PROTOCOL

CONCERNING THE DEFINITION OF THE CONCEPT OF

"ORIGINATING PRODUCTS" AND

METHODS OF ADMINISTRATIVE CO-OPERATION

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TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) "manufacture" means any kind of working or processing, manufacturing, producing, processing or assembling goods;

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

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

(d) "good" means both a material and a product;

(e) "customs value" means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) “value of materials” means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the European Union or in Vietnam;

(g) "ex-works price" means the price paid for the product ex works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the European Union or in Vietnam, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

Where the last working or processing has been subcontracted to a manufacturer, the term ‘manufacturer’ referred to in the first paragraph may refer to the enterprise that has employed the subcontractor.

(h) “chapters” and “headings” and “subheadings” mean the chapters, the headings (four digit codes) and sub-headings (six digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, referred to in this Protocol as “the Harmonized System” or “HS”;

(i) “classified” refers to the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonized System;

(j) “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;

(k) "territories" includes territorial seas;

(l) "Party" refers to the Union or Vietnam;

(m) 'fungible materials' means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product;

(n) "originating goods or originating materials" means goods or materials that qualify as originating in accordance with the provisions of this Protocol;

(o) "non-originating goods or non-originating materials" means goods or materials that do not qualify as originating under this Protocol;

(p) "exporter" means a person located in the exporting Party who is exporting the goods to the other Party and who is able to prove the origin of the exported goods, whether or not he is the manufacturer and whether or not he himself carries out the export formalities.

TITLE II

DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

Article 2

General requirements

For the purpose of implementing this Agreement, the following products shall be considered as originating in a Party:

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

(b) products obtained in a Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Party concerned within the meaning of Article 5.

Article 3

Cumulation of origin

1. Notwithstanding Article 2, products shall be considered as originating in the exporting Party if such products are obtained there by incorporating materials originating in the other Party, provided that the working or processing carried out in the exporting Party goes beyond the operations referred to in Article 6.

2. Materials listed in Annex III originating in an ASEAN country which is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as materials originating in Vietnam when further processed or incorporated into one of the products listed in Annex IV.

3. For the purposes of paragraph 2, the origin of the materials shall be determined according to the rules of origin applicable in the framework of the Union's preferential agreements with those countries.

4. For the purposes of paragraph 2, the originating status of materials exported from one of the ASEAN countries to Vietnam to be used in further working or processing shall

be established by a proof of origin as if these materials were exported directly to the Union.

5. The cumulation provided for in paragraphs 2 to 4 shall only apply provided that:

(a) the ASEAN countries involved in the acquisition of the originating status have undertaken to:

(i) comply or ensure compliance with this Protocol; and

(ii) provide the administrative cooperation necessary to ensure the correct implementation of this Protocol both with regard to the Union and among themselves;

(b) the undertakings referred to in subparagraph (a) have been notified to the Union;

(c) the tariff duty applicable by the Union to the products in Annex IV obtained in Vietnam by use of such cumulation is higher or the same than the duty applicable by the Union to the same product originating in the ASEAN country involved in the cumulation.

6. Proofs of origin issued by application of paragraph 2 shall bear the following entry: “Application of Article 3(2) of the Protocol of the EU-Vietnam FTA”.

7. Fabrics originating in the Republic of Korea shall be considered as originating in Vietnam when further processed or incorporated into one of the products listed in Annex V obtained there, provided that they have undergone working or processing in Vietnam which goes beyond the operations referred to in Article 6.

8. For the purposes of paragraph 7, the origin of the fabrics shall be determined according to the rules of origin applicable in the framework of the Union's preferential agreement with the Republic of Korea except for the rules set out in Annex II(a) to the Protocol concerning the definition of originating products and methods of administrative cooperation.

9. For the purposes of paragraphs 7, the originating status of the fabrics exported from the Republic of Korea to Vietnam to be used in further working or processing shall be established by a proof of origin as if these fabrics were exported directly from the Republic of Korea to the Union.

10. The cumulation provided for in paragraphs 7 to 9 shall only apply provided that:

(a) the Republic of Korea is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994;

(b) the Republic of Korea and Vietnam have undertaken and jointly notified to the Union their undertaking:

- (i) to comply or ensure compliance with the cumulation provided for by this provision, and

- (ii) to provide the administrative cooperation necessary to ensure the correct implementation of this Protocol both with regard to the Union and between themselves.

11. Proofs of origin issued by Vietnam by application of paragraph 7 shall bear the following entry: “Application of Article 3(7) of the Protocol of the EU/Vietnam FTA”.

12. On request of a Party, the Committee on Customs may decide that fabrics originating in a country with which the Union and Vietnam both apply a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as originating in a Party when further processed or incorporated into one of the products listed in Annex V obtained there, provided that they have undergone working or processing in a Party which goes beyond the operations referred to in Article 6.

13. The Committee on Customs shall take a decision on the request for cumulation and the modalities for such cumulation referred to in paragraph 12 taking into account the interests of the other Party and the objectives of the agreement.

