

**AGREEMENT between the European Community, of the one part, and the  
Government of Denmark and the Home Government of the Faroe Islands, of the  
other part**

THE EUROPEAN COMMUNITY,

of the one part, and

THE GOVERNMENT OF DENMARK AND THE HOME GOVERNMENT OF THE FAROE ISLANDS,

of the other part,

RECALLING the status of the Faeroes as a self-governing integral part of one of the Member States of the Community;

RECALLING the resolution of the Council of 4 February 1974 on the problems of the Faeroes;

CONSIDERING the vital importance for the Faeroes of fisheries, which constitute their essential economic activity, fish and fishery products being their main export articles;

CONSIDERING the importance of the fisheries relationship laid down in the Agreement on fisheries between the Contracting Parties, who confirm that the trade aspects of this Agreement should not affect the functioning of the Fisheries Agreement and that, consequently, the volume of the mutual fisheries possibilities under that Agreement should continue to be maintained at a satisfactory level;

DESIRING to consolidate and to extend the economic relations existing between the Community and the Faeroes and to ensure, with due regard for fair conditions of competition, the harmonious development of their commerce for the purpose of contributing to the work of constructing Europe;

RESOLVED progressively to eliminate the obstacles to substantially all their trade, in accordance with the provisions of the General Agreement on Tariffs and Trade (GATT) 1994 concerning the establishment of free trade areas;

DECLARING their readiness to examine, in the light of any relevant factor, and in particular of developments in the Community, the possibility of developing and deepening their relations where it would appear to be useful in the interests of their economies to extend them to fields not covered by this Agreement;

CONSIDERING that, to this end, an Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (hereafter referred to as the 'initial Agreement`) was signed on 2 December 1991;

CONSIDERING that an Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, amending Tables I and II of the Annex to Protocol 1 of the initial Agreement (hereafter referred to as the 'Agreement in the form of an Exchange of Letters`) was signed on 8 March 1995;

CONSIDERING that, pursuant to the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union on 1 January 1995, the arrangements applicable to trade in fish and fishery products between the Faeroes and the Community should be adjusted in order to maintain trade flows between the Faeroes, on the one hand, and the new Member States, on the other;

CONSIDERING that, as a result of the adoption by the Community of a common definition of origin for petroleum products, it is necessary to make adjustments to the provisions affecting these products;

CONSIDERING that, in order to take account of certain developments in trade between the Community and the Member States of EFTA, it is necessary to make adjustments to the

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

CONSIDERING that, in order to take account of the specific production of fish feed on the Faeroes, it is necessary to make adjustments to the provisions applicable to imports of certain agricultural products;

CONSIDERING that, in order to help ensure its correct functioning, a Protocol on mutual administrative assistance in customs matters should be incorporated into this Agreement;

CONSIDERING that, in order to conform with certain modifications to the nomenclature of the customs tariffs of the Contracting Parties affecting products referred to in the initial Agreement, it is necessary to update the tariff nomenclature of these products;

CONSIDERING that, in order to provide for more flexibility, it is appropriate to empower the Joint Committee to decide on amendments to the provisions of the Protocols to this Agreement;

CONSIDERING that, for the sake of clarity, the initial Agreement and the Agreement in the form of an Exchange of Letters should be replaced by a composite new text in the form of this Agreement;

TAKING INTO ACCOUNT that the bilateral trade Agreements between Finland and Sweden and the Faeroes cease to be in force on the entry into force of this Agreement;

HAVE DECIDED, in pursuit of these objectives and considering that no provisions of this Agreement may be interpreted as exempting the Contracting Parties from the obligations which are incumbent on them under other international agreements,

TO CONCLUDE THIS AGREEMENT:

#### Article 1

The aim of this Agreement is:

- (a) to promote through the expansion of reciprocal trade the harmonious development of economic relations between the Community and the Faeroes and thus to foster in the Community and in the Faeroes the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability,
- (b) to provide fair conditions of competition for trade between the Contracting Parties,
- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

#### Article 2

This Agreement shall apply to products originating in the Community or the Faeroes:

- (i) which fall within Chapters 25 to 97 of the Harmonized System, other than those listed in Annex II to the Treaty establishing the European Community, and other than those listed in Annex I to this Agreement;
- (ii) which are specified in Protocols 1, 2 and 4 to this Agreement, with due regard to the arrangements provided for in those Protocols.

#### Article 3

No new customs duty on imports shall be introduced in trade between the Community and the Faeroes.

