

*This **document** is the European Union's (EU) proposal for a legal text on the concept of originating products in the EU-Australia FTA. It will be tabled for discussion with Australia. The actual text in the final agreement will be a result of negotiations between the EU and Australia.*

DISCLAIMER: *The EU reserves the right to make subsequent modifications to this text and to complement its proposals at a later stage, by modifying, supplementing or withdrawing all, or any part, at any time.*

PROTOCOL [XX]

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

RULES OF ORIGIN

Article 1

Definitions

For the purposes of this Protocol:

- (a) "manufacture" means any kind of working or processing including assembly;
- (b) "material" means any substance used in the manufacture of a product, including any ingredients, raw materials, components or parts;
- (c) "product" means the product resulting from the manufacture, even if it is intended for later use as a material in another manufacturing operation;
- (d) "goods" means both materials and products;
- (e) "customs authority" means:
 - in Australia; and
 - in the European Union, 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 European Union for the application and enforcement of customs legislation;
- (f) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;

- (g) “exporter” means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of the Party, exports or produces the originating product and makes out a statement on origin;
- (h) "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);
- (i) "ex-works price" means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the EU Party or in Australia, 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;

- (j) “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 EU Party or in Australia;
- (k) “chapters” and “headings” and “subheadings” mean the chapters, the headings and sub-headings used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, referred to in Chapter as “the Harmonized System” or “HS”;
- (l) “classified” refers to the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonized System
- (m) “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;
- (n) “territories” includes territorial seas.

Article 2

General requirements

1. 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 [wholly obtained products]; or
- (b) products incorporating non-originating materials provided they satisfy requirements of Annex II [Product-Specific Rules of Origin],

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

2. 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 a materials in another product.
3. The acquisition of originating status shall be fulfilled without interruption in Australia or the European Union.

Article 3

Cumulation of origin

1. A product originating in a Party is considered as originating in the other Party when it is used as a material in the manufacture of another product in that Party.
2. Paragraph 1 shall not apply if the manufacture carried out in the other Party does not go beyond one or more of the operations referred to in Article 6 [Insufficient operations].

Article 4

Wholly obtained products

1. The following shall be considered as wholly obtained in a Party:
 - (a) a mineral or naturally occurring substance extracted or taken 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 obtained from live animals raised there;
 - (e) products obtained from slaughtered animals born and raised there;
 - (f) products obtained by hunting or fishing conducted there;
 - (g) products obtained from aquaculture there, where aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants are born or raised from seed stock such as eggs, roes, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;
 - (h) products of sea fishing and other products taken from the sea outside any territorial sea by their vessels;
 - (i) products made aboard their factory ships exclusively from products referred to in subparagraph (h);
 - (j) products extracted from the seabed or subsoil thereof outside any territorial sea provided that they have rights to work that seabed or subsoil;
 - (k) waste and scrap resulting from manufacturing operations conducted there;
 - (l) used goods collected in the Party and that are fit only for the recovery of raw materials, including such raw materials;

(n) goods produced there exclusively from the products specified in subparagraphs (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 Australia;
- (b) which sail under the flag of a Member State of the Union or of Australia;
- (c) which meet one of the following conditions:
 - (i) they are at least 50% owned by nationals of a Member State of the European Union or of Australia;
 - or
 - (ii) they are owned by legal person:
 - which have their head office and their main place of business in a Member State of the Union or Australia, and
 - which are at least 50% owned by a by a person of one of those Parties.

Article 5

Tolerances

1. If the non-originating materials used in the manufacture of a product do not satisfy the requirements of Annex II [Product-Specific Rules of Origin], the product nevertheless shall be considered as originating, provided that:

- (a) the total weight of non-originating materials classified under Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16, shall not exceed 10% of the weight of the product;
- (b) the total value of non-originating materials for all other products, except for products falling within Chapters 50 to 63 of the Harmonized System shall not exceed 10% of the ex-works price of the product;
- (c) for a product classified under Chapters 50 to 63 of the Harmonized System, tolerance shall apply as stipulated in Note 6 and 7 of Annex [Introductory Notes].

2. Paragraph 1 does not apply if the value of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value of non-originating materials as specified in the requirements set out in Annex II [Product-Specific Rules of Origin].

