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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: Agreement in the form of an Exchange of Letters between the European Union and the Swiss Confederation on the cumulation of origin between the European Union, Switzerland, Norway and Turkey in the framework of the Generalised System of Preferences of the European Union

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AGREEMENT  
IN THE FORM OF AN EXCHANGE OF LETTERS  
BETWEEN THE EUROPEAN UNION  
AND THE SWISS CONFEDERATION  
ON THE CUMULATION OF ORIGIN  
BETWEEN THE EUROPEAN UNION,  
SWITZERLAND, NORWAY AND TURKEY  
IN THE FRAMEWORK OF THE GENERALISED SYSTEM  
OF PREFERENCES OF THE EUROPEAN UNION

EL/EU/CH/en 1

A. Letter from the Union

..., ...

[place and date]

Sir/Madam,

1. The European Union ("the Union") and the Swiss Confederation ("Switzerland"), as the Parties to this Agreement, acknowledge that, for the purposes of the Generalised System of Preferences ("GSP"), both Parties apply similar rules of origin with the following general principles:

- (a) definition of the concept of "originating products" based on the same criteria;
- (b) provisions for regional cumulation of origin;
- (c) provisions for applying cumulation to materials which originate, within the meaning of their GSP rules of origin, in the Union, Switzerland, Norway or Turkey;
- (d) provisions for a general tolerance for non-originating materials;
- (e) provisions for non-alteration of products from the beneficiary country;
- (f) provisions for issuing or making out replacement proofs of origin;
- (g) requirement for administrative cooperation with the competent authorities in the beneficiary countries on the matter of proofs of origin.

2. The Union and Switzerland shall recognise that materials originating, within the meaning of their respective GSP rules of origin, in the Union, Switzerland, Norway or Turkey acquire the origin of a beneficiary country of the GSP scheme of either Party if they undergo, in that beneficiary country, a working or processing going beyond the operations considered as insufficient working or processing to confer the status of originating products. This subparagraph shall apply to materials originating in Norway and Turkey, subject to the completion of the conditions laid down respectively in paragraphs 15 and 16.

The customs authorities of the Member States of the Union and of Switzerland shall provide each other with appropriate administrative cooperation, in particular for the purpose of subsequent verification of the proofs of origin in respect of the materials referred to in the first subparagraph. The provisions concerning administrative cooperation laid down in Protocol No 3 to the Agreement of 22 July 1972 between the European Economic Community and the Swiss Confederation are to be applied.

This paragraph shall not apply to products of Chapters 1 to 24 of the Harmonized Commodity Description and Coding System, adopted by the Organization set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950.

3. The Union and Switzerland hereby undertake to accept replacement proofs of origin in the form of replacement certificates of origin Form A ("replacement certificates") issued by the customs authorities of the other Party and replacement statements on origin made out by reconsignors of the other Party, registered for that purpose.

Each Party may assess the eligibility for preferential treatment of products covered by replacement proofs of origin in accordance with its own legislation.

4. Each Party shall provide that the following conditions are respected before issuing or making out a replacement proof of origin:
- (a) replacement proofs of origin may be issued or made out only if the initial proofs of origin were issued or made out in accordance with the legislation applicable in the Union or Switzerland;
  - (b) only where products have not been released for free circulation in a Party, a proof of origin or a replacement proof of origin may be replaced by one or more replacement proofs of origin for the purpose of sending all or some of the products covered by the initial proof of origin from that Party to the other Party;
  - (c) the products shall have remained under customs supervision in the reconsigning Party and shall not have been altered, transformed in any way, or subjected to operations other than those necessary to preserve them in their condition ("principle of non-alteration");
  - (d) where products have acquired originating status under a derogation from the rules of origin granted by a Party, replacement proofs of origin shall not be issued or made out if the products are reconsigned to the other Party;
  - (e) replacement proofs of origin may be issued by the customs authorities or made out by the reconsignors where the products to be reconsigned to the territory of the other Party have acquired originating status through regional cumulation;
  - (f) replacement proofs of origin may be issued by the customs authorities or made out by the reconsignors if the products to be reconsigned to the territory of the other Party are not granted preferential treatment by the reconsigning Party.