#### Article 4

1. The Community shall abolish customs duties on imports from the Faeroes.
2. The Faeroes shall abolish customs duties on imports from the Community: to this end Annex II sets out the provisions contained in the customs and fiscal legislation of the Faeroes.

#### Article 5

The provisions concerning the abolition of customs duties on imports shall apply also to import duties of a fiscal nature.

The Faeroes may replace an import duty of a fiscal nature or the fiscal element of an import duty by an internal tax.

#### Article 6

No new charge having an effect equivalent to a customs duty shall be introduced in trade between the Community and the Faeroes.

Charges having an effect equivalent to customs duties on imports in trade between the Community and the Faeroes shall be abolished.

#### Article 7

No customs duty on exports or charge having equivalent effect shall be introduced in trade between the Community and the Faeroes.

Customs duties on exports and charges having equivalent effect shall be abolished.

#### Article 8

Protocol 1 lays down the tariff treatment and arrangements applicable to certain fish and fishery products released for free circulation in the Community or imported into the Faeroes.

#### Article 9

Protocol 2 lays down the tariff treatment and arrangements applicable to certain products obtained by processing agricultural products.

#### Article 10

1. In the event of specific rules being established as a result of the implementation of its agricultural policy or of any alteration of the current rules, the Contracting Party in question may adapt the arrangements resulting from this Agreement in respect of the products which are the subject of those rules or alterations.

2. In such cases the Contracting Party in question shall take due account of the interests of the other Contracting Party. To this end the Contracting Parties may consult each other within the Joint Committee established by Article 31.

#### Article 11

Protocol 3 lays down the definition of the concept of 'originating products` and methods of administrative cooperation.

#### Article 12

A Contracting Party which is considering the reduction of the effective level of its duties or charges having equivalent effect applicable to third countries benefiting from most-favoured-nation treatment, or which is considering the suspension of their application, shall, as far as may be practicable, notify the Joint Committee not less than 30 days before such reduction or suspension comes into effect. It shall take note of any representations by the other Contracting Party regarding any distortions which might result therefrom.

#### Article 13

1. No new quantitative restriction on imports or measures having equivalent effect shall be introduced in trade between the Community and the Faeroes.

2. The Contracting Parties shall abolish quantitative restrictions on imports and any measures having an effect equivalent to quantitative restrictions on imports.

#### Article 14

1. The Community reserves the right to modify the arrangements applicable to the petroleum products falling within headings Nos 2710, 2711, ex 2712 (excluding ozokerite, lignite wax and peat wax) and 2713 of the combined nomenclature on adoption of decisions under the common commercial policy for petroleum products or on establishment of a common energy policy.

In this event, the Community shall take due account of the interests of the Faeroes; to this end it shall inform the Joint Committee, which shall meet under the conditions set out in Article 33 (2).

2. The Faeroes reserves the right to take similar action should it be faced with like situations.

3. Subject to paragraphs 1 and 2, this Agreement shall not prejudice the non-tariff rules applied to imports of petroleum products.

#### Article 15

1. The Contracting Parties declare their readiness to foster, so far as their agricultural policies allow, the harmonious development of trade in agricultural products to which this Agreement does not apply.

2. The Contracting Parties shall apply their rules in veterinary, health and plant health matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

3. The Contracting Parties shall examine, under the conditions set out in Article 35, any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions.

#### Article 16

The Home Government of the Faroe Islands shall take the necessary control measures to ensure the correct application of the reference price fixed or to be fixed by the Community, referred to in Article 2 of Protocol 1.

The Contracting Parties shall ensure the correct application of the definition of the concept of 'originating products' and methods of administrative cooperation, laid down in Protocol 3.

#### Article 17

Protocol 4 lays down the special provisions applicable to imports of certain agricultural products other than those listed in Protocol 1.

#### Article 18

Protocol 5 lays down the provisions on mutual assistance between administrative authorities in customs matters.

#### Article 19

The Contracting Parties reaffirm their commitment to grant each other the most-favoured-nation treatment in accordance with the GATT 1994.

This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade, except in so far as they alter the trade arrangements provided for in this Agreement, in particular the provisions concerning rules of origin.

#### Article 20

The Contracting Parties shall refrain from any measure or practice of an internal fiscal nature which, whether directly or indirectly, discriminates between the products of one Contracting Party and like products originating in the territory of the other Contracting Party.

Products exported to the territory of one of the Contracting Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

#### Article 21

Payments relating to trade in goods and the transfer of such payments to the Member State of the Community in which the creditor is resident or to the Faeroes shall be free from any restrictions.