Article 4

Wholly obtained products

1. The following shall be considered as wholly obtained in a Party:

(a) mineral products extracted from their soil or from their seabed;

(b) plants and vegetable products grown and harvested or gathered there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products from slaughtered animals born and raised there;

(f) products obtained by hunting, or fishing conducted there;

(g) products of aquaculture, where the fish, crustaceans and molluscs are born or raised there from eggs, fry, fingerlings and larvae;

(h) products of sea fishing and other products taken from outside any territorial sea by their vessels;

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

(j) used articles collected there fit only for the recovery of raw materials;

(k) waste and scrap resulting from manufacturing operations conducted there;

(l) products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;

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

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

(a) which are registered in a Member State of the Union or in Vietnam;

(b) which sail under the flag of a Member State of the Union or of Vietnam;

(c) which meet one of the following conditions:

(i) they are at least 50% owned by nationals of a Member State of the Union or of Vietnam;

or

(ii) they are owned by companies

- which have their head office and their main place of business in a Member State of the Union or Vietnam, and
- which are at least 50% owned by a Member State of the Union or by Vietnam, by public entities or nationals of one of those Parties.

Article 5

Sufficiently worked or processed products

1. For the purposes of Article 2(b), products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II are fulfilled.

2. The conditions referred to above indicate, for all products covered by the Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials.

It follows that if a product which has acquired originating status, by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

3. By way of derogation from paragraph 1 and subject to paragraphs 4 and 5 of this Article, non-originating materials which, according to the conditions set out in the list, in Annex II are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:

(a) 10% of the weight of the product or ex work price for products falling within Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;

(b) 10% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Annex I, shall apply.

4. Paragraph 3 shall not allow exceeding any of the percentages for the maximum value or weight of non-originating materials as specified in the rules laid down in the list in Annex II.

5. Paragraphs 3 and 4 shall not apply to products wholly obtained in a Party within the meaning of Article 4. However, without prejudice to Article 6 and 7(2), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex II for that product requires that such materials be wholly obtained.

Article 6

Insufficient working or processing

1. The following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 5 are satisfied:

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

(b) breaking-up and assembly of packages;

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

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;

(g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);

(k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

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

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(p) a combination of two or more of the operations specified in points (a) to (o);

(q) slaughter of animals.

2. For the purpose of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.

3. All operations carried out either in the Union or in Vietnam on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 7

Unit of qualification

1. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.

2. When a consignment consists of a number of identical products classified under the same subheading of the Harmonized System, each individual item shall be taken account when applying the provisions of this Protocol.

Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 8

Accessories, spare parts and tools

Accessories, spare parts, tools and instructional or other information materials 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 9

Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating products. 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 10

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, including goods to be used for their maintenance;

(c) machines and tools and dies and moulds; spare parts and materials used in the maintenance of equipment and buildings; lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; gloves, glasses, footwear, clothing, safety equipment and supplies; equipment, devices and supplies used for testing or inspecting the good; catalyst and solvent;

(d) other goods which do not enter and which are not intended to enter into the final composition of the product.

Article 11

Accounting segregation

1. If originating and non-originating fungible materials are used in the working or processing of a product, competent authorities may, at the written request of economic operators, authorise the management of materials using the accounting segregation method without keeping the materials in separate stocks.

2. Competent governmental authorities may make the granting of authorisation referred to in paragraph 1 subject to any conditions they deem appropriate.

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

4. If authorised, the accounting segregation method and its application shall be recorded on the basis of the general accounting principles applicable in the Union or in Vietnam, depending on where the product is manufactured.

5. A manufacturer using the accounting segregation method shall make out or apply for origin declarations for the quantity of products which may be considered as originating in the exporting Party. At the request of the customs authorities or competent governmental authorities of the exporting Party, the beneficiary shall provide a statement of how the quantities have been managed.

6. Competent authorities shall monitor the use made of the authorisation referred to in paragraph 3 and may withdraw it if the manufacturer makes improper use of it or fails to fulfil any of the other conditions laid down in this protocol.

TITLE III

TERRITORIAL REQUIREMENTS

Article 12

Principle of territoriality

1. The conditions set out in Title II relating to the acquisition of originating status must be fulfilled without interruption in a Party.

2. If originating goods exported from a Party return from a non-Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the returning goods 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 non-Party or while being exported.

Article 13

Non alteration

1. The products declared for home use in a Party shall be the same products as exported from the other Party in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition or other than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party carried out under customs supervision in the country(ies) of transit or splitting prior to being declared for home use.

2. Storage of products or consignments may take place provided they remain under customs supervision in the country(ies) of transit.

3. Without prejudice to provisions of Title IV, the splitting of consignments may take place where carried out by the exporter or under his responsibility, provided they remain under customs supervision in the country(ies) of splitting.

4. In case of doubt, the importing Party may request the declarant to provide evidence of compliance, which may be given by any means, including:

i) contractual transport documents such as bills of lading;

ii) factual or concrete evidence based on marking or numbering of packages;

iii) any evidence related to the goods themselves;

iv) a certificate of non-manipulation provided by the customs authorities of the country(ies) of transit or splitting or any other documents demonstrating that the goods remained under customs supervision in the country(ies) of transit or splitting.

