Version: 09.07.2019

EUROPEAN UNION-MERCOSUR

PROTOCOL[1] ON RULES OF ORIGIN

[1] Negotatiors' note: Chapter or Protocol depending on the legal scrubbing.

SECTION A

RULES OF ORIGIN

Article 1

Definitions

For the purposes of this Protocol:

a) "classified" refers to the classification of a product or material under a particular Section, Chapter, heading or subheading of the Harmonised System;

b) "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 a document, by a single invoice;

c) “customs authority or competent governmental authority” refers to:

- in the European Union, to the services of the European Commission responsible for customs matters and the customs administrations and any other authorities responsible in the Member States of the Union for the application and enforcement of customs legislation;

- in Mercosur to the competent authorities or their successors: Argentina: Ministerio de Producción y Trabajo, Secretaria de Comercio Exterior; Brasil: Ministério da Economia, Secretaria Especial de Comércio Exterior e Assuntos Internacionais, Secretaria Especial da Receita Federal do Brasil; Paraguay: Ministerio de Industria y Comercio, Viceministerio de Comercio; Uruguay: Ministerio de Economía y Finanzas, Asesoría de Política Comercial;

d) "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 product;

e) "goods" means both materials and products;

f) "manufacture" means any kind of working or processing, including assembly or specific operations;

g) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

h) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;

Article 2

General requirements

1. For the purpose of implementing this Agreement, the following products shall be considered as originating in the European Union:

(a) products wholly obtained in the European Union within the meaning of Article 4;

(b) products obtained in the European Union exclusively from originating materials;

(c) products obtained in the European Union incorporating non-originating materials provided they have fulfilled the conditions set out in Annex II (Product Specific Rules)

and when those products satisfy all other applicable requirements of this Protocol.

2. For the purpose of implementing this Agreement, the following products shall be considered as originating in Mercosur:

(a) products wholly obtained in Mercosur within the meaning of Article 4;

(b) products obtained in Mercosur exclusively from originating materials;

(c) products obtained in Mercosur incorporating non-originating materials provided they have fulfilled the conditions set out in Annex II (Product Specific Rules)

and when those products satisfy all other applicable requirements of this Protocol.

3. When a product has acquired originating status, the non-originating materials used in the manufacture of the product shall not be considered non-originating when that product is incorporated as material in another product.

Article 3

Bilateral cumulation of origin

1. Goods originating in the European Union shall be considered as goods originating in Mercosur when incorporated into a product obtained there, provided they have undergone working or processing going beyond the operations referred to in Article 6.

2. Goods originating in Mercosur shall be considered as goods originating in the European Union when incorporated into a product obtained there, provided they have undergone working or processing going beyond the operations referred to in Article 6.

Article 4

Wholly obtained products

1. The following shall be considered as wholly obtained products either in the European Union or in Mercosur:

(a) mineral products and other natural substances extracted from their soil or from their 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, molluscs and other aquatic invertebrates are born and raised there;

(h) products of fishing and other products taken from the sea by their vessels[2];

(i) products made aboard their factory ships exclusively from products referred to in subparagraph (h);

(j) mineral products and other non-living natural resources, taken or extracted from the seabed, subsoil, or ocean floor of:

(i) the Exclusive Economic Zone of Member States of Mercosur or of Member States of the European Union, as determined by domestic law and consistent with Part V of the United Nations Convention on the Law of the Sea, ("UNCLOS");

(ii) the Continental Shelf of Member States of Mercosur or of Member States the of the European Union, as determined by domestic law and consistent with Part VI of UNCLOS; or

(iii) the Area, as defined in Article 1(1) of UNCLOS,

where a Party or a person of a Party has exclusive exploitation rights, consistent with Part XI of UNCLOS and the Agreement relating to the implementation of Part XI of UNCLOS.

[2] This subparagraph is without prejudice to the sovereign rights and obligations of the Parties [EU: under] [MCS: in accordance with] UNCLOS [EU: in particular with respect to] [MCS: within:] the Exclusive Economic Zone and Continental Shelf. Negotiators'' note: for legal scrubbing.

(k) used articles collected there fit only for the recovery of raw materials,

(l) waste and scrap resulting from manufacturing operations conducted there[3];

(m) goods produced there exclusively from the products specified in subparagraphs (a) to (l).