#### Article 22

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, law and order or public security, the protection of life and health of humans, animals or plants, the protection of national treasures of artistic, historic or archaeological value, the protection of industrial and commercial property, or rules relating to gold or silver.

Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

#### Article 23

Nothing in this Agreement shall prevent a Contracting Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in time of war or serious international tension.

#### Article 24

1. The Contracting Parties shall refrain from any measure likely to jeopardize the fulfilment of the objectives of this Agreement.
2. They shall take any general or specific measures required to fulfil their obligations under this Agreement.

If either Contracting Party considers that the other Contracting Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

#### Article 25

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Community and the Faeroes:

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition as regards the production of or trade in goods;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Contracting Parties as a whole or in a substantial part thereof;
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. Should a Contracting Party consider that a given practice is incompatible with this Article, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

#### Article 26

Where an increase in imports of a given product is or is likely to be seriously detrimental to any production activity carried on in the territory of one of the Contracting Parties and where this increase is due to:

(i) the partial or total reduction in the importing Contracting Party, as provided for in this Agreement, of customs duties and charges having equivalent effect levied on the product in question; and

(ii) the fact that the duties or charges having equivalent effect levied by the exporting Contracting Party on imports of raw materials or intermediate products used in the manufacture of the product in question are significantly lower than the corresponding duties or charges levied by the importing Contracting Party:

the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

#### Article 27

If one of the Contracting Parties finds that dumping is taking place in trade with the other Contracting Party, it may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the GATT 1994, under the conditions and in accordance with the procedures laid down in Article 29.

#### Article 28

If serious disturbances arise in any sector of the economy or if difficulties arise which could bring about serious deterioration in the economic situation of a region, the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

#### Article 29

1. In the event of a Contracting Party subjecting imports of products liable to give rise to the difficulties referred to in Articles 26 and 28 to an administrative procedure, the purpose of which is to provide rapid information on the trend of trade flows, it shall inform the other Contracting Party.

2. In the cases specified in Articles 24 to 28, before taking the measures provided for therein or, in cases to which paragraph 3 (d) of this Article applies, as soon as possible, the Contracting Party in question shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Contracting Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement.

The safeguard measures shall be notified immediately to the Joint Committee and shall be the subject of periodical consultations within the Committee, particularly with a view to their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

(a) as regards Article 25, either Contracting Party may refer the matter to the Joint Committee if it considers that a given practice is incompatible with the proper functioning of this Agreement within the meaning of Article 25 (1).

The Contracting Parties shall provide the Joint Committee with all relevant information and shall give it the assistance it requires in order to examine the case and, where appropriate, to eliminate the practice objected to.

If the Contracting Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee, or in the absence of agreement in the Joint Committee within three months of the matter being referred to it, the Contracting Party concerned may adopt any safeguard measures it considers necessary to deal with the serious difficulties resulting from the practices in question; in particular it may withdraw tariff concessions;

(b) as regards Article 26, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Joint Committee, which may take any decision needed to put an end to such difficulties.

If the Joint Committee or the exporting Contracting Party has not taken a decision putting an end to the difficulties within 30 days of the matter being referred, the importing Contracting Party is authorized to levy a compensatory charge on the product imported.

The compensatory charge shall be calculated according to the incidence on the value of the goods in question of the tariff disparities in respect of the raw materials or intermediate products incorporated therein;

(c) as regards Article 27, consultation in the Joint Committee shall take place before the Contracting Party concerned takes the appropriate measures;

(d) where exceptional circumstances requiring immediate action make prior examination impossible, the Contracting Party concerned may, in the situations specified in Articles 26, 27 and 28 and also in the case of export aids having a direct and immediate incidence on trade, apply forthwith the precautionary measures strictly necessary to remedy the situation.

#### Article 30

Where one or more Member States of the Community or the Faeroes is in difficulties or is seriously threatened with difficulties as regards its balance of payments, the Contracting Party concerned may take the necessary safeguard measures. It shall inform the other Contracting Party forthwith.

#### Article 31

1. A Joint Committee is hereby established which shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose, it shall make recommendations and take decisions in the cases provided for in this Agreement. These decisions shall be put into effect by the Contracting Parties in accordance with their own rules.

2. For the purpose of the proper implementation of this Agreement the Contracting Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.

3. The Joint Committee shall adopt its own rules of procedure.

#### Article 32

1. The Joint Committee shall consist of representatives of the Contracting Parties.

2. The Joint Committee shall act by mutual agreement.

#### Article 33

1. Each Contracting Party shall preside in turn over the Joint Committee, in accordance with the arrangements to be laid down in its rules of procedure.