Article 14

Exhibitions

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

(a) an exporter has consigned these products from a Party 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 a Party;
(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 proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, provided that the products remain under customs control.

TITLE IV

PROOF OF ORIGIN

Article 15

General requirements

1. Products originating in the Union shall, on importation into Vietnam benefit from this Agreement upon submission of any of the following proofs of origin:

(a) a certificate of origin made out in accordance with Articles 16 to 18;

(b) an origin declaration made out in accordance with Article 19 by:

i) an approved exporter within the meaning of Article 20 for any consignment regardless of its value, or

ii) any exporter for consignments the total value of which does not exceed EUR 6000;

(c) a statement of origin made out by exporters registered in an electronic database in accordance with the relevant legislation of the Union after the Union has notified to Vietnam that such legislation applies to its exporters. Such notification may stipulate that letters a) and b) shall cease to apply to the Union.

2. Products originating in Vietnam shall, on importation into the Union, benefit from this Agreement upon submission of any of the following proofs of origin:

(a) a certificate of origin, made out in accordance with Articles 16 to 18;

(b) an origin declaration made out by any exporter for consignments the total value of which is to be determined in national legislation of Vietnam and will not exceed EUR 6000;

(c) an origin declaration made in accordance with in Article 19 by an exporter approved or registered in accordance with the relevant legislation of Vietnam after Vietnam has notified to the Union that such legislation applies to its exporters. Such notification may stipulate that letter a) shall cease to apply to Vietnam.

3. Originating products within the meaning of this Protocol shall, in the cases specified in Article 24, benefit from the Agreement without submitting any of the documents referred to in this Article.

Article 16

Procedure for the issue of a certificate of origin

1. A certificate of origin shall be issued by the competent authorities of the exporting Party on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the certificate of origin, specimen of which appear in Annex VII, and the application form.. The specimen of the application form to be used for exports from the Union to Vietnam appears in Annex VII; the specimen of the application form to be used for exports from Vietnam will be determined in the domestic legislation of Vietnam. These forms shall be completed in one of the languages in which this Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting Party. If they are hand-written, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through to prevent any subsequent addition.

3. The exporter applying for the issue of a certificate of origin shall be prepared to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. A certificate of origin shall be issued by the competent authorities of the exporting Party if the products concerned can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol.

5. The competent authorities issuing certificates of origin shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Protocol. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. They shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the certificate of origin shall be indicated in Box 11 of the certificate.

7. The Certificate of Origin shall be issued as near as possible to but not later than three working days after the date of exportation (the declared shipment date).

Article 17

Certificates of origin issued retrospectively

1. Notwithstanding Article 16(7), a certificate of origin may also be issued after exportation of the products to which it relates in the specific situations where:

(a) it was not issued at the time of exportation because of errors or involuntary omissions and other valid reasons;

or

(b) it is demonstrated to the competent authorities that a certificate of origin was issued but was not accepted at importation for technical reasons;

(c) the final destination of the products concerned was not known at the time of exportation and was determined during their transportation or storage and after possible splitting of consignments in accordance with Article 13.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the certificate of origin relates, and state the reasons for his request.

3. The competent authorities may issue a certificate of origin retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. Certificates of origin issued retrospectively must be endorsed with the following phrase in English:

"ISSUED RETROSPECTIVELY"

5. The endorsement referred to in paragraph 4 shall be inserted in Box 7 of the certificate of origin.

Article 18

Issue of a duplicate certificate of origin

1. In the event of theft, loss or destruction of a certificate of origin, the exporter may apply to the competent authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with the following word in English:

DUPLICATE

3. The endorsement referred to in paragraph 2 shall be inserted in Box 7 of the duplicate certificate of origin.

4. The duplicate, which must bear the date of issue of the original certificate of origin, shall take effect as from that date.

Article 19

Conditions for making out an origin declaration

1 An origin declaration may be made out if the products concerned can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol.

2. The exporter making out an origin declaration shall be prepared to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

3. An origin declaration shall be made out by the exporter on the invoice, the delivery note or any other commercial documents which describe the products concerned in sufficient details to enable them to be identified, by typing, stamping or printing on that document the

declaration, the text of which appears in Annex VI, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting Party. If the declaration is hand-written, it shall be written in ink in capital characters.

4. Origin declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 20 shall not be required to sign such declarations provided that he gives the competent authorities of the exporting Party a written undertaking that he accepts full responsibility for any origin declaration which identifies him as if it had been signed in manuscript by him.

5. An origin declaration may be made out after exportation on condition that it is presented in the importing Party no longer than two years or the period specified in the legislation of the importing Party after the entry of the goods into the territory.

6. The conditions for making out an origin declaration referred to in paragraphs 1 to 5 apply mutatis mutandis to statements of origin made out be an exporter registered as provided for under Article 15(1)(c) and 15(2)(c).

Article 20

Approved exporter

1. The competent authorities of the exporting Party may authorise any exporter, hereinafter referred to as 'approved exporter', who exports products under this Agreement to make out origin declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the competent authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.

2. The competent authorities may grant the status of approved exporter subject to any conditions specified in domestic legislation which they consider appropriate.