2. The terms "their vessels" and "their factory ships" in subparagraphs 1(h) and (i) shall apply only to vessels and factory ships:

(a) which are registered in a Member State of the European Union or in Mercosur and, where appropriate, have fishing licences issued by a Member State of Mercosur or the European Union in the name of fishing companies duly registered to operate in that Member State; and

(b) which sail under the flag of the same registering Member State of the European Union or of Mercosur[4]; and

(c) which meet one of the following conditions:

(i) they are at least 50% owned by one or more natural persons[5] of the Parties; or

(ii) they are owned by juridical persons[6]:

(A) which have their head office and their main place of business in a Party, and

(B) in which at least 50 per cent of the ownership belongs to natural persons or juridical persons of the Parties; or

(iii) at least a minimum of two thirds of the crew are natural persons of the Parties.

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[3] Provisions of letters (k) and (l) are without prejudice to national legislation regarding the import of the goods mentioned therein.

[4] Products of fishing or other products taken from the sea by chartered vessels sailing under the flag of the Member States of Mercosur or the EU are considered originating in the Member State of Mercosur or of the European Union in which the fishing licences are issued provided that they fulfil also the other criteria in this paragraph.

[5] For the purpose of this Article the definition of Article 2 of Chapter on Services applies. Cross scrubbing with Chapter on Services definitions

[6] For the purpose of this Article the definition of Article 2 of Chapter on Services applies. Cross scrubbing with Chapter on Services definitions

Article 5

Tolerances

1. If a non-originating material used in the manufacture of a product does not satisfy the requirements set out in Annex I (*Product Specific Rules*), the product shall be considered as originating in a Party provided that:

(a) their total value of non-originating material used does not exceed 10 per cent of the ex-works price of the product; and

(b) any of the percentages given in the list for the maximum value or weight of non-originating materials are not exceeded through the application of this paragraph.

2. Paragraph 1 shall not apply to products falling within Chapters 50 to 63 of the Harmonised System, for which tolerances stipulated in Notes 6 and 7 of Annex I (*Introductory Notes*) shall apply.

Article 6

Insufficient working or processing operations

1. Notwithstanding paragraph 1 (c) and paragraph 2 (c) of Article 2, a product shall not be considered originating in a Party if the manufacture of the product consists only of the following operations conducted on non-originating materials in a Party.

(a) preserving operations to ensure that the products remain in good condition during transport and storage;

(b) changes of packaging and breaking-up and assembly of packages;

(c) washing, cleaning, the removal of dust, oxide, oil, paint or other coverings;

(d) ironing or pressing of textiles;

(e) simple painting and polishing operations;

(f) husking, partial or total bleaching, 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, separating 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 similar 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 assembly of non-originating parts to constitute a complete product or disassembly of products into parts;

(o) simple addition of water or dilution or dehydration or denaturation of products;

(p) a combination of two or more operations specified in subparagraphs (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.

Article 7

Unit of qualification

The unit of qualification for the application of the provisions of this Protocol shall be the particular product as classified in accordance with the nomenclature of the Harmonised System.

Accordingly, it follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification; and

(b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Protocol.

Article 8

Packaging materials, packing materials and containers

1. 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.

2. Packing materials and containers for shipment that are used to protect products during transportation shall be disregarded in determining the origin of that product.

Article 9

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 price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 10

Accounting segregation

1. Where fungible originating and non-originating materials are used in the manufacture of a product, those materials shall be physically segregated, according to their origin, during storage.

2. However, physical segregation of fungible originating and non-originating materials is not needed in the manufacture of a product, when the origin of the products is determined pursuant to the so-called “accounting segregation” method for managing stocks.

3. This method is recorded and applied in accordance with the generally accepted accounting principles applicable in the Party where the product is manufactured.

4. The accounting segregation method may be used only if it can be ensured that, at any time, no more products receive originating status than would be the case if the materials had been physically segregated.

5. A Party may require that the application of the accounting segregation method referred to in paragraph 2 is subject to a prior authorisation by their customs authorities. The customs authorities may grant the authorisation subject to any conditions deemed appropriate and, in that case, they shall monitor the use of the authorisation and may withdraw it at any time whenever the beneficiary of the authorization makes improper use of it in any manner or fails to fulfil any of the other conditions laid down in this Protocol.