2. The Chairman shall convene meetings of the Joint Committee at least once a year in order to review the general functioning of this Agreement.

The Joint Committee shall, in addition, meet whenever special circumstances so require, at the request of either Contracting Party, in accordance with the conditions to be laid down in its rules of procedure.

3. The Joint Committee may decide to set up any working party that can assist it in carrying out its duties.

#### Article 34

1. The Joint Committee may amend the provisions of the Protocols to this Agreement.

2. In the event of modifications of the nomenclature of the customs tariffs of the Contracting Parties affecting products referred to in this Agreement, the Joint Committee may adapt the tariff nomenclature of these products to conform with such modifications.

#### Article 35

1. Where a Contracting Party considers that it would be useful in the common interest of both Contracting Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Contracting Party.

The Contracting Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

2. The agreements resulting from the negotiations referred to in paragraph 1 will be subject to ratification or approval by the Contracting Parties in accordance with their own procedures.

#### Article 36

At the request of the Faeroes, the Community will consider

- improving the access possibilities for specific products,
- extending its tariff concessions for Faeroese fishery products to include new fish species caught by Faeroese fishing vessels based and operating in the North Atlantic, or to include fishery products pertaining thereto not currently produced by the Faeroese fishing industry. These new fish species or fishery products could be imported free of duty into the Community, subject to the necessary quantitative limitations should the new fish species or fishery products be of a sensitive nature in the Community.

#### Article 37

The Annexes and Protocols to this Agreement shall form an integral part thereof.

#### Article 38

Either Contracting Party may denounce this Agreement by notifying the other Contracting Party. This Agreement shall cease to be in force 12 months after the date of such notification.

#### Article 39

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Faeroes.

#### Article 40

1. This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Faeroese languages, each of these texts being equally authentic.

2. It will be approved by the Contracting Parties in accordance with their own procedures.

3. It shall enter into force on 1 January 1997, provided that the Contracting Parties have notified each other before that date that the procedures necessary to this end have been completed. After this date, this Agreement shall enter into force on the first day of the third month following such notification.

4. The provisions of the following Agreements shall cease to be in force on the entry into force of this Agreement:

- the Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed on 2 December 1991,



- the Agreement in the form of an exchange of letters between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, amending Tables I and II of the Annex to Protocol 1 of the abovementioned Agreement, signed on 8 March 1995,

- the bilateral trade agreements between Finland and Sweden and the Faeroes.

Hecho en Bruselas, el seis de diciembre de mil novecientos noventa y seis.

Udfærdiget i Bruxelles den sjette december nitten hundrede og seks og halvfems.

Geschehen zu Brüssel am sechsten Dezember neunzehnhundertsechsunneunzig.

Ḃáéíâ óóèò ÆñóíŸëëàò, óóèò Ÿíé Æâêàìàñβïö ÷βëéá áííéáêüóéá áíáíβíóá Ÿíé.

Done at Brussels on the sixth day of December in the year one thousand nine hundred and ninety-six.

Fait à Bruxelles, le six décembre mil neuf cent quatre-vingt-seize.

Fatto a Bruxelles, addì sei dicembre millenovecentonovantasei.

Gedaan te Brussel, de zesde december negentienhonderd zesennegentig.

Feito em Bruxelas, em seis de Dezembro de mil novecentos e noventa a seis.

Tehty Brysselissä kuudentena päivänä joulukuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäkuusi.

Som skedde i Bryssel den sjätte december nittonhundra nittiosex.

Gjörður í Brússel, sætta desember nítjanhundra s og n´ytiseks.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

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For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

Fyri Europeiska Felagsskapin

>REFERENCE TO A GRAPHIC<

Por el Gobierno de Dinamarca y el Gobierno local de las Islas Feroe

For Danmarks regering og Færøernes landsstyre

Für die Regierung von Dänemark und die Landesregierung der Färöer

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For the Government of Denmark and the Home Government of the Faroe Islands

Pour le gouvernement du Danemark et le gouvernement local des îles Féroé

Per il governo della Danimarca e per il governo locale delle isole Færøer

Voor de Regering van Denemarken en de Landsregering van de Faeröer

Pelo Governo da Dinamarca e pelo Governo Regional das Ilhas Faroé

Tanskan hallituksen ja Färsaarten paikallishallituksen puolesta

På Danmarks regerings och Färöarnas landsstyres vägnar

Fyri ríkisstjórn Danmarkar og Føroya landsstýri

>REFERENCE TO A GRAPHIC<

ANNEX I

>TABLE<

ANNEX II

For the purposes of Article 4 (2) to this Agreement, the customs and fiscal legislation of the Faeroes contains the following provisions:

- (a) a customs tariff based on the Harmonized System and respecting the GATT obligations of Denmark;
- (b) a duty-free treatment for goods of Community origin, with the exceptions set out in Protocols 2 and 4;
- (c) a system of indirect taxation based on the following elements:
  - a value-added tax (VAT, based on the same principles as those which apply in the Community, including non-discrimination of imported goods; and
  - a system of excise duties, levied equally on domestic production and imported goods.

PROTOCOL 1 concerning the tariff treatment and arrangements applicable to certain fish and fishery products released for free circulation in the Community or imported into the Faeroes

Article 1

As regards the products listed in the Annex to this Protocol and originating in the Faeroes:

1. no new customs duties shall be introduced in trade between the Community and the Faeroes;
2. the customs duties and other conditions to be applied on import into the Community shall be as indicated in the Annex.

Article 2

The preferential duty rates indicated in the Annex apply only if the free-at-frontier price, which is determined by the Member States in accordance with Article 22 of Regulation (EEC) No 3759/92 (OJ No L 388, 31. 12. 1992, p. 1), as last amended by Regulation (EC) No 3318/94 (OJ No L 350, 31. 12. 1994, p. 15), is at least equal to the reference price fixed, or to be fixed, by the Community for the products under consideration or the categories of the products concerned.

Article 3

For the purpose of eliminating customs duties, reference ceilings are established in the Annex for certain products originating in the Faeroes.

Should imports of these products exceed the reference ceiling, the Community may introduce the full customs duty.

Article 4

The Faeroes shall abolish tariffs and duties on imports of fish and fishery products originating in the Community.

ANNEX

The customs duties and other conditions to be applied on import into the Community of products originating in and coming from the Faeroes shall be as indicated below.

>TABLE>

>TABLE>

PROTOCOL 2 concerning the tariff treatment and arrangements applicable to certain products obtained by processing agricultural products

Article 1

In order to take account of differences in the cost of the agricultural products incorporated in the goods specified in the table annexed to this Protocol, this Agreement does not preclude:

- (i) the levying, on import, of an agricultural component or fixed amount, or the application of internal price compensation measures;
- (ii) the application of measures adopted on export.

Article 2

The Community shall apply the customs duties on imports originating in the Faeroes as indicated in the table annexed to this Protocol.

Article 3

The Faeroes shall abolish tariffs and duties on imports of processed agricultural products originating in the Community, with the exceptions mentioned in Protocol 4, Article 2.

Should the Faeroes introduce such measures for processed agricultural products as mentioned in Article 1 of this Protocol, the Community shall be duly notified.

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PROTOCOL 3 concerning the definition of the concept of 'originating products` and methods of administrative cooperation

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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 including assembly or specific operations;

(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) 'goods` means both materials and products;

- (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) 'ex-works price` means the price paid for the product ex works to the manufacturer in the Community or the Faeroes in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (g) '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 Community or the Faeroes;
- (h) 'value of originating materials` means the value of such materials as defined in subparagraph (g) applied mutatis mutandis;
- (i) 'added value` shall be taken to be the ex works price minus the customs value of each of the products incorporated which did not originate in the country in which those products were obtained;
- (j) 'chapters` and 'headings` mean the chapters and the headings (four-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`;
- (k) 'classified` refers to the classification of a product or material under a particular heading;
- (l) '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;
- (m) 'territories` includes territorial waters.

## TITLE II DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS`

### Article 2 General requirements

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

- (a) products wholly obtained in the Community within the meaning of Article 4 of this Protocol;
- (b) products obtained in the Community incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Community within the meaning of Article 5 of this Protocol.

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

- (a) products wholly obtained in the Faeroes within the meaning of Article 4 of this Protocol;
- (b) products obtained in the Faeroes incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Faeroes within the meaning of Article 5 of this Protocol.

### Article 3 Bilateral cumulation of origin

1. Materials originating in the Community shall be considered as materials originating in the Faeroes when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 (1) of this Protocol.

2. Materials originating in the Faeroes shall be considered as materials originating in the Community when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 (1) of this Protocol.

