# COUNCIL DECISION

## of 9 October 2014

## on the position to be adopted on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, as regards the replacement of Protocol 3 to that Agreement, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, by a new protocol which, as regards the rules of origin, refers to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin

(2014/735/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Protocol 3 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part ([1]) ('the Agreement'), concerns the definition of the concept of 'originating products' and methods of administrative cooperation ('Protocol 3').

(2) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ([2]) ('the Convention') lays down provisions on the origin of goods traded under relevant agreements concluded between the contracting parties. Montenegro and other participants to the Stabilisation and Association Process from the Western Balkans were invited to join the system of pan-European diagonal cumulation of origin in the Thessaloniki agenda, endorsed by the European Council of June 2003. They were invited to join the Convention by a decision of the Euro-Mediterranean Ministerial Conference of October 2007.

(3) The Union and Montenegro signed the Convention on 15 June 2011.

(4) The Union and Montenegro deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and 2 July 2012, respectively. As a consequence, in application of Article 10(3) of the Convention, the Convention entered into force in relation to the Union and Montenegro on 1 May 2012 and on 1 September 2012, respectively.

(5) Article 6 of the Convention provides that each contracting party is to take appropriate measures to ensure that the Convention is effectively applied. To that effect, the Stabilisation and Association Council established by the Agreement should adopt a decision replacing Protocol 3 by a new protocol which, with regard to the rules of origin, refers to the Convention.

(6) The position of the Union within the Stabilisation and Association Council should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be adopted on behalf of the European Union within the Stabilisation and Association Council established by the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, as regards the replacement of Protocol 3 to that Agreement, concerning the definition of the concept of 'originating products' and methods of administrative cooperation, by a new protocol which, as regards the rules of origin, refers to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, shall be based on the draft decision of the Stabilisation and Association Council attached to this Decision.

([1]) OJ L 108, 29.4.2010, p. 3.
([2]) OJ L 54, 26.2.2013, p. 4.

Minor changes to the draft decision of the Stabilisation and Association Council may be agreed to by the representatives of the Union in the Stabilisation and Association Council without further decision of the Council.

*Article 2*

The decision of the Stabilisation and Association Council shall be published in the *Official Journal of the European Union*.

*Article 3*

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

Done at Luxembourg, 9 October 2014.

*For the Council*
*The President*
A. ALFANO

DRAFT

**DECISION No … OF THE EU-MONTENEGRO STABILISATION AND ASSOCIATION COUNCIL**

**of**

**replacing Protocol 3 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation**

THE EU-MONTENEGRO STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, signed in Luxembourg on 15 October 2007 ([1]), and in particular Article 44 thereof,

Having regard to Protocol 3 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part,concerning the definition of the concept of 'originating products' and methods of administrative cooperation,

Whereas:

(1) Article 44 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part ('the Agreement') refers to Protocol 3 concerning the definition of the concept of 'originating products' and methods of administrative cooperation ('Protocol 3'), which lays down the rules of origin and provides for cumulation of origin between the Union, Montenegro, Turkey and any country or territory participating in the Union's Stabilisation and Association Process.

(2) Article 39 of Protocol 3 provides that the Stabilisation and Association Council established by Article 119 of the Agreement may decide to amend the provisions of that protocol.

(3) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ([2]) ('the Convention') aims to replace the protocols on rules of origin currently in force among the countries of the pan-Euro-Mediterranean area with a single legal act. Montenegro and other participants to the Stabilisation and Association Process from the Western Balkans were invited to join the system of pan-European diagonal cumulation of origin in the Thessaloniki agenda, endorsed by the European Council of June 2003. They were invited to join the Convention by a decision of the Euro-Mediterranean Ministerial Conference of October 2007.

(4) The Union and Montenegro signed the Convention on 15 June 2011.

(5) The Union and Montenegro deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and 2 July 2012, respectively. Consequently, in application of Article 10(3) of the Convention, the Convention entered into force in relation to the Union and Montenegro on 1 May 2012 and on 1 September 2012, respectively.

(6) Where the transition towards the Convention is not simultaneous for all Contracting Parties within the cumulation zone, it should not lead to any less favourable situation than previously under Protocol 3.

(7) Protocol 3 should therefore be replaced by a new protocol making reference to the Convention,

HAS ADOPTED THIS DECISION:

*Article 1*

Protocol 3 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation is replaced by the text set out in the Annex to this Decision.

([1]) OJ L 108, 29.4.2010, p. 3.
([2]) OJ L 54, 26.2.2013, p. 4.

*Article 2*

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

It shall apply from 1 September 2014.

Done at

*For the Stabilisation and Association Council*
*The President*

*ANNEX*

**Protocol 3**

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

*Article 1*

**Applicable rules of origin**

For the purpose of implementing this Agreement, Appendix I and the relevant provisions of Appendix II to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin [1] ('the Convention') shall apply.

All references to the 'relevant agreement' in Appendix I and in the relevant provisions of Appendix II to the Convention shall be construed so as to mean this Agreement.

*Article 2*

**Dispute settlement**

Where disputes arise in relation to the verification procedures of Article 32 of Appendix I to the Convention that cannot be settled between the customs authorities requesting the verification and the customs authorities responsible for carrying out this verification, they shall be submitted to the Stabilisation and Association Council.

In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall take place under the legislation of that country.

*Article 3*

**Amendments to the Protocol**

The Stabilisation and Association Council may decide to amend the provisions of this Protocol.

*Article 4*

**Withdrawal from the Convention**

1. Should either the European Union or Montenegro give notice in writing to the depositary of the Convention of their intention to withdraw from the Convention according to Article 9 thereof, the European Union and Montenegro shall immediately enter into negotiations on rules of origin for the purpose of implementing this Agreement.

2. Until the entry into force of such newly negotiated rules of origin, the rules of origin contained in Appendix I and, where appropriate, the relevant provisions of Appendix II to the Convention, applicable at the moment of withdrawal, shall continue to apply to this Agreement. However, as of the moment of withdrawal, the rules of origin contained in Appendix I and, where appropriate, the relevant provisions of Appendix II to the Convention shall be construed so as to allow bilateral cumulation between the European Union and Montenegro only.

*Article 5*

**Transitional provisions — cumulation**

1. Notwithstanding Article 3 of Appendix I to the Convention, the rules on cumulation provided for in Articles 3 and 4 of Protocol 3 to this Agreement, as adopted by the European Union and Montenegro on concluding the Agreement [2], shall continue to apply between the Parties to this Agreement until the Convention has become applicable for all Contracting Parties to the Convention listed in those Articles.

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

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[1] OJ L 54, 26.2.2013, p. 4.
[2] OJ L 108, 29.4.2010, p. 3.