Article 11

Sets

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

Article 12

Neutral elements

In order to determine whether a product originates, it shall not be necessary to determine 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) goods which do not enter and which are not intended to enter into the final composition of the product.

Article 13

Principle of territoriality

1. The conditions set out in this Protocol relating to the acquisition of originating status shall be fulfilled without interruption in the European Union or Mercosur.

2. If originating goods exported from the European Union or Mercosur to another country return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the goods returned are the same as those exported; and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 14

Transport conditions

1. The products declared for importation in a Party shall be the same products as exported from the other Party in which they are considered originating. They shall not

have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition or other than adding or affixing marks, labels, seals or any other distinguishing signs, to ensure compliance with specific domestic requirements of the importing country, prior to being declared for import.

2. 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(ies) of transit.

3. Compliance with the paragraphs 1 and 2 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, factual or concrete evidence based on marking, numbering of packages or any evidence related to the goods themselves.

Article 15

Exhibitions

1. Originating products, sent for exhibition in a country other than the European Union or Mercosur and sold after the exhibition for importation in the European Union or Mercosur shall benefit on importation from the provisions of the Agreement provided it is shown to the satisfaction of the customs authorities of the importing country that:

(a) an exporter has consigned these products from the European Union or Mercosur 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 European Union or Mercosur;

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A statement on origin must be made out in accordance with the provisions of Section B and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition shall be indicated thereon.

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.

SECTION B

ORIGIN PROCEDURES

Article 16

General requirements

Products originating in the European Union shall, on importation into Mercosur and products originating in Mercosur shall, on importation into the European Union benefit from this Agreement upon submission, as required by and in accordance with the procedures applicable in that Party, of a statement on origin made out in accordance with Article 17.[7]

Article 17

Conditions for making out a statement on origin

1. A statement on origin as referred to in Article 16 may be made out:

(a) by an exporter in accordance with the relevant legislation of the Party of export, or

(b) by any exporter for any small consignment consisting of one or more packages containing originating products whose total value does not exceed the threshold stipulated in the relevant legislation of the Party of export.

2. With regard to the relevant legislation referred to in paragraph 1, Parties agree to exchange information at the time of the entry into force of this Agreement, when there are any subsequent modifications, or upon request of either Party after the entry into force of this Agreement.

3. A statement on origin may be made out if the products concerned can be considered as products originating in the European Union or Mercosur and fulfil the other requirements of this Protocol.

4. The exporter making out a statement on origin shall be prepared to submit at any time, at the request of the customs authorities or competent governmental authorities of the Party of export, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

5. A statement on origin shall be made out by the exporter on the invoice, the delivery note or another commercial document that describes the originating product in sufficient detail to enable its identification using one of the linguistic versions as set out in Annex III and in accordance with the provisions of the domestic law of the Party of export.

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[7] A certificate of origin will be valid in accordance with the transitional measures contained in Annex IV of this Protocol, for the period specified therein.

6. A statement on origin shall bear the original signature of the exporter in manuscript unless otherwise provided in the relevant legislation of the Party of export.

7. A statement on origin 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 Party of import no longer than two years after the importation of the products to which it relates.

Article 18

Validity of a statement on origin

1. A statement on origin shall be valid for 12 months from the date it was made out by the exporter, and shall be submitted within the said period to the customs authorities of the Party of import.

2. Statements on origin which are submitted to the customs authorities of the Party of import 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 the other cases of belated presentation, the customs authorities of the Party of import may accept the proofs of origin where the products have been submitted before the said final date.

Article 19

Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the Party of import, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System classified within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 20

Exemptions from a statement on 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 statement on origin, provided that such products are not imported by way of trade, have been declared as meeting the requirements of this Protocol 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 the values stipulated in the respective legislation of the Party of import. The Parties shall exchange information on those values.

Article 21

Supporting documents

The documents referred to in Article 17(4) used for the purpose of proving that products covered by a statement on origin can be considered as products originating in the European Union or in Mercosur and fulfil the other requirements of this Protocol 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 book-keeping;

(b) documents proving the originating status of materials used, issued or made out in the European Union or Mercosur where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in the European Union or Mercosur, issued or made out in the European Union or Mercosur, where these documents are used in accordance with domestic law;

(d) a statement on origin proving the originating status of materials used, made out in the European Union or Mercosur in accordance with this Protocol.