3. Paragraph 1 shall not apply to products wholly obtained in a Party within the meaning of Article 4. If Annex II requires that the materials used in the manufacture of a product are wholly obtained, paragraphs 1 and 2 apply.

Article 6

Insufficient working or processing

1. By derogation from paragraph 1(b) of Article 2, a product shall not be considered originating in a Party if the manufacture of the product in a Party consists only of one or more of the following operations conducted on non-originating materials:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage where their sole purpose is to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up or 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) slaughter of animals.

2. For the purpose of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.

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

Article 8

Packing materials and containers for shipment

Packing materials and containers for shipment that are used to protect a product during transportation shall be disregarded in determining whether a product is originating.

Article 9

Packaging materials and containers for retail sale

1. Packaging materials and containers in which a product is packaged for retail sale, if classified with the product, shall be disregarded in determining whether all the non-originating materials used in the production of the product have undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex II or whether the product is wholly obtained.
2. If a product is subject to a value requirement set out in Annex II, the value of the packaging materials and containers in which the product is packaged for retail sale, if classified with the product, shall be taken into account as originating or non-originating, as the case may be, in the calculation for the purpose of application of the value requirement to the product.

Article 10

Accessories, spare parts and tools

1. For the purposes of this Article, accessories, spare parts, tool and instructional or other information materials are covered if:
 - (a) the accessories, spare parts, tools and instructional or other information materials are classified and delivered with, but not invoiced separately from, the product; and
 - (b) the types, quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for that product.

2. In determining whether a product is wholly obtained, or satisfies a process or change in tariff classification requirement as set out in Annex II, accessories, spare parts, tools and instructional or other information materials shall be disregarded.
3. In determining whether a product meets a value requirement set out in Annex II, the value of accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating or non-originating materials, as the case may be, in the calculation for the purpose of the application of the value requirement to the product.
4. A product's accessories, spare parts, tools or instructional or other information materials shall have the originating status of the product with which they are delivered.

Article 11

Sets

A set, as defined in General Rule 3 of the Harmonized System, shall be considered as originating in a Party when all of its components are originating. Where the set is composed of originating and non-originating components, it shall as a whole be considered as originating in a Party, provided that the value of the non-originating components does not exceed 15 per cent of the ex-works price or free on board price of the set.

Article 12

Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the originating status of the following elements:

- (a) energy and fuel;
- (b) plant and equipment, including goods to be used for their maintenance;
- (c) machines and tools and dies and moulds;
- (d) spare parts and materials used in the maintenance of equipment and buildings;
- (e) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (f) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (g) equipment, devices and supplies used for testing or inspecting the good;
- (h) catalyst and solvent; and;
- (i) other goods that is not incorporated into the product, and that it is not intended to be incorporated into the final composition of the product.

Article 13

Accounting segregation for fungible materials

1. Originating and non-originating fungible materials shall be physically segregated during storage in order to maintain their originating and non-originating status, as the case may be. These materials may be used in the working or processing of a product without being physically segregated provided an accounting segregation method is used.
2. The accounting segregation method referred to in paragraph 1 shall be applied in conformity with a stock management method under accounting principles which are generally accepted in the Party. The accounting segregation method shall ensure that at any time the number of materials which could be considered as originating in a Party is the same as the number that would have been obtained by physical segregation of the stocks.
3. A Party may require, under conditions set out in its laws or regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authorities of that Party. The customs authorities of the Party may withdraw the authorisation if the manufacturer makes improper use of the accounting segregation or fails to fulfil any of the other conditions laid down in this Protocol.
4. For the purpose of paragraph 1, “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.

Article 14

Returned goods

1. If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authority of that Party that the returning product:
 - (a) is the same as that exported; and
 - (b) has not undergone any operation other than that necessary to preserve it in good condition while in that third country or while being exported.

Article 15

Non alteration

1. An originating product declared for home use in the importing Party shall not have after exportation and prior to being declared for home use, been altered, transformed in any way or subjected to operations other than to preserve them in good condition or than adding

or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.

2. Storage or exhibition of a product may take place in a third country provided that it remains under customs supervision in that third country.