3. The competent authorities shall grant to the approved exporter an authorisation number which shall appear on the origin declaration.

4. The competent authorities shall monitor the use of the authorisation by the approved exporter.

5. The competent authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 21

Validity of proof of origin

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

2. Proofs of origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the importer failed to submit these documents by the final date due to force majeure or other valid reasons beyond his control.

3. In other cases of belated presentation, the customs authorities of the importing Party may accept the proofs of origin where the products have been imported before the said final date.

Article 22

Submission of proof of origin

For the purpose of claiming preferential tariff treatment, proofs of origin shall be submitted to the customs authorities of the importing Party in accordance with the procedures applicable in that Party. The said authorities may require a translation of the proof of origin if it is not issued in English.

Article 23

Importation by instalments

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

Article 24

Exemptions from proof of origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this 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:

(a) when entering the Union, EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage;

(b) when entering Vietnam, 200 US dollars both in the case of small packages and in the case of products forming part of travellers' personal luggage.

Article 25

Supporting documents

The documents referred to in Articles 16(3) and 19(2), used for the purpose of proving that products covered by an origin declaration or a certificate of origin can be considered as products originating in the Union or in Vietnam and fulfil the other requirements of this Protocol may consist *inter alia* of the following:

(a) direct evidence of the manufacturing or other 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 a Party, where these documents are used in accordance with domestic law;

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

(d) proof of origin proving the originating status of materials used, issued or made out in a Party in accordance with this protocol.

Article 26

Preservation of proof of origin and supporting documents

1. The exporter making out an origin declaration or applying for the issuance of a certificate of origin shall keep for at least three years a copy of this origin declaration or of the certificate origin as well as the documents referred to in Article 16(3) and 19(2),

2. The competent authorities of the exporting Party issuing a certificate of origin shall keep for at least three years the application form referred to in Article 16(2).

3. The customs authorities of the importing Party shall keep for at least three years the proofs of origin submitted to them.

4. Each Party shall permit, in accordance with that Party's laws and regulations, exporters in its territory to maintain documentation or records in any medium, provided that the documentation or records can be retrieved and printed.

Article 27

Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

3. For multiple goods declared under the same proof of origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in the proof of origin.

Article 28

Amounts expressed in euro

1. For the application of the provisions of Article 15(1)(b)(ii) and Article 24(3)(a) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the Member States of the Union or of Vietnam equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.

2. A consignment shall benefit from the provisions of Article 15(1)(b)(ii) or Article 24(3)(a) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the Party concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by 15 October and shall apply from 1 January the following year. The European Commission shall notify all countries concerned of the relevant amounts.

4. A Party may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 per cent. A Party may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 per cent in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in euro shall be reviewed by the [Customs Committee] at the request of the Union or of Vietnam. When carrying out this review, the [Customs Committee] shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

TITLE V

ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

Article 29

Cooperation between competent authorities

1. The authorities of the Parties shall provide each other, through the European Commission, with specimen impressions of stamps used in their competent authorities for the issue of certificates of origin and with the addresses of the customs authorities responsible for verifying those certificates and origin declarations.

2. In order to ensure the proper application of this Protocol, the Parties shall assist each other, through their competent authorities, in checking the authenticity of the certificates of origin or the origin declarations and the correctness of the information given in these documents.

Article 30

Verification of proofs of origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the competent authorities of the importing Party 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 competent authorities of the importing Party shall return the certificate of origin and the invoice, if it has been submitted, or the origin declaration, or a copy of these documents, to the competent authorities of the exporting Party giving, where appropriate, the reasons for the enquiry. Any

documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

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

4. If the competent authorities of the importing Party 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 reinstated as soon as possible after the originating status of the products concerned or the fulfilment of the other requirements of this Protocol has been ascertained by the competent authorities of the importing Party.

5. The competent authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the Parties and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting competent authorities may, except in exceptional circumstances, refuse entitlement to the preferences.

Article 31

Dispute settlement

Where disputes arise in relation to the verification procedures of Article 30 which cannot be settled between the competent authorities requesting a verification and the competent authorities responsible for carrying out this verification, they shall be submitted to the [Committee on Customs].

In all cases of disputes between the importer and the competent authorities of the importing Party, the settlement of those disputes shall be under the legislation of that Party.

Article 32

Penalties

The Parties shall provide for procedures for penalties to 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.

Article 33

Confidentiality

Each Party shall maintain, in accordance with its law, the confidentiality of information and data collected in the process of verification and shall protect that information and data from disclosure that could prejudice the competitive position of the person providing them. Any

information and data communicated between the authorities of the Parties competent for the administration and enforcement of origin determination shall be treated as confidential.

TITLE VI

CEUTA AND MELILLA

Article 34

Application of this Protocol

1. The term "Union" does not cover Ceuta and Melilla.

2. Products originating in Vietnam, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime 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 Union. Vietnam shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the Union.

3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply *mutatis mutandis* subject to the special conditions set out in Article 35.