5. For the purpose of point (c) of paragraph 4, the following shall apply:
- (a) where there appear to be grounds for doubt as regards compliance with the principle of non-alteration, the customs authorities of the Party of final destination may request the declarant to provide evidence of compliance with that principle, which may be given by any means;
  - (b) upon request by the reconsignor, the customs authorities of the reconsigning Party shall certify that the products have remained under customs supervision during their stay in the territory of that Party and that no authorisation to alter, transform in any way, or subject them to operations other than those necessary to preserve them in their condition was granted by the customs authorities during their storage in the territory of the Party;
  - (c) where the replacement proof is a replacement certificate, the customs authorities of the Party of final destination shall not request a certificate of non-manipulation for the time the products were in the other Party.
6. Each Party shall ensure that:
- (a) where the replacement proofs of origin correspond to the initial proofs of origin issued or made out in a beneficiary country of the GSP scheme of the Union and of that of Switzerland, the customs authorities of the Member States of the Union and of Switzerland shall provide each other with appropriate administrative cooperation for the purpose of subsequent verification of these replacement proofs of origin. At the request of the Party of final destination, the customs authorities of the reconsigning Party shall launch and follow up the procedure of subsequent verification of the corresponding initial proofs of origin;

(b) when the replacement proofs of origin correspond to the initial proofs of origin issued or made out in a country exclusively beneficiary of the GSP scheme of the Party of final destination, that Party shall carry out the procedure of subsequent verification of the initial proofs of origin in cooperation with the beneficiary country. The initial proofs of origin corresponding to the replacement proofs of origin under verification or, where appropriate, copies of the initial proofs of origin corresponding to the replacement proofs of origin under verification shall be provided by the customs authorities of the reconsigning Party to the customs authorities of the Party of final destination in order to allow them to carry out the procedure of subsequent verification.

7. Each Party shall ensure that:

- (a) the top right-hand box of each replacement certificate shall indicate the name of the intermediary country of reconsignment where it is issued;
- (b) box 4 shall contain the words "replacement certificate" or "*certificat de remplacement*", as well as the date of issue of the initial certificate of origin Form A and its serial number;
- (c) the name of the reconsignor shall be given in box 1;
- (d) the name of the final consignee may be given in box 2;
- (e) all particulars of the reconsigned products appearing on the initial certificate shall be transferred to boxes 3 to 9;
- (f) references to the reconsignor's invoice may be given in box 10;

- (g) the customs authority which issued the replacement certificate shall endorse box 11. The responsibility of the authority is confined to the issue of the replacement certificate. The particulars in box 12 concerning the country of origin and the country of final destination shall be taken from the initial certificate of origin Form A. The reconsignor shall sign the certificate of origin in box 12. A reconsignor who signs box 12 in good faith shall not be held responsible for the accuracy of the particulars entered on the initial certificate of origin Form A;
- (h) the customs authority which is requested to issue the replacement certificate shall note on the initial certificate of origin Form A the weights, numbers and nature of the products forwarded and shall indicate thereon the serial numbers of each corresponding replacement certificate. It shall keep the request for the replacement certificate as well as the initial certificate of origin Form A for at least three years;
- (i) replacement certificates of origin shall be drawn up in English or French.

8. Each Party shall provide that:

- (a) the reconsignor shall indicate the following on each replacement statement on origin:
  - (1) all particulars of the reconsigned products taken from the initial proof of origin;
  - (2) the date on which the initial proof of origin was made out;
  - (3) the particulars of the initial proof of origin, including, where appropriate, information about cumulation applied to the goods covered by the statement on origin;



- (4) the name, address and registered exporter number of the reconsignor;
  - (5) the name and address of the consignee in the Union or in Switzerland;
  - (6) the date and place of making out the statement on origin or issuing the certificate of origin;
- (b) each replacement statement on origin shall be marked "Replacement statement" or "*Attestation de remplacement*";
- (c) replacement statements on origin shall be made out by reconsignors registered in the electronic system of self-certification of origin by exporters, namely the Registered Exporter (REX) system, irrespective of the value of the originating products contained in the initial consignment;
- (d) where a proof of origin is replaced, the reconsignor shall indicate the following on the initial proof of origin:
- (1) the date of making out the replacement statement(s) on origin and the quantities of goods covered by the replacement statement(s) on origin;
  - (2) the name and address of the reconsignor;
  - (3) the name and address of the consignee or consignees in the Union or in Switzerland;
- (e) the initial statement on origin shall be marked with the word "Replaced" or "*Remplacé*";

(f) a replacement statement on origin shall be valid for twelve months from the date of its making out;

(g) replacement statements on origin shall be drawn up in English or French.

9. The initial proofs of origin and copies of the replacement proofs of origin shall be kept by the reconsignor for at least three years from the end of the calendar year in which the replacement proofs of origin were issued or made out.

10. The Parties agree to share the costs of the REX system in accordance with the modalities of cooperation to be laid down between the competent authorities of the Parties.