#### Article 4 Wholly obtained products

1. The following shall be considered as wholly obtained in the Community or the Faeroes:

- (a) mineral products extracted from their soil or from their seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea outside the territorial waters of the Community or the Faeroes by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);
- (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
- (k) goods produced there exclusively from the products specified in subparagraphs (a) to (j).

2. The terms 'their vessels` and 'their factory ships` in subparagraphs 1 (f) and (g) shall apply only to vessels and factory ships:

- (a) which are registered or recorded in an EC Member State or in the Faeroes;
- (b) which sail under the flag of an EC Member State or of the Faeroes;
- (c) which are owned to an extent of at least 50 % by nationals of EC Member States or of the Faeroes, or by a company with its head office in one of these States, of which the manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of EC Member States or of the Faeroes and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;
- (d) of which the master and officers are nationals of EC Member States or of the Faeroes;  
and
- (e) of which at least 75 % of the crew are nationals of EC Member States or of the Faeroes.

#### Article 5 Sufficiently worked or processed products

1. For the purposes of Article 2, 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.

The conditions referred to above indicate, for all products covered by this 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. Accordingly, 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.

2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list, should not be used in the manufacture of a product may nevertheless be used, provided that:

- (a) their total value does not exceed 10 % of the ex-works price of the product;

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

This paragraph shall not apply to products falling within Chapters 50 to 63 of the Harmonized System.

3. Paragraphs 1 and 2 shall apply except as provided in Article 6.

#### Article 6 Insufficient working or processing operations

1. Without prejudice to paragraph 2, 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) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packaging and breaking up and assembly of packages;

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

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

(e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating in the Community or the Faeroes;

(f) simple assembly of parts to constitute a complete product;

(g) a combination of two or more operations specified in subparagraphs (a) to (f);

(h) slaughter of animals.

2. All the operations carried out in either the Community or the Faeroes 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.

Accordingly, it follows that:

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

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

2. 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 and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

#### Article 9 Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % 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;
- (c) machines and tools;
- (d) goods which do not enter and which are not intended to enter into the final composition of the product.

### TITLE III TERRITORIAL REQUIREMENTS

#### Article 11 Principle of territoriality

1. The conditions set out in Title II relative to the acquisition of originating status must be fulfilled without interruption in the Community or the Faeroes.
2. If originating goods exported from the Community or the Faeroes to another country are returned, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:
  - (a) the goods returned are the same goods as those exported; and
  - (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

#### Article 12 Direct transport

1. The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Community and the Faeroes. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline across territory other than that of the Community or the Faeroes.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:
  - (a) a single transport document covering the passage from the exporting country through the country of transit; or
  - (b) a certificate issued by the customs authorities of the country of transit:
    - (i) giving an exact description of the products;
    - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and
    - (iii) certifying the conditions under which the products remained in the transit country; or
  - (c) failing these, any substantiating documents.

#### Article 13 Exhibitions



1. Originating products, sent for exhibition in another country and sold after the exhibition for importation in the Community or the Faeroes shall benefit on importation from the provisions of the Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from the Community or the Faeroes to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in the Community or the Faeroes;

(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 V and submitted to the customs authorities of the importing country 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 organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

#### TITLE IV DRAWBACK OR EXEMPTION

##### Article 14 Prohibition of drawback of, or exemption from, customs duties

1. Non-originating materials used in the manufacture of products originating in the Community or in the Faeroes for which a proof of origin is issued or made out in accordance with the provisions of Title V shall not be subject in the Community or the Faeroes to drawback of, or exemption from, customs duties of whatever kind.

2. The prohibition in paragraph 1 shall apply to any arrangement for refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect, applicable in the Community or the Faeroes to materials used in the manufacture, where such refund, remission or non-payment applies, expressly or in effect, when products obtained from the said materials are exported and not when they are retained for home use there.

3. The exporter of products covered by a proof of origin shall be prepared to submit at any time, on request from the customs authorities, all appropriate documents proving that no drawback has been obtained in respect of the non-originating materials used in the manufacture of the products concerned and that all customs duties or charges having equivalent effect applicable to such materials have actually been paid.

4. The provisions of paragraphs 1 to 3 shall also apply in respect of packaging within the meaning of Article 7 (2), accessories, spare parts and tools within the meaning of Article 8 and products in a set within the meaning of Article 9 when such items are non-originating.

5. The provisions of paragraphs 1 to 4 shall apply only in respect of materials which are of the kind to which the Agreement applies. Furthermore, they shall not preclude the application of an export refund system for agricultural products, applicable upon export in accordance with the provisions of the Agreement.

