Interested parties who have come forward within the period laid down in the notice published in the Official Journal of the European Union and representatives of the OCT concerned may, upon written request, inspect all information made available to the Commission in connection with the investigation other than internal documents prepared by the Union authorities or those of the Member States, provided that that information is relevant to the presentation of their case and not confidential within the meaning of Article 11 and that it is used by the Commission in the investigation. Interested parties who have come forward may communicate their views on the information to the Commission. Those views shall be taken into consideration where they are backed by sufficient *prima facie* evidence.
7. The Commission shall ensure that all data and statistics which are used for the investigation are available, comprehensible, transparent and verifiable.
8. The Commission shall hear the interested parties, in particular where they have made a written application within the period laid down in the notice published in the Official Journal of the European Union, showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally. The Commission shall hear such parties on further occasions if there are special reasons for them to be heard again.
9. When information is not supplied within the time limits set by the Commission, or the investigation is significantly impeded, findings may be made on the basis of the facts available. Where the Commission finds that any interested party or third party has supplied it with false or misleading information, it shall disregard that information and may make use of the facts available.
10. The Commission shall notify the OCT concerned in writing of the initiation of an investigation.

## *Article 5*

### *Prior surveillance measures*

1. The products originating in the OCTs referred to in Article 41 of this Decision may be subject to special surveillance.
2. Prior surveillance measures shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 6 of this Annex.
3. Prior surveillance measures shall have a limited period of validity. Unless otherwise provided, they shall cease to be valid at the end of the second six-month period following the first six months after the measures were introduced.
4. The Commission and the competent OCT authorities shall ensure the effectiveness of the surveillance measures by introducing the methods of administrative cooperation set out in Annexes VI and VII.

## Article 6

### *Imposition of provisional safeguard measures*

1. On duly justified grounds of urgency relating to deterioration of the economic and/or financial situation of Union producers which would be difficult to repair, provisional measures may be imposed. Provisional measures shall not apply for more than 200 days. Provisional measures shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 10 of this Annex. In cases of imperative grounds of urgency, the Commission shall adopt immediately applicable provisional safeguard measures in accordance with the procedure referred to in Article 10 of this Annex.
2. Should the provisional safeguard measures be repealed because the investigation shows that the conditions set out in Article 2 of this Annex are not met, any customs duty collected as a result of those provisional measures shall be refunded automatically.

## Article 7

### *Imposition of definitive measures*

1. Where the facts as finally established show that the conditions set out in Article 2 of this Annex are not met, the Commission shall adopt a decision terminating the investigation and proceeding in accordance with the examination procedure referred to in Article 4 of this Annex. The Commission shall make public, with due regard to the protection of confidential information within the meaning of Article 9 of this Annex, a report setting forth its findings and reasoned conclusions reached on all pertinent issues of fact and law.
2. Where the facts as finally established show that the conditions set out in Article 2 of this Annex are met, the Commission shall adopt a decision imposing definitive safeguard measures in accordance with the examination procedure referred to in Article 4. The Commission shall make public, with due regard to the protection of confidential information within the meaning of Article 9 of this Annex, a report containing a summary of the material facts and considerations relevant to the determination, and notify the OCT authorities immediately of the decision to take the necessary safeguard measures

## Article 8

### *Duration and review of safeguard measures*

1. A safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the serious injury and to facilitate adjustment. That period shall not exceed three years, unless it is extended under paragraph 2.
2. The initial period of duration of a safeguard measure may exceptionally be extended by up to two years provided it is determined that the safeguard measure continues to be necessary to prevent or remedy serious difficulties.

3. Any extension pursuant to paragraph 3 shall be preceded by an investigation upon a request by a Member State, by any legal person or any association not having legal personality, acting on behalf of the Union industry, or on the Commission's own initiative if there is sufficient prima facie evidence that safeguard measure continues to be necessary.
4. The initiation of an investigation shall be published in accordance with Article 4 and the safeguard measure shall remain in force, pending the outcome of the investigation. The investigation and any decision regarding an extension pursuant to paragraph 2 shall be done in accordance with the provisions of Article 6 and 7.