11. Any differences between the Parties arising from the interpretation or application of this Agreement shall be settled solely by bilateral negotiation between the Parties. If the differences could affect the interests of Norway and/or Turkey, they shall be consulted.

12. The Parties may amend this Agreement by mutual agreement in written form at any time. Both Parties shall enter into consultation with respect to possible amendments to this Agreement at the request of one of the Parties. If the amendments could affect the interests of Norway and/or Turkey, they shall be consulted. Such amendments shall enter into force on a mutually agreed date, once both Parties have notified each other of the completion of their respective internal requirements.

13. In the event of serious misgivings as to the proper functioning of this Agreement, either Party may suspend its application provided that the other Party has been notified in writing three months in advance.

14. This Agreement may be terminated by either Party provided that the other Party has been notified in writing three months in advance.

15. The first subparagraph of paragraph 2 shall apply to materials originating in Norway only if the Parties have concluded a similar agreement with Norway and have notified each other of the fulfilment of this condition.

16. The first subparagraph of paragraph 2 shall apply to materials originating in Turkey<sup>1</sup> only if the Parties have concluded a similar agreement with Turkey and have notified each other of the fulfilment of this condition.

17. As from the entry into force of an agreement between Switzerland and Turkey in accordance with the first subparagraph of paragraph 2 of this Agreement, and subject to reciprocity by Turkey, each party may provide that replacement proofs of origin for products incorporating materials originating in Turkey which have been processed under bilateral cumulation in GSP beneficiary countries may be issued or made out in the Parties.

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<sup>1</sup> The Union fulfilled this condition through the publication of the Notice from the Commission pursuant to Article 85 of Regulation (EEC) No 2454/93, implementing the provisions of the Community Customs Code, extending to Turkey the bilateral cumulation system established by that Article (OJ C134, 15.4.2016, p. 1).

18. This Agreement shall enter into force on a mutually agreed date, once the Union and Switzerland have notified each other of the completion of the internal adoption procedures required. From that date, it shall replace the Agreement in the form of an Exchange of Letters between the Community and each of the EFTA countries that grants tariff preferences under the GSP (Norway and Switzerland), providing that goods originating in Norway or Switzerland shall be treated on their arrival on the customs territory of the Community as goods with content of Community origin, signed on 14 December 2000<sup>1</sup>.

I should be obliged if you would confirm that your Government is in agreement with the above.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the European Union and the Swiss Confederation.

Please accept, Sir/Madam, the assurance of my highest consideration.

For the European Union

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<sup>1</sup> OJ L 38, 8.2.2001, p. 25.

B. Letter from the Swiss Confederation

..., ...

[place and date]

Sir/Madam,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

"1. The European Union ("the Union") and the Swiss Confederation ("Switzerland"), as the Parties to this Agreement, acknowledge that, for the purposes of the Generalised System of Preferences ("GSP"), both Parties apply similar rules of origin with the following general principles:

- (a) definition of the concept of "originating products" based on the same criteria;
- (b) provisions for regional cumulation of origin;
- (c) provisions for applying cumulation to materials which originate, within the meaning of their GSP rules of origin, in the Union, Switzerland, Norway or Turkey;
- (d) provisions for a general tolerance for non-originating materials;
- (e) provisions for non-alteration of products from the beneficiary country;
- (f) provisions for issuing or making out replacement proofs of origin;
- (g) requirement for administrative cooperation with the competent authorities in the beneficiary countries on the matter of proofs of origin.

2. The Union and Switzerland shall recognise that materials originating, within the meaning of their respective GSP rules of origin, in the Union, Switzerland, Norway or Turkey acquire the origin of a beneficiary country of the GSP scheme of either Party if they undergo, in that beneficiary country, a working or processing going beyond the operations considered as insufficient working or processing to confer the status of originating products. This subparagraph shall apply to materials originating in Norway and Turkey, subject to the completion of the conditions laid down respectively in paragraphs 15 and 16.

The customs authorities of the Member States of the Union and of Switzerland shall provide each other with appropriate administrative cooperation, in particular for the purpose of subsequent verification of the proofs of origin in respect of the materials referred to in the first subparagraph. The provisions concerning administrative cooperation laid down in Protocol No 3 to the Agreement of 22 July 1972 between the European Economic Community and the Swiss Confederation are to be applied.

This paragraph shall not apply to products of Chapters 1 to 24 of the Harmonized Commodity Description and Coding System, adopted by the Organization set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950.

3. The Union and Switzerland hereby undertake to accept replacement proofs of origin in the form of replacement certificates of origin Form A ("replacement certificates") issued by the customs authorities of the other Party and replacement statements on origin made out by reconsignors of the other Party, registered for that purpose.