Article 22

Record keeping requirements

The exporter making out a statement on origin shall keep for at least three years a copy of this statement on origin as well as the documents referred to in Article 17(4).

Article 23

Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the statement on 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, because of that fact, render the statement on origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors on a statement on 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.

Article 24

Cooperation between customs authorities and competent governmental authorities

1. The customs authorities or competent governmental authorities of the Member States of the European Union and of the Member States of Mercosur shall provide each other, by communication between the European Commission and the Secretariat of Mercosur with the addresses of the customs or competent governmental authorities responsible for verifying statements on origin.

2. In order to ensure the proper application of this Protocol, the European Union and Mercosur shall assist each other, through the competent administrations, in checking the authenticity of the statement on origin and the correctness of the information given in these documents.

3. To prevent, investigate and combat breaches in customs legislation, the Protocol on Mutual Administrative Assistance in Customs Matters agreed between the European Union and Mercosur provides for cooperation between customs or competent governmental authorities, including the presence of duly authorised officials of one Party in the territory of the other, subject to the agreement and the appropriate conditions laid down by the Party in whose territory the assistance is being given.

Article 25

Verification of statements on origin

1. Subsequent verifications of statements on origin shall be carried out at random or whenever the customs authorities or competent governmental authorities of the Party of import 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 Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities or competent governmental authorities of the Party of import shall return the statement on origin, or a copy, to the customs authorities or competent governmental authorities of the Party of export giving the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the statement on origin is incorrect shall be forwarded in support of the request for verification.

3. The request for verification, and the subsequent reply, shall be submitted in an official language of the customs authority or competent governmental authority of the Party of import requesting the verification, in a language acceptable to that Party or in accordance with Article 5(3) of the Protocol on Mutual Administrative Assistance in Customs Matters agreed between the European Union and Mercosur.

4. The verification shall be carried out by the customs authorities or competent governmental authorities of the Party of export. For this purpose, they shall have the right to call for any evidence and to carry out any inspections of the exporter's accounts or any other check considered appropriate.

5. If the customs authorities or competent governmental authorities of the Party of import 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.

Any suspension of preferential treatment shall be terminated as soon as possible after the Party of import has determined the origin of the products.

6. The customs authorities or competent governmental authorities of the Party of import requesting the verification shall be informed of the results of this verification as soon as possible. The Party of export shall provide to the customs authorities or competent governmental authorities of the Party of import requesting the verification, the following information:

(i) the results of the verification;

(ii) the description of the product subject to verification and the tariff classification relevant to the application of the rule of origin;

(iii) a description and explanation of the production sufficient to support the rationale concerning the originating status of the product;

(iv) information on the manner in which the verification was conducted; and

(v) where appropriate, supporting documentation.

7. If 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 origin of the products, the requesting customs authorities or competent governmental authorities shall, except in exceptional circumstances, refuse entitlement to the preferences to the products covered by the statement on origin. The period of ten months may be extended by mutual agreement between the Parties taking into account the number of the verification requests and the complexity of the verifications.

8. The customs authorities or competent governmental authorities of the Party of import requesting the verification shall notify upon request of the customs authorities or competent government authorities of the Party of export about their decision on the verification process.

Article 26

Consultations

1. Where in relation to the verification procedures of Article 25 the customs authority or competent government authority of the Party of import intends to make a determination of origin that is not consistent with the reply in accordance with Article

25(6) provided by the customs authority or competent governmental authority of the Party of export, the Party of import shall notify this intention to the Party of export within 60 days of receiving the reply in accordance with Article 25(6).

2. At the request of either Party, the Parties shall hold consultations within 90 days or within an agreed period of time from the date of the notification referred to in paragraph 1, with a view to resolving those differences. The period for consultation may be extended on a case by case basis by mutual written agreement between the Parties.

3. If there are differences in relation to the verification procedures which cannot be settled between the customs authorities or competent governmental authorities of the Party of import requesting a verification and the customs authorities or competent governmental authorities of the Party of export responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Special Committee on Customs, Trade Facilitation and Rules of Origin.

