



Council of the
European Union

Brussels, 4 July 2018
(OR. en)

Interinstitutional File:
2018/0280 (NLE)

10830/18
ADD 1

COEST 144
WTO 177
UD 151
ENFOCUSTOM 149

PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 3 July 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2018) 510 final - ANNEX

Subject: ANNEX to the Proposal for a Council Decision on the position to be taken
on behalf of the European Union in the Customs Sub-Committee
established by the Association Agreement between the European Union
and its Member States, of the one part, and Ukraine, of the other part, as
regards the replacement of Protocol I to that Agreement, concerning the
definition of the concept of 'originating products' and methods of
administrative cooperation, by a new protocol which refers to the Regional
Convention on pan-Euro-Mediterranean preferential rules of origin

Delegations will find attached document COM(2018) 510 final - ANNEX.

Encl.: COM(2018) 510 final - ANNEX



Brussels, 3.7.2018
COM(2018) 510 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the Customs Sub-Committee established by the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, as regards the replacement of Protocol I to that Agreement, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, by a new protocol which refers to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin

ANNEX

Draft
DECISION No.../2018 OF THE EU-UKRAINE CUSTOMS SUB-COMMITTEE
of ...
replacing Protocol I to the EU-Ukraine Association Agreement, concerning the
definition of the concept of 'originating products' and methods of administrative
cooperation

THE EU-UKRAINE CUSTOMS SUB-COMMITTEE,

Having regard to the Association Agreement between the European Union, of the one part, and Ukraine, of the other part¹, and in particular Article 26(2) thereof,

Having regard to Protocol I to the Association Agreement between the European Union, of the one part, and Ukraine, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation,

Whereas:

- (1) Article 26(2) of the Association Agreement between the European Union, of the one part, and Ukraine, of the other part ('the Agreement'), refers to Protocol I to the Agreement ('Protocol I') for the rules of origin.
- (2) The Agreement entered into force on 1 September 2017.
- (3) Article 39 of Protocol I provides that the Customs Sub-Committee established under Article 83 of Chapter 5 of Title IV of the Agreement may decide to amend the provisions of that Protocol and replace the rules of origin set out in that Protocol.
- (4) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin² ('the Convention') aims to replace the protocols on rules of origin currently in force in the countries of the pan-Euro-Mediterranean area with a single legal act.
- (5) The Union signed the Convention on 15 June 2011. On 16 May 2017, the Joint Committee established under Article 3(1) of the Convention decided that Ukraine should be invited to accede to the Convention³.
- (6) The Union deposited its instrument of acceptance with the depositary of the Convention on 26 March 2012. Ukraine deposited its instrument of acceptance with the depositary of the Convention on 19 December 2017. As a consequence, in application of its Article 10(2) and 10(3), the Convention entered into force in relation to the Union on 1 May 2012 and in relation to Ukraine on 1 February 2018.
- (7) Protocol I should therefore be replaced by a new protocol which refers to the Convention,

¹ OJ L 161, 29.5.2014, p.3.

² OJ L 54, 26.2.2013, p. 4.

³ Decision No 1/2017 of the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin of 16 May 2017 as regards the request of Ukraine to become a Contracting Party to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin [2017/1367] (OJ L 191, 22.07.2017, p. 11).

HAS ADOPTED THIS DECISION:

Article 1

Protocol I to the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation shall be replaced by the text set out in the Annex to this Decision.

Article 2

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

Article 3

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

It shall apply from ...

Done at ...,

*For the EU-Ukraine
Customs Sub-Committee
The Chairman*

ANNEX

Protocol I

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

Article 1

Applicable rules of origin

1. For the purpose of implementing this Agreement, Appendix I and the relevant provisions of Appendix II to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin⁴ ('the Convention') shall apply.
2. All references to the 'relevant agreement' in Appendix I and in the relevant provisions of Appendix II to the Convention shall be construed so as to mean this Agreement.

Article 2

Dispute settlement

1. Where disputes arise in relation to the verification procedures of Article 32 of Appendix I to the Convention that cannot be settled between the customs authorities requesting the verification and the customs authorities responsible for carrying out that verification, they shall be submitted to the Customs Sub-Committee. The provisions on the dispute settlement mechanism in Chapter 14 (Dispute Settlement) of Title IV (Trade and Trade-related Matters) of this Agreement shall not apply.
2. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall take place under the legislation of that country.

Article 3

Amendments to the Protocol

The Customs Sub-Committee may decide to amend the provisions of this Protocol.

Article 4

Withdrawal from the Convention

1. Should either the European Union or Ukraine give notice in writing to the depositary of the Convention of their intention to withdraw from the Convention according to Article 9 thereof, the European Union and Ukraine shall immediately enter into negotiations on rules of origin for the purpose of implementing this Agreement.
2. Until the entry into force of such newly negotiated rules of origin, the rules of origin contained in Appendix I and, where appropriate, the relevant provisions of Appendix II to the Convention, applicable at the moment of withdrawal, shall continue to apply to this Agreement. However, as of the moment of withdrawal, the rules of origin contained in

⁴ OJ L 54, 26.2.2013, p. 4.

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

Article 5

Transitional provisions – cumulation

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