### *Article 9*

#### *Confidentiality*

1. Information received pursuant to this Decision shall be used only for the purpose for which it was requested. Neither information of a confidential nature nor any information provided on a confidential basis received pursuant to this Decision shall be disclosed without specific permission from the supplier of such information.
2. Each request for confidentiality shall state the reasons why the information is confidential. However, if the supplier of the information wishes neither to make it public nor to authorise its disclosure in general terms or in the form of a summary, and if it appears that the request for confidentiality is unjustified, the information concerned may be disregarded.
3. Information shall in any case be considered to be confidential if its disclosure is likely to have a significantly adverse effect upon the supplier or the source of such information.
4. Paragraphs 1 to 4 shall not preclude reference by the Union authorities to general information and in particular to reasons on which decisions taken pursuant to this Decision are based. Those authorities shall, however, take into account the legitimate interest of natural and legal persons concerned that their business secrets should not be divulged.

### *Article 10*

#### *Committee procedure*

1. The Commission shall be assisted by the Committee established by Article 4(1) of Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports<sup>99</sup>. That Committee shall be a Committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

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<sup>99</sup> OJ L 84, 31.3.2009, p. 1.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

## LEGISLATIVE FINANCIAL STATEMENT

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities
- 2.4. Estimate of the costs and benefits of the controls

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

## LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Council Decision on the Association of the Overseas Countries and Territories with the European Union (Overseas Association Decision)

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>100</sup>

Title 21 : Development and relations with African, Caribbean and Pacific (ACP) States  
21 04: Environment and sustainable management of natural resources, including energy  
21 05: Human and social development  
21 06: Geographical cooperation with African, Caribbean and Pacific (ACP) States  
21 07: Development cooperation actions and ad-hoc programmes

#### 1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>101</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objectives

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

To promote the economic and social development of the OCTs and to establish close economic relations between them and the European Union as a whole.

To further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

To enhance the OCTs' competitiveness, to strengthen the OCTs' resilience, to reduce their vulnerability and to promote cooperation between them and other partners.

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<sup>100</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.  
<sup>101</sup> As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned initiative*

The objectives shall be to;

- a) help promote EU's values and standards in the wider world;
- b) establish a more reciprocal relationship between EU and OCTs based on mutual interests;
- c) enhance OCTs' competitiveness;
- d) strengthen OCTs' resilience and reduce their economic and environmental vulnerabilities;
- e) promote cooperation of OCTs with third partners;
- f) integrate EU policy agenda priorities;
- g) take into account changes in global trade patterns and EU trade agreements with third partners;

Through the intention to;

- a) promote the economic and social development of the OCTs by establishing close economic relations between them and the European Union as a whole;
- b) support the OCTs' capacities to define and implement policies, strategies, action plans and measures in the areas chosen for cooperation between the parties. Establish a coordinated cooperation in the field of environment, climate change and disaster risk reduction, in support of the OCTs' sustainable development;
- c) promote sustainable resource use and resource efficiency, and to encourage decoupling economic growth from environmental degradation;
- d) support the process of diversification of OCT economies;
- e) contribute to the OCTs' sustainable development and to promote excellence and industrial competitiveness within OCTs, through cooperation between the European Union and OCTs in the field of science, technology, including information and communication technologies, research and innovation;
- f) support OCTs' efforts to converge their local legislation with European Union legislation, where relevant;
- g) strengthen the ties between young people living in the OCTs and the European Union; promote the provision of high quality education and decent work in the OCTs and regions where they are located; and contribute to the strengthening of OCTs' capacity for surveillance, detection and response to outbreaks of communicable diseases;
- h) take into account and contribute to the preservation of the cultural diversity and identity of OCTs;

- i) stimulate the OCTs' effective integration in the regional and world economies and the development of trade in goods and services;
- j) mitigate the effects of the OCTs' remoteness, which constitutes a barrier to the OCTs competitiveness;
- k) support OCT capacities to formulate and implement policies necessary for the development of their trade in goods and services;
- l) support OCTs in creating a favourable investment climate to support their social and economic development;
- m) promote the stability, integrity and transparency of the financial system, and good governance in the tax area;
- n) support the OCTs in the development of innovative and effective means of police and judicial cooperation and in their fight against the trafficking of human beings, terrorism and other forms of organised crime;
- o) support the OCTs' export and trading capacities;
- p) provide possibilities for targeted cooperation and dialogue on trade and trade related areas.