3. Without prejudice to Section B, the splitting of consignments may take place in a third country if it is carried out by the exporter or under its responsibility and provided that they remain under customs supervision in that third country.

4. In case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

Article 16

Prohibition of drawback of, or exemption from, import duties

[placeholder]

SECTION B

ORIGIN PROCEDURES

Article 17

Claim for preferential tariff treatment

1. The importing Party shall grant preferential tariff treatment to a product originating in the other Party within the meaning of this Protocol on the basis of a claim by the importer for preferential tariff treatment. The importer shall bear the responsibility for the correctness of the claim for preferential tariff treatment and for the compliance with the requirements provided for in this Protocol.

2. A claim for preferential tariff treatment shall be based on either:

- (a) a statement on origin that the product is originating made out by the exporter; or
- (b) the importer's knowledge that the product is originating.

3. A claim for preferential tariff treatment and its basis as referred to in subparagraph 2(a) or (b) shall be included in the customs import declaration in accordance with the laws and regulations of the importing Party.

4. The importer making a claim for preferential tariff treatment based on a statement on origin referred to in subparagraph 2(a) shall keep the statement on origin and, when required by the custom authority of the importing Party, provide a copy thereof to that authority.

Article 18

Statement on origin

1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, when applicable, information on the originating status of materials used in the production of the product. The exporter shall bear the responsibility for the correctness of the statement on origin made out and the information provided.

2. A statement on origin shall be made out in one of the linguistic versions included in Annex XX [Text of the Statement on Origin] on an invoice or on any other commercial document that describes the originating product in sufficient detail to enable its identification¹. The importing Party shall not require the importer to submit a translation of the statement on origin.

3. A statement on origin shall be valid for one year from the date it was made out.

4. A statement on origin may apply to:

- (a) a single shipment of a product into a Party; or
- (b) multiple shipments of identical products into a Party within the period specified in the statement on origin not exceeding twelve months.

5. The importing Party shall, upon the request of the importer and subject to requirements it may provide, allow a single statement on origin to be used for unassembled or disassembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XV to XXI of the Harmonized System when imported by instalments.

Article 19

Discrepancies and minor errors

The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or discrepancies in the statement on origin.

¹ For greater certainty, while the statement on origin must be made out by the exporter and the exporter shall bear the responsibility to provide sufficient detail to identify the originating product, there is no condition regarding either the identity or the place of establishment of the person completing the invoice or any other commercial document, insofar as that document allows clearly identifying the exporter.

Article 20

Importer's knowledge

Importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Protocol.

Article 21

Record keeping requirements

1. An importer making a claim for preferential tariff treatment for a product imported into the importing Party shall, for a minimum of three years after the importation of the product, keep:

- (a) if the claim was based on a statement on origin, the statement on origin made out by the exporter;
- (b) if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements to obtain originating status.

2. An exporter who has made out a statement on origin shall, for a minimum of four years after the making out of that statement on origin, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.

3. The records to be kept in accordance with this Article may be held in electronic format.

Article 22

Small consignments

1. In derogation to Articles 17 (Claim for Preferential Tariff Treatment) to 20 (Importer's Knowledge), the importing Party shall grant preferential tariff treatment to:

- (a) a product sent in a small package from private persons to private persons; and
- (b) a product forming part of a traveller's personal luggage;

when such a product has been declared as meeting the requirements of this Protocol, where the customs authority of the importing Party has no doubts as to the veracity of such declaration.

2. The following products are excluded from the application of paragraph 1:

- (a) a product imported by way of trade. The 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;
- (b) products whose importation forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 17 (Claim for Preferential Tariff Treatment);
- (c) products whose total value exceeds:
 - (i) in the case of the Union, EUR 500 in the case of products sent in small packages, or EUR 1 200 in the case of products forming part of a traveller's personal luggage. The amounts to be used in a 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 those published for that day by the European Central Bank, unless a different amount is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify Australia of the relevant amounts;
 - (ii) in the case of Australia,...

3. The importer shall bear the responsibility for the correctness of the declaration and for the compliance with the requirements provided for in this Protocol. The record-keeping requirements set out in Article 21 (Record Keeping Requirements) shall not apply to the importer under this Article.