4. The customs authorities or competent governmental authorities of the Party of import requesting a verification may make its determination on origin after consultations in the Special Committee on Customs, Trade Facilitation and Rules of Origin and only on the basis of sufficient justification after having granted the importer the right to be heard. This determination shall be notified to the Party of export.

5. Nothing in this Article affects the procedures or the rights of the Parties under Chapter XXX (Dispute Settlement).

6. In all cases the settlement of disputes between the importer and the customs or competent governmental authorities of the Party of import shall be under the legislation of the said country.

Article 27

Administrative measures and sanctions

In accordance with each Party's laws and regulations, administrative measures and sanctions 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 C

FINAL PROVISIONS

Article 28

Ceuta and Melilla

1. For the purpose of this Chapter, in the case of the Union, the term "Party" does not include Ceuta and Melilla.

2. Products originating in Mercosur, when imported into Ceuta or Melilla shall in all respects be subject to the same customs treatment under this Agreement as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. Mercosur shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs treatment as that which is granted to products imported from and originating in the European Union.

3. The rules of origin and origin procedures under this Protocol shall apply *mutatis mutandis* to products exported from Mercosur to Ceuta and Melilla and to products exported from Ceuta and Melilla to Mercosur.

4. Ceuta and Melilla shall be considered as a single territory.

5. The exporter or his authorized representative shall enter “Mercosur” and “Ceuta and Melilla” in field 2 of the text of the statement on origin, depending on the origin of the product.

6. The Spanish customs authorities shall be responsible for the application and implementation of this Protocol in Ceuta and Melilla.

Article 29

Amendments to the Protocol

The [relevant body dealing with trade matters] may decide to amend the provisions of this Protocol.

Article 30

Special Committee on Customs, Trade Facilitation and Rules of Origin

1. The Special Committee on Customs, Trade Facilitation and Rules of Origin established pursuant to Article XX (hereinafter referred to in this Protocol as the "Committee") shall be responsible for the effective implementation and operation of this Protocol, in addition to the other responsibilities specified in Article XX.

2. For the purposes of this Protocol, the Committee shall have the following functions:

(a) reviewing and making appropriate recommendations, as necessary, to the [Joint Committee] on:

(i) the implementation and operation of this Protocol; and

(ii) any amendments of the provisions of this Protocol proposed by a Party, including product specific rules of origin in view to further facilitating trade between the Parties, taking into account, for example, changes to the Harmonized System and technological developments.

(b) adopting explanatory notes to facilitate the implementation of the provisions of this Protocol;

(c) considering any other matter related to this Protocol as the Parties may agree.

Article 31

Goods in transit or storage

The provisions of this Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of this Agreement are either in transit or are in the European Union or in Mercosur, in temporary storage in bonded warehouse or in free zones, subject to the submission to the customs authorities of the importing country, within six months of the said date, of a statement on origin and where appropriate with the documents showing that the goods comply with Article 14.

Article 32

Explanatory Notes

The Parties shall agree as appropriate, "Explanatory Notes" regarding the interpretation, application and administration of this Annex within the Special Committee on Customs, Trade Facilitation and Rules of Origin.

Article 33

Products exported under Tariff Rate Quotas granted by the EU shall be accompanied by an official document issued by the Party the model of which should be communicated by Mercosur no later than the entry into force of this Agreement.

ANNEX I

INTRODUCTORY NOTES TO PRODUCT SPECIFIC RULES

Note 1

General principles

1. This Annex sets out the general rules for the applicable requirements of Annex II {PSRs} provided for in subparagraph 1(c) and 2(c) of Article 2.

2. For the purposes of this Annex and Annex II {PSR}, the requirements for a product to be originating in accordance with subparagraph 1 (c) and 2 (c) of Article 2 are a change in tariff classification, a production process, a maximum value of non- originating materials, or any other requirement specified in this Annex and Annex II {PSR}.

3. Reference to weight in a product specific rule of origin means the net weight, which is the weight of a material or a product, not including the weight of packaging.

4. This Annex and Annex II{PSR} are based on the Harmonized System.

Note 2

The structure of Annex II {PSR}

1. Notes on Sections or Chapters, where applicable, are read in conjunction with the product specific rules of origin for the relevant Section, Chapter, heading or subheading.

2. Each product specific rule of origin set out in Column 2 of Annex II{PSR} applies to the corresponding product identified in Column 1 of Annex II{PSR}.