ABM/ABB activity(ies) concerned

Title 21 : Development and relations with African, Caribbean and Pacific (ACP) States

21 04: Environment and sustainable management of natural resources, including energy

21 05: Human and social development

21 06: Geographical cooperation with African, Caribbean and Pacific (ACP) States

21 07: Development cooperation actions and ad-hoc programmes (see point 1.2).

#### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

The expected impact are:

- a) closer economic relations between the OCTs and the EU;
- b) increased OCTs' capacity to define and implement policies, strategies, action plans and measures in the areas chosen for cooperation between the parties;
- c) better resource use and resource efficiency;
- d) further diversification of OCT economies;
- e) increased cooperation in the field of science, technology, including information and communication technologies, research and innovation, as well as environment, climate change and disaster risk reduction;
- f) increased convergence between OCTs and EU legislation;
- g) increased exchanges between EU-OCT young people; improved quality of education and better work conditions in the OCTs; and stronger capacity to deal with outbreaks of communicable diseases;
- h) increased awareness of the cultural diversity and identity of OCTs;
- i) further integration of the OCTs in the regional and world economies;
- j) Improved accessibility of OCTs;
- k) better capacities to formulate and implement policies necessary for the development of trade;
- l) favourable investment climate in the OCTs;
- m) more stable, trustworthy and transparent financial systems in the OCTs;
- n) innovative and effective means of police and judicial cooperation namely in the fight against the trafficking of human beings, terrorism and other forms of organised crime;
- o) increased export and trading capacities;
- p) increased dialogue and targeted cooperation on trade and trade related areas;

#### 1.4.4. *Indicators of results and impact*

*Specify the indicators for monitoring implementation of the proposal/initiative.*

The OAD is a political decision that provides the legislative framework for cooperation between the EU and the OCTs as stipulated in the Treaty.

The OAD will be further complemented by a Commission Implementing Regulation and by programming documents where the strategies for cooperation (focal sector(s)) between the EU and the OCTs and respective financial allocations are jointly agreed upon.

The programming documents and the subsequent Commission Financing Decisions will include the respective indicators to be used in the monitoring of the strategy. The indicators will range from input, output, outcome and impact depending on the specificities of the OCT and the sector of cooperation. In certain cases where the implementing modality for the EU support is budget support, it is not excluded that annual targets are defined and the EU support is disbursed against the levels of performance against the targets.

## **1.5. Grounds for the proposal/initiative**

### *1.5.1. Requirement(s) to be met in the short or long term*

The treaty specifies the need for detailed provisions to be laid down for the association of the OCTs with the EU. The current OAD expires 31 December 2013 and there is a need for a legislative framework to ensure the appropriate support and assistance to be available to the OCTs.

### *1.5.2. Added value of EU involvement*

In view of increasingly complex challenges, none of the EU's internal priorities – security, smart, inclusive and sustainable growth and job creation, climate change, access to energy, resource efficiency, including the protection of biodiversity, safe management of water or waste, health and pandemics, education - will be achieved in isolation from the wider world.

With 27 Member States acting within common policies and strategies, the EU alone has the critical mass to respond to global challenges, such as climate change. The action of individual Member States can be limited and fragmented. This critical mass also puts the EU in a better position to conduct policy dialogue with partner OCT governments.

Through its external action, the EU is committed to promoting its standards, and sharing its expertise. The OCTs have the potential for becoming strategic outposts of the EU throughout the world. Upgrading the OCTs' legislation and standards to EU levels could increase both the influence of the OCTs and subsequently the EU in their respective regions.

### *1.5.3. Lessons learned from similar experiences in the past*

Through the launching of a public consultation a number of general issues was defined, such as the change of focus from poverty reduction in development cooperation, to a more reciprocal relationship. This shift was supported by the OCTs and the Member states in their Joint Position Paper, which, while recognising that the current association framework has made a significant contribution to the economic and social development of the OCTs, there was a need for differentiation of the EU approach towards OCTs from the one towards ACP States and other developing countries. Instead, a reciprocal approach is proposed to take into account the specificities of OCTs, their diversity and vulnerability and based on mutual interests and shared values. The paradigm shift would also have to take into account the political priorities that emerged in OCTs and the EU.