Article 23

Verification

1. The customs authority of the importing Party may conduct a verification whether a product is originating or the other requirements of this Protocol are met based on risk assessment methods, which may include random selection. Such verification may be conducted by means of a request for information to the importer who made the claim referred to in Article 17 (Claim for Preferential Tariff Treatment), at the time the import declaration is submitted, before the release of the products, or after the release of the products.

2. Pursuant to paragraph 1 the customs authority of the importing Party shall not request more than the following information:

- (a) if a statement on origin was the basis of the claim referred to in subparagraph 2(a) of Article 3.16, that statement on origin;
- (b) the HS-code of the final product;
- (c) the origin criteria used;

- (d) a brief description of the production process;
- (e) if the origin criterion was based on a specific production process, a specific description of that process;
- (f) if applicable, a description of the originating and non-originating materials used in the production process;
- (g) if the origin criterion was 'wholly obtained', the applicable category (such as harvesting, mining, fishing) and place of production;
- (h) if the origin criterion was based on a value method, the value of the final product as well as the value of all the non-originating materials used in the production;
- (i) if the origin criterion was based on weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the final product;
- (j) if the origin criterion was based on change in tariff classification, a list of all the non-originating materials including their tariff classification (in 2, 4 or 6 digit format, depending on the origin criterion);
- (k) the information relating to the compliance with the provision on non-alteration referred to in Article 14 (Non-Alteration).

3. When providing the requested information, the importer may add any other information that he considers relevant for the purpose of verification.

4. Where the claim for preferential tariff treatment is based on a statement on origin referred to in paragraph 2(a) of Article 17 (Claim for Preferential Tariff Treatment), the importer shall inform the customs authority of the importing Party when the requested information may be provided by the exporter directly.

5. Where the claim for preferential tariff treatment is based on the importer's knowledge referred to in paragraph 2(b) of Article 17 (Claim for Preferential Tariff Treatment), after having first requested information pursuant to paragraph 1 of this Article, the customs authority of the importing Party conducting the verification may send a request for information to the importer when it considers that additional information is required for verifying the originating status of the product or whether the other requirements of this Protocol are met. The customs authority of the importing Party may request the importer for specific documentation and information, where appropriate.

6. If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer. As a condition for such release, the Party may require a guarantee or other appropriate precautionary measure. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained the originating status of the products concerned, or the fulfilment of the other requirements of this Protocol.

Article 24

Administrative cooperation

1. In order to ensure the proper application of this Protocol, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and in compliance with the other requirements provided for in this Protocol.

2. If the claim for preferential tariff treatment is based on a statement on origin referred to in paragraph 2(a) of Article 17 (Claim for Preferential Tariff Treatment), after having first requested information in accordance with paragraph 1 of Article 23 (Verification), the customs authority of the importing Party conducting the verification may also send a request for information to the customs authority of the exporting Party within a period of two years from the importation of the product, when the customs authority of the importing Party conducting the verification considers that it requires additional information for verifying the originating status of the product or whether the other requirements provided for in this Protocol are met. The customs authority of the importing Party may request the customs authority of the exporting Party for specific documentation and information, where appropriate.

3. The customs authority of the importing Party shall include the following information in the request referred to in paragraph 2 of this Article:

- (a) the statement on origin;
- (b) the identity of the customs authority issuing the request;
- (c) the name of the exporter;
- (d) the subject and scope of the verification; and
- (e) where applicable any relevant documentation.

4. The customs authority of the exporting Party may, in accordance with its laws and regulations, request documentation or examination by calling for any evidence, or by visiting the premises of the exporter, to review records and observe the facilities used in the production of the product.

5. The customs authority of the exporting Party following the request referred to in paragraph 2 shall provide the following information:

- (a) the requested documentation, where available;
- (b) an opinion on the originating status of the product;
- (c) the description of the product subject to examination and the tariff classification relevant to the application of the rules of origin;

- (d) a description and explanation of the production process to support the originating status of the product;
- (e) information on the manner in which the examination was conducted; and
- (f) supporting documentation, where appropriate.

The customs authority of the exporting Party shall not transmit information to the customs authority of the importing Party referred to in paragraph 4 without the consent of the exporter.