Article 35

Special conditions

1. Provided that they meet the provisions of Article 13, the following shall be considered as:

   (1) products originating in Ceuta and Melilla:

   (a) products wholly obtained in Ceuta and Melilla;

   (b) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in (a) are used, provided that:

   (i) the said products have undergone sufficient working or processing within the meaning of Article 5;

   or that

   (ii) those products are originating in a Party, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.

   (2) products originating in Vietnam:

   (a) products wholly obtained in Vietnam;

   (b) products obtained in Vietnam, in the manufacture of which products other than those referred to in (a) are used, provided that:

   (i) the said products have undergone sufficient working or processing within the meaning of Article 5;

   or that

   (ii) those products are originating in Ceuta and Melilla or in the Union, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 6.

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

3. The exporter or his authorised representative shall enter "Vietnam" and "Ceuta and Melilla" on the proof of origin.

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

TITLE VII

FINAL PROVISIONS

Article 36

Committee

1. The Committee on Customs, established as a specialised committee pursuant to Article [X.2] 'Specialised Committees' in Chapter [X] 'Institutional, General and Final Provisions', and in line with Article [X] 'Committee on Customs' in Chapter [X] 'Customs and Trade Facilitation', may review the provisions of this Protocol and submit a proposal for a decision to be adopted by the Trade Committee to amend it.

2. The Committee on Customs shall also endeavour to agree upon the uniform administration of the rules of origin, including tariff classification and valuation matters relating to the rules of origin and technical, interpretive or administrative matters relating to this Protocol.

Article 37

Amendments to this Protocol

Following the conclusion of a free trade agreement between the Union and one or several ASEAN countries, the Committee on Customs may submit a proposal for a decision to be adopted by the Trade Committee to amend this Protocol to ensure coherence between the Rules of Origin applicable within the context of the preferential exchanges between ASEAN countries and the Union.

Article 38

Transitional provisions for 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, in the Parties in temporary storage, in customs warehouses or in free zones, subject to the submission to the customs authorities of the importing Party of a proof of origin made out retrospectively, and if requested, together with the documents showing that the goods have not been altered, in accordance with Article 13.

ANNEX I

INTRODUCTORY NOTES TO THE LIST IN ANNEX II

Note 1 – General introduction

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of Article 5 of this Protocol. There are four different types of rule, which vary according to the product:

(a) through working or processing a maximum content of non-originating materials is not exceeded;

(b) through working or processing the 4-digit Harmonized System heading or 6-digit Harmonized System sub-heading of the manufactured products becomes different from the 4-digit Harmonized System heading or 6-digit sub-heading respectively of the materials used. However, in the case set out in point 3.3. 2nd paragraph, the 4-digit Harmonized System heading or 6-digit Harmonized System sub-heading of the manufactured products may be the same as the 4-digit Harmonized System heading or 6-digit sub-heading respectively of the materials used;

(c) a specific working and processing operation is carried out;

(d) working or processing is carried out on certain wholly obtained materials.

Note 2 – The structure of the list

2.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonized System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns, a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in column 3 apply only to the part of that heading as described in column 2.

2.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in column 3 apply to all products which, under the Harmonized System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in column 3.

2.4. Where two alternative rules are set out in column 3, separated by *"or"*, it is at the choice of the exporter which one to use.

Note 3 – Examples of how to apply the rules

3.1. Article 5 of this Protocol, concerning products having acquired originating status which are used in the manufacture of other products, shall apply, regardless of whether this status has been acquired inside the factory where these products are used or in another factory in a Party.

3.2. Pursuant to Article 6, the working or processing carried out must go beyond the list of operations mentioned in that Article. If it does not, the goods shall not qualify for the granting of the benefit of preferential tariff treatment, even if the conditions set out in the list below are met.

Subject to the provision referred to in the first sub-paragraph, the rules in the list represent the minimum amount of working or processing required. The carrying-out of more working or processing also confers originating status, without prejudice to Article 6 (see point 3.2). Conversely, the carrying-out of less working or processing cannot confer originating status.

3.3. Where a rule uses the expression "Manufacture from materials of any heading, except that of the product" all non-originating materials classified in headings other than that of the product may be used (CTH).

Where a rule uses the expression "Manufacture from materials of any heading", then materials of any heading(s) (even materials of the same description and heading as the product) may be used.

3.4. Where a rule uses the expression "Manufacture in which the value of all the materials used does not exceed x% of the ex-works price of the product" then the value of all non-originating material is to be considered and the percentage for the maximum value of non-originating materials may not be exceeded through the use of Article 5(3) [tolerance].

3.5 If a rule provides that a specific non-originating material may be used, the use of materials which still are in an earlier stage of the manufacturing process of that specific material is allowed, and the use of materials resulting from further processing of that specific non-originating material is not.

If a rule provides that a specific non-originating material may not be used, the use of materials which still are in an earlier stage of the manufacturing process of that specific non-originating material is allowed, and the use of materials resulting from further processing of that specific non-originating material is not.

Example: when the list-rule for Chapter 19 requires that "non-originating materials of headings 1101 to 1108 cannot exceed 20% weight", the use of non-originating cereals of Chapter 10 (materials at an earlier stage in the manufacturing process of goods of 1101 to 1108) is not limited by the 20% weight.