An external evaluation study conducted in 2011 found that in the context of the OCT/EU financial cooperation in the period 1999-2009, the response time of assistance to OCTs funded from the EDF resources, reserved to respond to natural disasters and unforeseen events, had been too long.

The necessity to foster cooperation between OCTs and their neighbouring countries has also been identified as a means to reach efficiency. In this respect, the study highlights that cooperation between the OCTs and their neighbours (third countries, ACP States or outermost regions of the EU) is insufficiently facilitated by the EU, notably because the partners must mobilize different EU funds.

Access to EU programmes and horizontal budget lines has, despite the full eligibility of the OCTs to these programmes, proven difficult to materialise due primarily to lack of administrative capacity in most OCTs either to participate or to submit winner projects. As regards the trade regime, a number of issues were identified in external studies and during stakeholder consultations and/or were flagged by the European Commission. In their overall assessments of the OCT trade regime, OCTs, their Member States as well as external evaluators all agreed that the trade and economic component of the OCT/EU association has contributed to the sustainable social and economic development of OCTs by providing OCTs a secure access to the large EU market and numerous export opportunities, and by supporting local economies. Despite these positive results, external evaluators have pointed out that the wide market access offered to OCTs has not always resulted in actual trade opportunities, as OCTs faced several challenges in effectively exploiting this market access.

Regarding OCT/EU trade and economic cooperation, external studies recommend that the revised OCT/EU association would: review the respective arrangements concerning trade in services and rules of origin; foresee enough support and capacity building for the development of OCT trade related policies as well as to assist OCTs in regulatory reform.

#### *1.5.4. Coherence and possible synergy with other relevant instruments*

The 'Europe 2020' provides the benchmark against which the coherence of EU policies and the promotion of EU values, standards and interest need to be checked. Coherence with the Europe 2020 strategy should be sought as far as its smart growth and sustainable priorities are concerned, promoting support to research, innovation as well as to information and communication technologies (ICT) and sustainable growth capacities as catalysts for socio-economic development.

The 2014-2020 OAD will play an important role in that respect. Indeed, the idea of establishing 'centres of experience and expertise' could relate to the implementation and promotion of high standards, including international standards, e.g. in the fields of environment and food safety and consumer health. The OCTs are all characterised by rich biodiversity. In that context the sustainable use and protection of this biodiversity would benefit from better scientific documentation and access to research results. Likewise, the implementation of international standards within the area of food safety, animal and plant health could facilitate trade between OCTs and their trading partners, including EU Member States. The EU's commitment to environmental standards as well as its role as a global player in the fight against climate change could be of great value to both the EU and the OCTs. The European Commission believes that biodiversity and other natural assets of the OCTs could be

the object of a strengthened cooperation in the field of research and conservation. A partnership in the area of environment could be of mutual interest to both parties.

## 1.6. Duration and financial impact

- Proposal/initiative of **limited duration**
  - Proposal/initiative in effect from 01/01/2014 to 31/12/2020
  - Financial impact from 01/01/2014 to 31/12/2020
  - Proposal/initiative of **unlimited duration**
  - Implementation with a start-up period from YYYY to YYYY,
  - followed by full-scale operation.

## 1.7. Management mode(s) envisaged<sup>102</sup>

- Centralised direct management** by the Commission
- Centralised indirect management** with the delegation of implementation tasks to:
  - executive agencies
  - bodies set up by the Communities<sup>103</sup>
  - national public-sector bodies/bodies with public-service mission
  - persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation
- Shared management** with the Member States
- Decentralised management** with third countries
- Joint management** with international organisations (*to be specified*)

*If more than one management mode is indicated, please provide details in the "Comments" section.*

### Comments

As the OAD is a Framework for the cooperation between the OCTs and the EU the implementing modalities to be foreseen in the financing decisions will be determined on a case by case basis depending on the strategy agreed and on the specificities of the OCT concerned.

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<sup>102</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

<sup>103</sup> As referred to in Article 185 of the Financial Regulation.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

The Overseas Association Decision sets the legislative framework for the association of the OCTs with the EU. It is by nature a text defining the EU external relations with these countries and territories and as such, its implementation cannot be assessed through core indicators. Nevertheless, the strategies of cooperation agreed between the EU and the OCTs to pursue the sustainable development of the OCTs will be subjected to evaluation by the means of input and output indicators defined in the framework of each program.