3. If a product is subject to alternative product specific rules of origin, the product shall be originating if it satisfies one of the alternatives. If a product is subject to a product specific rule of origin that includes multiple requirements, the product shall be originating only if it satisfies all of the requirements.

4. For the purpose of this Annex and Annex {PSR},

   (a) 'Section' means a section of the Harmonized System; and

   (b) 'Chapter' means the first two-digits in the tariff classification number under the Harmonized System;

   (c) 'heading' means the first four-digits in the tariff classification number under the Harmonized System;

(d) 'subheading' means the first six-digits in the tariff classification number under the Harmonized System.

5. For the purposes of product specific rules of origin, the following abbreviations apply[8]:

'CC' means manufacture from non-originating materials of any Chapter, except that of the product, or a change to the Chapter, heading or subheading from any other Chapter; this means that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 2-digit level (i.e. a change in Chapter) of the Harmonized System.

'CTH' means manufacture from non-originating materials of any heading, except that of the product, or a change to the Chapter, heading or subheading from any other heading; this means that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 4-digit level (i.e. a change in heading) of the Harmonized System.

'CTSH' means manufacture from non-originating materials of any subheading, except that of the product, or a change to the Chapter, heading or subheading from any other subheading; this means that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 6-digit level (i.e. a change in sub-heading) of the Harmonized System.

Note 3

Application of Annex II {PSR}

1. Paragraphs 1 (c) and 2 (c) of Article 2 concerning products having acquired originating status which are used in the manufacture of other products, applies irrespective of whether or not this status has been acquired inside the same place of production in a Party where those products are used.

2. If a product specific rule of origin provides that a specified non-originating material may not be used or that the value or weight of a specified non-originating material cannot exceed a specific threshold, those requirements do not apply to non-originating materials classified elsewhere in the Harmonized System.

3. If a product specific rule of origin provides that a product shall be produced from a particular material, this does not prevent the use of other materials which cannot satisfy the requirement because of their inherent nature.

Note 4

Calculation of a maximum value of non-originating materials

Definitions:

[8] For greater certainty, if a requirement of a change in tariff classification provides for exception for a change from certain Chapters, headings or subheadings, none of the non- originating materials of those Chapters, headings or subheadings may be used, individually or jointly.

1. For the purposes of product specific rules of origin:

(a) "customs value" means the value as determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;

(b) "EXW" means the ex-works price of the product paid or payable 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 incurred in the production of a product minus any internal taxes which are, or may be, repaid when the product obtained is exported; or

if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of a product, "EXW" means the value of all the materials used and all other costs incurred in the production of the product in the exporting Party which:

(i) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product; and

(ii) exclude the costs of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported;

(c) 'MaxNOM' means the maximum value of non-originating materials expressed as a percentage;

(d) 'VNM' means the value of non-originating materials used in the manufacture of the product which is its customs value at the time of importation including freight, insurance where appropriate, packing and all the other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located. Where it is not known and cannot be ascertained, the first ascertainable price paid for the non- originating materials in either Party is used, which may exclude all costs incurred in transporting the non-originating materials within a Party such as freight, insurance and packing costs as well as any other known and ascertainable cost incurred there.

2. For the calculation of MaxNOM, the following formula applies:

$$\text{MaxNOM}(\%) = \frac{\text{VNM}}{\text{EXW}} \times 100$$

Note 5

Definitions of terms used in Section XI of Annex II (PSR)

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 05.03, silk of headings 50.02 and 50.03, as well as wool-fibres and fine or coarse animal hair of headings 51.01 to 51.05, cotton fibres of headings 52.01 to 52.03, and other vegetable fibres of headings 53.01 to 53.05.

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 55.01 to 55.07.

5.5. The term "printing" means a technique by which an objectively assessed function, like colour, design, technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques.

The term "Printing (as standalone operation)" means a technique by which an objectively assessed function, like colour, design, technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques combined with at least two preparatory/finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of all the materials used does not exceed 50% of the ex-works price of the product.

Note 6

Tolerances applicable to products containing two or more basic textile materials

6.1. The conditions set out in column 2 shall not be applied to any non-originating basic textile materials (excluding elastomeric yarns) used in the manufacture of the product of Chapters 50 to 63 and which, taken together, represent 10 per cent or less of the total weight of all the basic textile materials used.