Each Party may assess the eligibility for preferential treatment of products covered by replacement proofs of origin in accordance with its own legislation.

4. Each Party shall provide that the following conditions are respected before issuing or making out a replacement proof of origin:
- (a) replacement proofs of origin may be issued or made out only if the initial proofs of origin were issued or made out in accordance with the legislation applicable in the Union or Switzerland;
  - (b) only where products have not been released for free circulation in a Party, a proof of origin or a replacement proof of origin may be replaced by one or more replacement proofs of origin for the purpose of sending all or some of the products covered by the initial proof of origin from that Party to the other Party;
  - (c) the products shall have remained under customs supervision in the reconsigning Party and shall not have been altered, transformed in any way, or subjected to operations other than those necessary to preserve them in their condition ("principle of non-alteration");
  - (d) where products have acquired originating status under a derogation from the rules of origin granted by a Party, replacement proofs of origin shall not be issued or made out if the products are reconsigned to the other Party;
  - (e) replacement proofs of origin may be issued by the customs authorities or made out by the reconsignors where the products to be reconsigned to the territory of the other Party have acquired originating status through regional cumulation;
  - (f) replacement proofs of origin may be issued by the customs authorities or made out by the reconsignors if the products to be reconsigned to the territory of the other Party are not granted preferential treatment by the reconsigning Party.

5. For the purpose of point (c) of paragraph 4, the following shall apply:
  - (a) where there appear to be grounds for doubt as regards compliance with the principle of non-alteration, the customs authorities of the Party of final destination may request the declarant to provide evidence of compliance with that principle, which may be given by any means;
  - (b) upon request by the reconsignor, the customs authorities of the reconsigning Party shall certify that the products have remained under customs supervision during their stay in the territory of that Party and that no authorisation to alter, transform in any way, or subject them to operations other than those necessary to preserve them in their condition was granted by the customs authorities during their storage in the territory of the Party;
  - (c) where the replacement proof is a replacement certificate, the customs authorities of the Party of final destination shall not request a certificate of non-manipulation for the time the products were in the other Party.
6. Each Party shall ensure that:
  - (a) where the replacement proofs of origin correspond to the initial proofs of origin issued or made out in a beneficiary country of the GSP scheme of the Union and of that of Switzerland, the customs authorities of the Member States of the Union and of Switzerland shall provide each other with appropriate administrative cooperation for the purpose of subsequent verification of these replacement proofs of origin. At the request of the Party of final destination, the customs authorities of the reconsigning Party shall launch and follow up the procedure of subsequent verification of the corresponding initial proofs of origin;



- (b) when the replacement proofs of origin correspond to the initial proofs of origin issued or made out in a country exclusively beneficiary of the GSP scheme of the Party of final destination, that Party shall carry out the procedure of subsequent verification of the initial proofs of origin in cooperation with the beneficiary country. The initial proofs of origin corresponding to the replacement proofs of origin under verification or, where appropriate, copies of the initial proofs of origin corresponding to the replacement proofs of origin under verification shall be provided by the customs authorities of the reconsigning Party to the customs authorities of the Party of final destination in order to allow them to carry out the procedure of subsequent verification.

7. Each Party shall ensure that:

- (a) the top right-hand box of each replacement certificate shall indicate the name of the intermediary country of reconsignment where it is issued;
- (b) box 4 shall contain the words "replacement certificate" or "*certificat de remplacement*", as well as the date of issue of the initial certificate of origin Form A and its serial number;
- (c) the name of the reconsignor shall be given in box 1;
- (d) the name of the final consignee may be given in box 2;
- (e) all particulars of the reconsigned products appearing on the initial certificate shall be transferred to boxes 3 to 9;
- (f) references to the reconsignor's invoice may be given in box 10;

- (g) the customs authority which issued the replacement certificate shall endorse box 11. The responsibility of the authority is confined to the issue of the replacement certificate. The particulars in box 12 concerning the country of origin and the country of final destination shall be taken from the initial certificate of origin Form A. The reconsignor shall sign the certificate of origin in box 12. A reconsignor who signs box 12 in good faith shall not be held responsible for the accuracy of the particulars entered on the initial certificate of origin Form A;
  - (h) the customs authority which is requested to issue the replacement certificate shall note on the initial certificate of origin Form A the weights, numbers and nature of the products forwarded and shall indicate thereon the serial numbers of each corresponding replacement certificate. It shall keep the request for the replacement certificate as well as the initial certificate of origin Form A for at least three years.
  - (i) replacement certificates of origin shall be drawn up in English or French.
8. Each Party shall provide that:
- (a) the reconsignor shall indicate the following on each replacement statement on origin:
    - (1) all particulars of the reconsigned products taken from the initial proof of origin;
    - (2) the date on which the initial proof of origin was made out;
    - (3) the particulars of the initial proof of origin, including, where appropriate, information about cumulation applied to the goods covered by the statement on origin;