### 2.2. Management and control system

#### 2.2.1. Risk(s) identified

##### Risk environment

The operational environment of aid under this Decision is characterised by the following risks of not achieving the objectives, suboptimal financial management and/or of not complying with the applicable rules (legality and regularity errors):

- economic/political instability and/or natural disaster may lead to difficulties and delays in the design and implementation of interventions, particularly in fragile states;
- a lack of institutional and administrative capacity in partner countries may lead to difficulties and delays in the design and implementation of interventions;
- geographically dispersed projects and programmes (covering approximately many states/territories/regions) may pose logistical/resource challenges to monitoring - particularly any 'on-the-spot' follow-up of activities;
- diversity of potential partners / beneficiaries with their diverse internal control structures and capacities can fragment and therefore reduce the effectiveness and efficiency of the Commission's available resources to support and monitor implementation;
- poor quality and quantity of available data on the outcomes and impact of external aid / national development plan implementation in partner countries may hinder the Commission's ability to report on and be accountable for results;
- a lack of administrative credits may lead to insufficient resources to properly manage the Decision.

##### Expected level of risk of non-compliance with applicable rules

The compliance objective for the instrument is to maintain the historic level of risk of non-compliance (error rate) for DEVCO portfolio which is a residual 'net' level of error (on a multi-annual basis after all planned controls and corrections have been executed on closed contracts) of less than 2%. This has traditionally implied an estimated error range of 2-5% in

terms of an annual randomised sample of transactions undertaken by the European Court of Auditors for the purposes of the annual Statement of Assurance (DAS). DEVCO considers this to be the lowest risk of non compliance achievable in relation to its high risk environment and taking into account the administrative burden and necessary cost effectiveness of compliance controls.

### 2.2.2. *Control method(s) envisaged*

Directorate General for Development and Cooperation - EuropeAid Internal Control architecture

Directorate General for Development and Cooperation – EuropeAid's internal control / management process is designed to provide reasonable assurance regarding the achievement of objectives in the effectiveness and efficiency of its operations, the reliability of its financial reporting and compliance with the relevant legislative and procedural framework.

Effectiveness and efficiency

To ensure the effectiveness and efficiency of its operations (and to mitigate the high level of risk in its external aid environment), in addition to all the elements of the Commission wide Strategic Policy and Planning process, internal audit environment and other requirements of the Commission's Internal Control Standards, the Commission will continue to have a tailored aid management framework in operation under all its instruments which will include:

- A devolved management of the majority of external aid by EU Delegations in the field;
- Clear and formalised lines of financial accountability (from the Delegated Authorising officer (Director General)) by means of a subdelegation from the Subdelegated Authorising Officer (Director) at HQ to the Head of the EU Delegation;
- Regular reporting from EU Delegations to HQ (External Assistance Management Reports) including an annual Statement of Assurance by the Head of the EU Delegation;
- Provision of a substantial programme of training for staff both at HQ and in the relevant EU Delegations;
- Significant HQ/Delegation support and guidance (including via internet);
- Regular 'verification' visits to 'devolved' delegations every 3 to 6 years;
- A project and programme cycle management methodology including;
- Quality support tools for the design of the intervention, its delivery method, financing mechanism, management system, assessment and selection of any implementing partners, etc;
- Programme and project management, monitoring and reporting tools for effective implementation including regular external on-the-spot monitoring of projects;
- Significant evaluation and audit components;

## Financial Reporting and Accounting

The Commission will continue to pursue the highest standards of accounting and financial reporting using the Commission's accruals based accounting system (ABAC) as well as external aid specific tools such as the Common Relex Information System (CRIS).

In relation to compliance with the relevant legislative and procedural framework, compliance control methods are set out in section 2.2 (measures to prevent fraud and irregularities).