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 56.05 (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 56.05.

Example:
A yarn, of heading 52.05, made from cotton fibres of heading 52.03 and synthetic staple fibres of heading 55.06, 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 per cent of the weight of the yarn.

Example:
A woollen fabric, of heading 51.12, made from woollen yarn of heading 51.07 and synthetic yarn of staple fibres of heading 55.09, 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 per cent of the weight of the fabric.

Example:
Tufted textile fabric, of heading 58.02, made from cotton yarn of heading 52.05 and cotton fabric of heading 52.10, 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 52.05 and synthetic fabric of heading 54.07, 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 of Chapters 50 to 63 incorporating "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", this tolerance is 20 per cent in respect of this yarn.

6.4. In the case of products of Chapters 50 to 63 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", this tolerance is 30 per cent in respect of this strip.

Note 7

Other tolerances applicable to certain textile products

7.1. Textile materials (with the exception of linings and interlinings, elastomeric yarns and sewing threads) which do not satisfy the rule set out in the list in column 2 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 per cent of the ex-works price of the product.

7.2. Without prejudice to Note 6.3, 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

Definitions of processes referred to in Sections VI to VII in Annex II (PSR)

a) "**chemical reaction**" means a process (including biochemical processing) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule, with the exception of the following which are not considered to be chemical reactions for the purpose of this definition:

(a) dissolving in water or other solvents;

(b) the elimination of solvents including solvent water; or
(c) the addition or elimination of water of crystallization.

b) "**mixing and blending"** means the deliberate and proportionally controlled mixing or blending (including dispersing) of materials, other than the addition of diluents, only to conform to predetermined specifications which results in the production of a product having physical or chemical characteristics which are relevant to the purposes or uses of the product and are different from the input materials;

c) "**purification"** means a process which results in one of the following criteria being satisfied:

(a) purification of a good resulting in the elimination of 80 percent of the content of existing impurities; or

(b) the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:

(i) pharmaceutical, medical, cosmetic, veterinary or food grade substances;

(ii) chemical products and reagents for analytical, diagnostic or laboratory uses;

(iii) elements and components for use in micro-electronics;

(iv) specialized optical uses;

(v) biotechnical use (e.g., in cell culturing, in genetic technology, or as a catalyst);

(vi) carriers used in a separation process; or

(vii) nuclear grade uses.

d) "**change in particle size"** means the deliberate and controlled modification in particle size of a product, other than by merely crushing or pressing, resulting in a product having a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting product and with physical or chemical characteristics different from the input materials;

e) "**production of standard materials"** (including standard solutions) means a production of a preparation suitable for analytical, calibrating or referencing uses with precise degrees of purity or proportions certified by the manufacturer;

f) "**isomer separation"** means the isolation or separation of isomers from a mixture of isomers;

g) "**biotechnological processing"** means:

(i) biological or biotechnological culturing (including cell culture), hybridization or genetic modification of micro-organisms (bacteria, viruses (including phages) etc.) or human, animal or plant cells; and

(ii) production, isolation or purification of cellular or intercellular structures (such as isolated genes, gene fragments and plasmids), or fermentation.

Note 9

Agricultural products

Agricultural products falling within Chapters 6, 7, 8, 9, 10, 12 and heading 2401 which are grown or harvested in the territory of a beneficiary country 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.

ANNEX II

PRODUCT SPECIFIC RULES

ANNEX III

STATEMENT ON ORIGIN

The statement on origin, the text of which is set out below, must be drawn up in accordance with the respective footnotes. The footnotes do not have to be reproduced.

Bulgarian version

Износителят на продуктите, обхванати от този документ (износител №… [1]) декларира, че освен където ясно е отбелязано друго, тези продукти са с … [2] преференциален произход.

English version

The exporter of the products covered by this document (Exporter reference No...[1]) declares that, except where otherwise clearly indicated, these products are of ... preferential origin [2].

Spanish version

El exportador de los productos incluidos en el presente documento (número de referencia del exportador ... [1]) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ... [2].

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (eksportørreferencenr. . ... [1]) erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ... [2].

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[1] When the statement on origin is made out by an exporter within the meaning of Article 17(1a) of the Protocol, the number of the exporter must be entered in this space. When the statement on origin is made out by an exporter within the meaning of Article 17(1b) of the Protocol, the words in brackets shall be omitted or the space left blank.