#### TITLE V PROOF OF ORIGIN

##### Article 15 General requirements

1. Products originating in the Community shall, on importation into the Faeroes and products originating in the Faeroes shall, on importation into the Community, benefit from this Agreement upon submission of either:

(a) an EUR.1 movement certificate, a specimen of which appears in Annex III; or

(b) in the cases specified in Article 20 (1), a declaration, the text of which appears in Annex IV, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the 'invoice declaration').

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 25, benefit from this Agreement without it being necessary to submit any of the documents referred to above.

#### Article 16 Procedure for the issue of an EUR.1 movement certificate

1. An EUR.1 movement certificate shall be issued by the customs authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative.

2. For this purpose, the exporter or his authorized representative shall fill out both the EUR.1 movement certificate and the application form, specimens of which appear at Annex III. 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 country. If they are handwritten, 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.

3. The exporter applying for the issue of an EUR.1 movement certificate shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the EUR.1 movement certificate is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An EUR.1 movement certificate shall be issued by the customs authorities of an EC Member State or the Faeroes if the products concerned can be considered as products originating in the Community or the Faeroes and fulfil the other requirements of this Protocol.

5. The issuing customs authorities 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. The issuing customs authorities 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 EUR.1 movement certificate shall be indicated in Box 11 of the certificate.

7. An EUR.1 movement certificate shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

#### Article 17 EUR.1 movement certificates issued retrospectively

1. Notwithstanding Article 16 (7), an EUR.1 movement certificate may exceptionally be issued after exportation of the products to which it relates if:

(a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or

(b) it is demonstrated to the satisfaction of the customs authorities that an EUR.1 movement certificate was issued but was not accepted at importation for technical reasons.

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 EUR.1 movement certificate relates, and state the reasons for his request.

3. The customs authorities may issue an EUR.1 movement certificate retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. EUR.1 movement certificates issued retrospectively must be endorsed with one of the following phrases:

'NACHTRÄGLICH AUSGESTELLT` ,

'DELIVRE A POSTERIORI` ,

'RILASCIATO A POSTERIORI` ,

'AFGEGEVEN A POSTERIORI` ,

'ISSUED RETROSPECTIVELY` ,

'UDSTEDT EFTERFØLGENDE` ,

'ÂÊÄÏĚÁĀ ÊÊ ÔÛÍ ŐÓÔĂÑÛÍ` ,

'EXPEDIDO A POSTERIORI` ,

'EMITIDO A POSTERIORI` ,

'ANNETTU JÄLKIKÄTEEN` ,

'UTFÄRDAT I EFTERHAND` ,

'GIVIN EFTIRFYLGJANDI` .

5. The endorsement referred to in paragraph 4 shall be inserted in the 'Remarks` box of the EUR.1 movement certificate.

#### Article 18 Issue of a duplicate EUR.1 movement certificate

1. In the event of theft, loss or destruction of an EUR.1 movement certificate, the exporter may apply to the customs 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 one of the following:

'DUPLIKAT` , 'DUPLICATA` , 'DUPLICATO` , 'DUPLICAAT` , 'DUPLICATE` , 'ÁÍÔĚĂÑÁŎĪ` ,  
'DUPLICADO` , 'SEGUNDA VIA` , 'IAKSOISKAPPALE` , 'TVITAK` .

3. The endorsement referred to in paragraph 2 shall be inserted in the 'Remarks` box of the duplicate EUR.1 movement certificate.

4. The duplicate, which must bear the date of issue of the original EUR.1 movement certificate, shall take effect as from that date.

#### Article 19 Issue of EUR.1 movement certificates on the basis of a proof of origin issued or made out previously

When originating products are placed under the control of a customs office in the Community or the Faeroes, it shall be possible to replace the original proof of origin by one or more EUR.1 movement certificates for the purpose of sending all or some of these products elsewhere within the Community or the Faeroes. The replacement EUR.1 movement certificate(s) shall be issued by the customs office under whose control the products are placed.

#### Article 20 Conditions for making out an invoice declaration

1. An invoice declaration as referred to in Article 15 (1) (b) may be made out:

(a) by an approved exporter within the meaning of Article 21; or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed ECU 6 000.

2. An invoice declaration may be made out if the products concerned can be considered as products originating in the Community or the Faeroes and fulfil the other requirements of this Protocol.