### 2.3. Measures to prevent fraud and irregularities

*Specify existing or envisaged prevention and protection measures.*

- Given the high risk environment in which EuropeAid operates, its systems need to anticipate a significant occurrence of potential compliance errors (irregularities) in transactions and build in a high level of prevention, detection and correction controls as early as possible in the payment process. This means in practice that EuropeAid's compliance controls will place most reliance on significant ex-ante checks on a multi-annual basis by both external auditors and Commission staff in the field before final project payments (while still executing some ex-post audits and checks), going well beyond the financial safeguards required by the Financial Regulation. EuropeAid's compliance framework is made up inter alia of the following significant components:
- Preventative measures;
- Compulsory core training covering fraud issues for aid management staff and auditors;
- Provision of guidance (including via internet) including the Practical Guide to Contracts, the EuropeAid Companion and the Financial Management Toolkit (for implementing partners);
- Ex-ante assessment to ensure that appropriate anti-fraud measures to prevent and detect fraud in the management of EU funds are in place in the authorities managing the relevant funds under joint and decentralised management);
- Ex-ante screening of the anti-fraud mechanisms available in the partner country as part of the assessment of the eligibility criterion of public finance management for receiving budget support (i.e. active commitment to fight fraud and corruption, adequate inspection authorities, sufficient judicial capacity and efficient response and sanction mechanisms);
- The Commission signed the International Aid Transparency Initiative (IATI) in Accra in 2008, agreeing on a standard for aid transparency which ensures more timely, detailed and regular data on aid flows and documents;
- The Commission implements since 14 October 2011 the first phase of the IATI standard for publishing aid information transparency before the next High Level Forum on aid effectiveness in Busan in November 2011. In addition, the Commission will work in cooperation with the EU Member States on a joint web-based IT application called TR-

- AID which transforms the EU aid data provided through the IATI and other sources into user-friendly aid information;
- Detective and corrective measures;
- External audits and verifications (both mandatory and risk based) including the European Court of Auditors;
- Retrospective checks (on a risk basis) and recoveries;
- Suspension of EU funding where there is a serious fraud case, including large scale corruption, until the authorities have taken appropriate action with a view to correcting and preventing such fraud in the future;
- EuropeAid will further devise its anti-fraud strategy in line with the Commission's new anti-fraud strategy (CAFS) adopted on 24 June 2011 in order to ensure inter alia that;
- The Commission's internal anti-fraud related controls are fully aligned with the CAFS;
- The Commission's fraud risk management approach is geared to identify fraud risk areas and adequate responses;
- The systems used for spending EU funds in third countries enable relevant data to be retrieved with a view to feeding this data into fraud risk management (e.g. double funding);
- Where necessary, networking groups and adequate IT tools dedicated to analysing fraud cases related to the external aid sector could be set up.

#### **2.4. Estimate of the costs and benefits of the controls**

For the EuropeAid portfolio as a whole, internal control / management costs total an estimated annual average of €658 million in commitments in the 2014-2020 budget planning. This figure includes the management of the EDF which operates in an integrated way within the management structure of EuropeAid. These 'non operational' costs represent approximately 6.4 % of the estimated annual average of € 10.2 billion planned for the overall (operational + administrative) commitments by EuropeAid on its expenditure portfolio financed by the General Budget of the EU and the European Development Fund for the period 2014-2020.

These management costs take into account all EuropeAid staff at HQ and in Delegations, infrastructure, travel, training, monitoring, evaluation and audit contracts (including those launched by beneficiaries).

EuropeAid plans to reduce the management / operational activities ratio over time under the improved and simplified arrangements of the new instruments, building on changes likely to come in under the revised Financial Regulation. The key benefits of these management costs are realised in terms of meeting policy objectives, efficient and effective use of resources, and the exercise of robust cost-effective preventative measures and other checks to ensure the legal and regular use of funds.

While improvements in the nature and targeting of management activities and compliance checks in relation to the portfolio will continue to be pursued, these costs are globally necessary to effectively and efficiently achieve the objectives of the instruments at a minimal risk of non compliance (below 2% residual error). They are significantly less than risks involved in removing or scaling back internal controls in this high risk area.

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

Nota bene:

The Communication from the Commission to the European Parliament and the Council: "Preparation of the multiannual financial framework regarding the financing of EU cooperation for ACPs and OCTs for the 2014-2020 period (11<sup>th</sup> European Development Fund)" also included the proposed financial allocation for the OCTs under the 11<sup>th</sup> EDF.

For that purpose, a simplified financial statement: "ASSESSMENT OF THE IMPACT OF THE 11<sup>th</sup> EDF ON HEADING V" was prepared (COM(2011) 837 final, Brussels, 7.12.2011).