6. The Parties shall provide each other, through the European Commission, the contact details of their respective customs authorities and any modification thereof within thirty days after such modification.

Article 25

Mutual assistance in the fight against fraud

In case of a suspected breach of the provisions of this Protocol, the Parties shall provide each other with mutual assistance, in accordance with Protocol XX [Mutual Administrative Assistance].

Article 26

Denial of preferential tariff treatment

1. Subject to the requirements in paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment where:
 - (a) within a period of three months following the request for information pursuant to paragraph 1 of Article 23 (Verification):
 - (i) no reply is provided by the importer;
 - (ii) where the claim for preferential tariff treatment is based on a statement on origin referred to in subparagraph 2(a) of Article 17 (Claim for Preferential Tariff Treatment), the statement on origin was not provided;
 - (iii) where the claim for preferential tariff treatment is based on the importer's knowledge referred to in subparagraph 2(b) of Article 17 (Claim for Preferential Tariff Treatment), the information provided by the importer is inadequate to confirm that the product is originating;
 - (b) within a period of three months following the request for additional information pursuant to paragraph 5 of Article 23 (Verification):

- (i) no reply is provided by the importer; or
 - (ii) the information provided by the importer is inadequate to confirm that the product is originating;
- (c) within a period of ten months following the request for information pursuant to paragraph 2 of Article 24 (Administrative Cooperation):
- (i) no reply is provided by the customs authority of the exporting Party; or
 - (ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product is originating;
- (d) following a prior request for assistance pursuant to Article 25 (Mutual Assistance in the Fight Against Fraud) and within the mutually agreed period, in respect of products having been subject of a claim for preferential tariff treatment as referred to in paragraph 1 of Article 17 (Claim for Preferential Tariff Treatment):
- (i) the customs authority of the exporting Party fails to provide the assistance; or
 - (ii) the result of this assistance is inadequate to confirm that the product is originating.

2. The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements of this Protocol other than those relating to the originating status of the products.

3. Where the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment in accordance with paragraph 1 of this Article, in cases where the customs authority of the exporting Party provided an opinion pursuant to paragraph 5(b) of Article 24 (Administrative Cooperation) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party, within two months of receiving the opinion, of its intention to deny the preference.

In such case, and at the request of either Party, consultations shall be held within a period of three months from the date of the notification referred to in the first subparagraph. The period for consultation may be extended on a case by case basis by mutual agreement between the customs authorities of the Parties. The consultation may take place in line with the procedure set by [relevant body of the Agreement] established pursuant to this Agreement.

At the expiry of the period for consultation, the customs authority of the importing Party shall deny the preferential tariff treatment only if, on the basis of sufficient justification, it cannot confirm that the product is originating, and after having granted the importer the right to be heard.

Article 27

Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it by the other Party, pursuant to this Protocol, and shall protect that information from disclosure.
2. Information obtained by the authorities of the importing Party may only be used by such authority for the purposes of this Protocol.
3. Confidential business information obtained from the exporter by the customs authority of the exporting Party or by importing Party through the application of Articles 23 (Verification) and 24 (Administrative Cooperation) shall not be disclosed unless otherwise provided for in this Protocol.
4. Information obtained by the customs authority of the importing Party pursuant to this Protocol shall not be used by the importing Party in any criminal proceedings carried out by a court or a judge, unless permission to use such information is requested by and provided to the importing Party through the diplomatic channels or other channels established in accordance with the applicable laws and regulations of the exporting Party.

Article 28

Administrative measures and sanctions

A Party shall impose administrative measures, and sanctions where appropriate, in accordance with its respective laws and regulations, on a person who draws up a document, or causes a document to be drawn up, which contains incorrect information provided for the purpose of obtaining a preferential tariff treatment to a product, or who does not comply with the requirements set out in Article 21 (Record Keeping Requirements), or who does not provide the evidence or refuses the visit referred to in Article 24(4) (Administrative Cooperation).