3.6. When a rule in the list specifies that a product may be manufactured from more than one material, this means that one or more materials may be used. It does not require that all have to be used.

3.7. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition does not prevent the use of other materials which, because of their inherent nature, cannot satisfy this requirement.

Example: Flat-rolled products of iron and non-alloy steel, of a width of 600 mm or more, which have been painted, varnished or coated with plastics are classified in the HS under 7210 70. The PSR for 7210 is "Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 and 7207. This rule does not prevent the use of non-originating paint and varnish (heading 3208) or plastics (chapter 39).

Note 4 – General provisions concerning certain agricultural goods

4.1. Agricultural goods falling within Chapters 6, 7, 8, 9, 10, 12 and heading 2401 which are grown or harvested in the territory of a Party shall be treated as originating in the territory of that Party, even if grown from seeds, bulbs, rootstock, cuttings, grafts, shoots, buds, or other live parts of plants imported from a non-Party.

4.2 Whenever the rules for products in Chapters 1-24 incorporate some limitations in weight, it should be noted that in accordance with Article 5(2) of the Protocol, these limitations in weight only apply to non-originating materials. Consequently originating materials are not to be taken into account for the calculation of the limitations in weight. In addition, these limitations are expressed in different manners. In particular:

- When the rule uses the expression "the weight of the materials of Chapters/headings**....**" it means that the weight of each material mentioned should be added up and that the total weight should not exceed the maximum %

  Example: The rule for Chapter 19 provides that the weight of the materials of Chapters 2, 3 and 16 used does not exceed 20% of the weight of the final product. In case the weight of the final product contains 12% of materials of Chapter 3 and 10% of materials of Chapter 16, the product does not meet the origin conferring rule of Chapter 19 as the combined weight exceeds 20%.

- When the rule uses the expression "the individual weight of the materials of Chapters/headings" it means that the weight of each material mentioned should not exceed the maximum %. The combined weight of the materials added together has no relevance.

  Example: The rule for Chapter 22 provides that the individual weight of sugar and of the materials of Chapter 4 does not exceed 20% of the weight of the final product. In case the weight of the final product contains 15% of sugar as well as 10% of materials of Chapter 4, the origin conferring rule of Chapter 22 is complied with. Each individual material is less than 20%. On the contrary, in case the weight of the final product contains 25% of sugar as well as 10% of materials of Chapter 4, the origin conferring rule is not met.

- When the rule uses the expression "the total combined weight of sugar and of the materials of Chapter 4 does not exceed a % in weight of the final product" it means that both the weight of the sugar and the materials of Chapter 4 must meet individually their weight limitation as well as their combined weights added up must meet the combined weight restriction. A combined weight limitation expresses a further restriction to the individual weight limitations.

  Example: The rule for heading 1704 provides that the combined weight of sugar and of the materials of Chapter 4 does not exceed 50% of the weight of the final product. The individual weight limitations for materials of Chapter 4 are 20% and for sugar 40%. In case the weight of the final product contains 35% of sugar as

well as 15% of materials of Chapter 4, both the individual weight limitations and the combined weight limitations of the origin conferring rule of heading 1704 are complied with. On the contrary, in case the weight of the final product contains 35% of sugar as well as 20% of materials of Chapter 4, the combined weight represents 55%. In that case the individual weight limitations are respected but the combined weight limitation is exceeded and therefore the origin conferring rule of heading 1704 is not complied with.

Note 5 - Terminology used in respect of certain textile products

5.1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun.

5.2. The term "natural fibres" includes horsehair of heading 0511, silk of headings 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.

5.3. The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

5.4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings 5501 to 5507.

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

6.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10 % or less of the total weight of all the basic textile materials used. (See also Notes 6.3 and 6.4).

6.2. However, the tolerance mentioned in Note 6.1 may be applied only to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk;
- wool;
- coarse animal hair;
- fine animal hair;
- horsehair;
- cotton;
- paper-making materials and paper;

- flax;
- true hemp;
- jute and other textile bast fibres;
- sisal and other textile fibres of the genus Agave;
- coconut, abaca, ramie and other vegetable textile fibres;
- synthetic man-made filaments;
- artificial man-made filaments;
- current-conducting filaments;
- synthetic man-made staple fibres of polypropylene;
- synthetic man-made staple fibres of polyester;
- synthetic man-made staple fibres of polyamide;
- synthetic man-made staple fibres of polyacrylonitrile;
- synthetic man-made staple fibres of polyimide;
- synthetic man-made staple fibres of polytetrafluoroethylene;
- synthetic man-made staple fibres of poly(phenylene sulphide);
- synthetic man-made staple fibres of poly(vinyl chloride);
- other synthetic man-made staple fibres;
- artificial man-made staple fibres of viscose;
- other artificial man-made staple fibres;
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped;
- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped;

products of heading 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film;

- other products of heading 5605;
- glass fibres;

- metal fibres.

Example:

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

Example:

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

Example:

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

Example:

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

6.3. In the case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", this tolerance is 20 % in respect of this yarn.

6.4. In the case of products incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film", this tolerance is 30 % in respect of this strip.