[2] Origin of products to be indicated: EU or Mercosur. When the statement on origin relates in whole or in part, to products originating in Ceuta and Melilla within the meaning of Article 28 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol “CM”.

German version

Der Ausführer (Referenznummer des Ausführers . … [1]) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nichts anderes angegeben, präferenzbegünstigte Ursprungswaren ... [2] sind.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο ((αριθ. αναφοράς εξαγωγέα . ... [1]) δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησιακής καταγωγής ... [2].

French version

L'exportateur des produits couverts par le présent document (nº de référence exportateur … [1]) déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ... [2].

Italian version

L'esportatore delle merci contemplate nel presente documento (numero di riferimento dell'esportatore … [1]) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ... [2].

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (referentienr. exporteur … [1]) verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn [2].

Portuguese version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (referência do exportador n.º ...[1]) declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ... [2].

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (viejän viitenumero ... [1]) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita [2].

Swedish version

Exportören av de varor som omfattas av detta dokument (exportörens referensnummer . ...[1]) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung [2].

Czech version

Vývozce výrobků uvedených v tomto dokumentu (referenční číslo vývozce ...[1]) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v ...[2].

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (eksportija viitenumber ...[1]) deklareerib, et need tooted on ...[2] sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Latvian version

Eksportētājs produktiem, kuri ietverti šajā dokumentā (eksportētāja atsauces numurs …[1]), deklarē, ka, iznemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no …[2].

Lithuanian version

Šiame dokumente išvardintų prekių eksportuotojas (Eksportuotojo registracijos Nr …[1]) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra …[2] preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (az exportőr azonosító száma …[1]) kijelentem, hogy eltérő jelzs hiányában az áruk kedvezményes … származásúak[2].

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (Numru ta' Referenza tal-Esportatur …[1]) jiddikjara li, hlief fejn indikat b'mod car li mhux hekk, dawn il-prodotti huma ta' origini preferenzjali …[2].

Polish version

Eksporter produktów objętych tym dokumentem (nr referencyjny eksportera …[1]) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają …[2] preferencyjne pochodzenie.

Romanian version

Exportatorul produselor ce fac obiectul acestui document (numărul de referință al exportatorului ... [1]) declară că, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferenţială ... [2].

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom, (referenčna št. izvoznika ...[1]) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialn ... [2] poreklo.

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (referenčné číslo vývozcu …[1]) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v …[2].

.....[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)

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

[4] See Article 17(6) of the Protocol. In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

ANNEX IV

TRANSITIONAL MEASURES

Article 1

1. For a period not exceeding three years from the entry into force of this Agreement, the European Union will also accept as a statement on origin a "certificate of origin" that the products imported into the European Union meet the requirements of origin established under this Agreement.
2. The period of three years may be extended for a maximum period of two years by notification from the Mercosur country to the European Union. In such a case, Annex VI on the Management of Administrative Errors may be applied provided the conditions set out in Annex VI are met.
3. The European Commission shall receive from Mercosur the form and formalities of the "certificate of origin". Each Mercosur country shall communicate to the European Commission the date when the “certificate of origin” will cease to apply.

ANNEX V

MANAGEMENT OF ADMINISTRATIVE ERRORS

In case of error by the competent authorities in the proper management of the preferential system at export, and in particular in the application of the provisions of the protocol to the present agreement concerning the definition of originating products and methods of administrative cooperation, where this error leads to consequences in terms of import duties, the contracting party facing such consequences may request the (institutional body under the agreement) to examine the possibilities of adopting all appropriate measures with a view to resolving the situation.

ANNEX VI

JOINT DECLARATION
Concerning the Principality of Andorra

1- Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonized System shall be accepted by Mercosur as originating in the Union within the meaning of this Agreement.

2- The Protocol on Rules of Origin shall apply mutatis mutandis for the purpose of defining the originating status of the above- mentioned products.

JOINT DECLARATION
Concerning the Republic of San Marino

1- Products originating in the Republic of San Marino shall be accepted by Mercosur as originating in the Union within the meaning of this Agreement.

2- The Protocol on Rules of Origin shall apply mutatis mutandis for the purpose of defining the originating status of the above- mentioned products.