SECTION C

FINAL PROVISIONS

Article 29

Ceuta and Melilla

1. For the purpose of this Protocol, the term “Union” does not include Ceuta and Melilla.
2. Products originating in Australia, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs regime, including preferential tariff treatment, as that which is applied to products originating in the customs territory of the Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities. Australia shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime, including preferential tariff treatment, as that which is applied to products imported from and originating in the Union.
3. The rules of origin applicable to Australia under this Protocol shall apply in determining the origin of products exported from Australia to Ceuta and Melilla. The rules of origin applicable to the Union under this Protocol shall apply in determining the origin of products exported from Ceuta and Melilla to Australia.
4. Ceuta and Melilla shall be considered as a single territory.
5. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

Article 30

Amendments to this Protocol

[placeholder]

Article 31

Transitional provisions for products in transit or storage

The provisions of this Agreement may be applied to products which comply with the provisions of this Protocol and which on the date of entry into force of this Agreement are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, subject to the making of a claim for preferential tariff treatment referred to in Article 17 (Claim for Preferential Tariff Treatment) of this Protocol to the customs authority of the importing Party, within 12 months

of that date.

ANNEX I

INTRODUCTORY NOTES TO PRODUCT SPECIFIC RULES OF ORIGIN

ANNEX II

PRODUCT SPECIFIC RULES OF ORIGIN

ANNEX III

TEXT OF THE STATEMENT ON ORIGIN

A statement on origin, the text of which is set out below, shall be made out using one of the following linguistic versions and in accordance with the domestic law of the exporting Party, or using any other linguistic version notified by the Union. The Union shall notify any other linguistic version of the statement on origin to Australia at the latest on the accession of a new Member State to the Union. If the statement is handwritten, it shall be written in ink in printed characters. The statement on origin must be drawn up in accordance with the respective footnotes. The footnotes do not have to be reproduced.

Bulgarian version

Croatian version

Czech version

Danish version

Dutch version

English version

Estonian version

Finnish version

French version

German version

Greek version

Hungarian version

Italian version

Latvian version

Lithuanian version

Maltese version

Polish version

Portuguese version

Romanian version

Slovak version

Slovenian version

Spanish version

Swedish version

The Australia version

(Period: from _____ to _____ ⁽¹⁾)

The exporter of the products covered by this document (Exporter Reference No ... ⁽²⁾) declares that, except where otherwise clearly indicated, these products are of ... ⁽³⁾ preferential origin.

..... ⁽⁴⁾

(Place and date)

.....

(Printed name of the exporter)

-
- ¹ When the statement on origin is completed for multiple shipments of identical originating products within the meaning of Article 18 (Statement on Origin), indicate the period for which the statement on origin will apply. The period shall not exceed twelve months. All importations of the product must occur within the period indicated. Where a period is not applicable, the field can be left blank.
- ² Indicate the reference number through which the exporter is identified. For the EU exporter, this will be the number assigned in accordance with the laws and regulations of the Union. For the Australia exporter, this will be the [...]. Where the exporter has not been assigned a number, this field may be left blank.
- ³ Indicate the origin of the product: Australia or the Union.
- ⁴ Place and date may be omitted if the information is contained on the document itself.

JOINT DECLARATION CONCERNING THE PRINCIPALITY OF ANDORRA

1. Products originating in the Principality of Andorra falling within Chapter 25 to 97 of the Harmonized System shall be accepted by Australia as originating in the Union within the meaning of this Agreement, provided that the customs union established by Council Decision 90/680/EEC of 26 November 1990 on the conclusion of an agreement in the form of an exchange of letters between the European Economic Community and the Principality of Andorra remains in force.

2. Protocol [XX] (Concerning the Definition of the Concept of “Originating Products” and Methods of Administrative Cooperation) shall apply mutatis mutandis for the purpose of defining the originating status of products referred to in paragraph 1 of this Joint Declaration.

JOINT DECLARATION CONCERNING THE REPUBLIC OF SAN MARINO

1. Products originating in the Republic of San Marino shall be accepted by Australia as originating in the Union within the meaning of this Agreement, provided that these products are covered by the Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino, done at Brussels on 16 December 1991, and that the latter remains in force.

2. Protocol [XX] (Concerning the Definition of the Concept of “Originating Products” and Methods of Administrative Cooperation) shall apply mutatis mutandis for the purpose of defining the originating status of the products referred to in paragraph 1 of this Joint Declaration.