Note 7 - Other tolerances applicable to certain textile products

7.1. Where, in the list, reference is made to this Note, textile materials which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the ex-works price of the product.

7.2. Without prejudice to Note 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 non-originating materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

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

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

(a) vacuum-distillation;

(b) redistillation by a very thorough fractionation process;

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

(f) the process comprising all ofthe following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(i) isomerisation.

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

(a) vacuum-distillation;

(b) redistillation by a very thorough fractionation process;

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

(f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(ij) isomerisation;

(k) in respect of heavy oils of heading ex 2710 only, desulphurisation with hydrogen, resulting in a reduction of at least 85 % of the sulphur content of the products processed (ASTM D 1266-59 T method);

(l) in respect of products of heading 2710 only, deparaffining by a process other than filtering;

(m) in respect of heavy oils of heading ex 2710 only, treatment with hydrogen, at a pressure of more than 20 bar and a temperature of more than 250 °C, with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment, with hydrogen, of lubricating oils of heading ex 2710 (e.g. hydrofinishing or decolourisation), in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;

(n) in respect of fuel oils of heading ex 2710 only, atmospheric distillation, on condition that less than 30 % of these products distils, by volume, including losses, at 300 °C, by the ASTM D 86 method;

(o) in respect of heavy oils other than gas oils and fuel oils of heading ex 2710 only, treatment by means of a high-frequency electrical brush discharge;

(p) in respect of crude products (other than petroleum jelly, ozokerite, lignite wax or peat wax, paraffin wax containing by weight less than 0.75 % of oil) of heading ex 2712 only, de-oiling by fractional crystallisation.

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

ANNEX II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

ANNEX III

MATERIALS REFERRED TO IN PARAGRAPH 2 OF ARTICLE 3

HS	Description
030741	Live, fresh or chilled cuttlefish and squid
030751	Live, fresh or chilled octopus

ANNEX IV

PRODUCTS REFERRED TO IN PARAGRAPH 2 OF ARTICLE 3

HS	Description
160554	Prepared or preserved cuttlefish and squid
160555	Prepared or preserved octopus

ANNEX V

PRODUCTS REFERRED TO IN PARAGRAPH 7 OF ARTICLE 3

HS	Description
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted;
Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted;

ANNEX VI

TEXT OF THE ORIGIN DECLARATION

The origin declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Bulgarian version

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

Spanish version

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

Croatian version

Izvoznik proizvoda obuhvaćenih ovom ispravom (carinsko ovlaštenje br. .....[1]) izjavljuje da su, osim ako je to drugačije izričito navedeno, ovi proizvodi .....[2] preferencijalnog podrijetla.

Czech version

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

Danish version

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

German version

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

Estonian version

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

Greekversion

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

English version

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

French version

L'exportateur des produits couverts par le présent document (autorisation douanière n° ...[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 (autorizzazione doganale n. ...[1]) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...[2].

Latvian version

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

Lithuanian version

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

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: …[1]) kijelentem, hogy eltérő jelzés hianyában az áruk kedvezményes …[2] származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. …[1]) jiddikjara li, ħlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali …[2].

Dutch version

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

Polish version

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

Portuguese version

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

Romanian version

Exportatorul produselor ce fac ojiectul acestui document (autorizaţia vamalâ nr. …[1]) declará cá, exceptând cazul în care în mod expres este indicat altfel, aceste produse sunt de origine preferenţialā …[2].

Slovenian version

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

Slovak version

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

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa n:o ...[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 (tullmyndighetens tillstånd nr. ...[1]) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung[2].

…….....[3]

(Place and date)

...…….....[4]

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

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

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

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

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

Annex VII

SPECIMENS OF A CERTIFICATE OF ORIGIN AND APPLICATION FOR A CERTIFICATE OF ORIGIN

Printing instructions

1. Each form shall measure 210 x 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25 g/m^2. It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

2. The competent authorities of the Parties may reserve the right to print the forms themselves or may have them printed by approved printers. In the latter case, each form must include a reference to such approval. Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

SPECIMEN OF A CERTIFICATE OF ORIGIN

MOVEMENT CERTIFICATE

<table>
<tr><td colspan="2">1. Exporter (Name, full address, country)</td><td colspan="3">EUR.1 No
See notes overleaf before completing this form.</td></tr>
<tr><td colspan="2" rowspan="2">3. Consignee (Name, full address, country) (Optional)</td><td colspan="3">2. Certificate used in preferential trade between
.....
And
.....
(Insert appropriate countries, groups of countries or territories)</td></tr>
<tr><td>4. Country, group of countries or territory in which the products are considered as originating</td><td colspan="2">5. Country, group of countries or territory of destination</td></tr>
<tr><td colspan="2">6. Transport details (Optional)</td><td colspan="3">7. Remarks</td></tr>
<tr><td colspan="2">8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods</td><td>9. Gross mass (kg) or other measure (litres, m3., etc.)</td><td colspan="2">10. Invoices (Optional)</td></tr>
</table>