- (4) the name, address and registered exporter number of the reconsignor;
  - (5) the name and address of the consignee in the Union or in Switzerland;
  - (6) the date and place of making out the statement on origin or issuing the certificate of origin;
- (b) each replacement statement on origin shall be marked "Replacement statement" or "*Attestation de remplacement*";
- (c) replacement statements on origin shall be made out by reconsignors registered in the electronic system of self-certification of origin by exporters, namely the Registered Exporter (REX) system, irrespective of the value of the originating products contained in the initial consignment;
- (d) where a proof of origin is replaced, the reconsignor shall indicate the following on the initial proof of origin:
- (1) the date of making out the replacement statement(s) on origin and the quantities of goods covered by the replacement statement(s) on origin;
  - (2) the name and address of the reconsignor;
  - (3) the name and address of the consignee or consignees in the Union or in Switzerland;
- (e) the initial statement on origin shall be marked with the word "Replaced" or "*Remplacé*";

- (f) a replacement statement on origin shall be valid for twelve months from the date of its making out;
- (g) replacement statements on origin shall be drawn up in English or French.

9. The initial proofs of origin and copies of the replacement proofs of origin shall be kept by the reconsignor for at least three years from the end of the calendar year in which the replacement proofs of origin were issued or made out.

10. The Parties agree to share the costs of the REX system in accordance with the modalities of cooperation to be laid down between the competent authorities of the Parties.

11. Any differences between the Parties arising from the interpretation or application of this Agreement shall be settled solely by bilateral negotiation between the Parties. If the differences could affect the interests of Norway and/or Turkey, they shall be consulted.

12. The Parties may amend this Agreement by mutual agreement in written form at any time. Both Parties shall enter into consultation with respect to possible amendments to this Agreement at the request of one of the Parties. If the amendments could affect the interests of Norway and/or Turkey, they shall be consulted. Such amendments shall enter into force on a mutually agreed date, once both Parties have notified each other of the completion of their respective internal requirements.

13. In the event of serious misgivings as to the proper functioning of this Agreement, either Party may suspend its application provided that the other Party has been notified in writing three months in advance.

14. This Agreement may be terminated by either Party provided that the other Party has been notified in writing three months in advance.
15. The first subparagraph of paragraph 2 shall apply to materials originating in Norway only if the Parties have concluded a similar agreement with Norway and have notified each other of the fulfilment of this condition.
16. The first subparagraph of paragraph 2 shall apply to materials originating in Turkey<sup>1</sup> only if the Parties have concluded a similar agreement with Turkey and have notified each other of the fulfilment of this condition.
17. As from the entry into force of an agreement between Switzerland and Turkey in accordance with the first subparagraph of paragraph 2 of this Agreement, and subject to reciprocity by Turkey, each party may provide that replacement proofs of origin for products incorporating materials originating in Turkey which have been processed under bilateral cumulation in GSP beneficiary countries may be issued or made out in the Parties.

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<sup>1</sup> The Union fulfilled this condition through the publication of the Notice from the Commission pursuant to Article 85 of Regulation (EEC) No 2454/93, implementing the provisions of the Community Customs Code, extending to Turkey the bilateral cumulation system established by that Article (OJ C134, 15.4.2016, p. 1).

18. This Agreement shall enter into force on a mutually agreed date, once the Union and Switzerland have notified each other of the completion of the internal adoption procedures required. From that date, it shall replace the Agreement in the form of an Exchange of Letters between the Community and each of the EFTA countries that grants tariff preferences under the GSP (Norway and Switzerland), providing that goods originating in Norway or Switzerland shall be treated on their arrival on the customs territory of the Community as goods with content of Community origin, signed on 14 December 2000<sup>1</sup>.

I should be obliged if you would confirm that your Government is in agreement with the above.

I have the honour to propose that, if the above is acceptable to your Government, this letter and your confirmation shall together constitute an Agreement between the European Union and the Swiss Confederation."

I am able to inform you that my Government is in agreement with the contents of your letter.

Please accept, sir/Madam, the assurance of my highest consideration.

For the Swiss Confederation

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<sup>1</sup> OJ L 38, 8.2.2001, p. 25.