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

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

11. CUSTOMS (EU) or ISSUING AUTHORITIES (VN) ENDORSEMENT	**12. DECLARATION BY THE EXPORTER**
Declaration certified Export document [2] Form .....No ……... Of ……. Customs office .....…… Issuing country or territory ..... Stamp .... Place and date ……..... ..... ……..... (Signature)	I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate. Place and date ……..... ..... (Signature)

13. REQUEST FOR VERIFICATION, to	**14. RESULT OF VERIFICATION**
	Verification carried out shows that this certificate [1] ☐ was issued by the customs office (EU) issuing authority (VN) indicated and that the information contained therein is accurate. ☐ does not meet the requirements as to authenticity and accuracy (see remarks appended).
Verification of the authenticity and accuracy of this certificate is requested. .....……..... (Place and date) Stamp .....…… (Signature)	.....…….. (Place and date) Stamp .....… (Signature)

(1) Insert X in the appropriate box.

NOTES

1. Certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the Customs authorities (EU) issuing authority (VN) of the issuing country or territory.

2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.

3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

SPECIMEN OF AN APPLICATION FOR A CERTIFICATE OF ORIGIN (for exports from the Union to Vietnam)

APPLICATION FOR A MOVEMENT CERTIFICATE

<table>
<tr><td colspan="2">1. Exporter (Name, full address, country)</td><td colspan="3">EUR.1 No
See notes overleaf before completing this form.</td></tr>
<tr><td colspan="2" rowspan="2">3. Consignee (Name, full adress, country) (Optional)</td><td colspan="3">2. Application for a certificate to be used in preferential trade between
.....
and
.....
(Insert appropriate countries or groups of countries or territories)</td></tr>
<tr><td>4. Country, group of countries or territory in which the products are considered as originating</td><td colspan="2">5. Country, group of countries or territory of destination</td></tr>
<tr><td colspan="2">6. Transport details (Optional)</td><td colspan="3">7. Remarks</td></tr>
<tr><td colspan="2">8. Item number; Marks and numbers; Number and kind of packages (1) Description of goods</td><td>9. Gross mass (kg) or other measure (litres, m^3., etc.)</td><td colspan="2">10. Invoices (Optional)</td></tr>
</table>

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

DECLARATION BY THE EXPORTER

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

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

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

.....

.....

.....

.....

SUBMIT the following supporting documents ([1]):

.....

.....

.....

.....

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

REQUEST the issue of the attached certificate for these goods.

....

(Place and date)

. .....

(Signature)

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

ANNEX VIII

EXPLANATORY NOTES

1. For the purposes of Article 1(p), the “exporter” is not necessarily the person (the seller) that issues the sales invoice for the consignment (third party invoicing). The seller can be located in the territory of a non-Party to the agreement.

2. For the purposes of Article 4(1)(b) “plants and vegetable products” includes notably live trees, flowers, fruits, vegetables, seaweeds and fungi.

3. For the purposes of Article 11 general accounting principles means the recognised consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures.

4. For the purpose of Article 13(4) the terms "In case of doubt" means that the importing Party has the discretion of determining the cases for which the declarant is requested to provide evidence of compliance with Article 13 but that it cannot routinely require the submission of that evidence.

5. For the purposes of Article 17(1) “in writing” includes an application being made by electronic means.

6. For the purpose of Article 17(3) the terms “to submit at any time, at the request of the competent authorities of the exporting Party, all appropriate documents” covers both the situation whereby the competent authorities request systematically the submission of all supporting documents as well as the situation whereby the competent authorities only make targeted requests for the submission of the supporting documents.

7. For the purposes of Article 21(3) “another commercial document” can be, for example, an accompanying: delivery note, a pro-forma invoice or a packing list. A transport document, such as a Bill of Lading or the Airway Bill, cannot be considered as another commercial document. An origin declaration on a separate form is not permitted. The origin declaration may be submitted on a separate sheet of the commercial document when the sheet is an obvious part of this document.

8. As regards the application of Article 32, the customs authorities of the exporting country endeavour to inform the importing authorities about the receipt of the verification request. They may do so in any form, including electronic. They also endeavour to inform the requesting authorities in case they need more time than the period of ten months foreseen to carry out verification and provide a reply.

9. As regards the application of Article 32(6), the requesting competent authorities shall check with the requested competent authorities whether they have effectively received the request before refusing the entitlement of preferences.

JOINT DECLARATION

concerning the Principality of Andorra

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonised System shall be accepted by Vietnam as originating in the Union within the meaning of this Agreement.
2. The Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' 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 Vietnam as originating in the Union within the meaning of this Agreement.
2. The Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' shall apply *mutatis mutandis* for the purpose of defining the originating status of the above-mentioned products.

JOINT DECLARATION

concerning the revision of the rules of origin contained in Protocol concerning 'the definition of originating products and Methods of Administrative co-operation'

1. The Parties agree to review the rules of origin contained in this Protocol concerning the definition of originating products and Methods of Administrative co-operation' and discuss the necessary amendments upon request of either Party.

2. Annexes II to IV to the Protocol concerning 'the definition of originating products and Methods of Administrative co-operation' will be adapted in accordance with the periodical changes to the Harmonised System.