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

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears in Annex IV, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country. If the declaration is handwritten, it shall be written in ink in printed characters.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 21 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting country a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

#### Article 21 Approved exporter

1. The customs authorities of the exporting country may authorize any exporter who makes frequent shipments of products under this Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorization must offer to the satisfaction of the customs 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 customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The customs authorities shall grant to the approved exporter a customs authorization number which shall appear on the invoice declaration.

4. The customs authorities shall monitor the use of the authorization by the approved exporter.

5. The customs authorities may withdraw the authorization at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorization.

#### Article 22 Validity of proof of origin

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

2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

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

#### Article 23 Submission of proof of origin

Proofs of origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of this Agreement.

#### Article 24 Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2 (a) of the Harmonized System falling within Sections XVI and XVII or heading Nos 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 on importation of the first instalment.

#### Article 25 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 C2/CP3 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 ECU 500 in the case of small packages or ECU 1 200 in the case of products forming part of travellers' personal luggage.

#### Article 26 Supporting documents

The documents referred to in Articles 16 (3) and 20 (3) used for the purpose of proving that products covered by an EUR.1 movement certificate or an invoice declaration can be considered as products originating in the Community or the Faeroes and fulfil the other requirements of this Protocol may consist inter alia of the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;
- (b) documents proving the originating status of materials used, issued or made out in the Community or the Faeroes where these documents are used in accordance with domestic law;
- (c) documents proving the working or processing of materials in the Community or the Faeroes, issued or made out in the Community or the Faeroes, where these documents are used in accordance with domestic law;
- (d) EUR.1 movement certificates or invoice declarations proving the originating status of materials used, issued or made out in the Community or the Faeroes in accordance with this Protocol.

#### Article 27 Preservation of proof of origin and supporting documents

1. The exporter applying for the issue of an EUR.1 movement certificate shall keep, for at least three years, the documents referred to in Article 16 (3).
2. The exporter making out an invoice declaration shall keep, for at least three years, a copy of this invoice declaration as well as the documents referred to in Article 20 (3).
3. The customs authorities of the exporting country issuing an EUR.1 movement certificate shall keep, for at least three years, the application form referred to in Article 16 (2).

4. The customs authorities of the importing country shall keep, for at least three years, the EUR.1 movement certificates and the invoice declarations submitted to them.

#### Article 28 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.

#### Article 29 Amounts expressed in ecu

1. Amounts in the national currency of the exporting country equivalent to the amounts expressed in ecu shall be fixed by the exporting country and communicated to the importing countries through the European Commission.

2. When the amounts exceed the corresponding amounts fixed by the importing country, the latter shall accept them if the products are invoiced in the currency of the exporting country. When the products are invoiced in the currency of another EC Member State, the importing country shall recognize the amount notified by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that national currency of the amounts expressed in ecu as at the first working day in October 1996.

4. The amounts expressed in ecu and their equivalents in the national currencies of the EC Member States and the Faeroes shall be reviewed by the Joint Committee at the request of the Community or the Faeroes. When carrying out this review, the Joint Committee shall ensure that there will be no decrease in the amounts to be used in any national currency and shall furthermore 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 ecu.

### TITLE VI ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

#### Article 30 Mutual assistance

1. The customs authorities of the EC Member States and of the Faeroes shall provide each other, through the European Commission, with specimen impressions of stamps used in their customs offices for the issue of EUR.1 movement certificates and with the addresses of the customs authorities responsible for verifying those certificates and invoice declarations.

2. In order to ensure the proper application of this Protocol, the Community and the Faeroes shall assist each other, through the competent customs administrations, in checking the authenticity of the EUR.1 movement certificates or the invoice declarations and the correctness of the information given in these documents.

#### Article 31 Verification of proofs of origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the EUR.1 movement certificate and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country 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 customs authorities of the exporting country. 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 customs authorities of the importing country 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.

5. The customs 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 Community or the Faeroes and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within 10 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 customs authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

#### Article 32 Dispute settlement

Where disputes arise in relation to the verification procedures of Article 31 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Joint Committee. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall be under the legislation of the said country.

#### Article 33 Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining preferential treatment for products.

#### Article 34 Free zones

1. The Community and the Faeroes shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone situated in their territory, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in the Community or the Faeroes are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the authorities concerned shall issue a new EUR.1 movement certificate at the exporter's request, if the treatment or processing undergone is in conformity with the provisions of this Protocol.

### TITLE VII CEUTA AND MELILLA

#### Article 35 Application of the Protocol

1. The term 'Community' used in Article 2 does not cover Ceuta and Melilla.

2. Products originating in the Faeroes, 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 Community pursuant to Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities. The Faeroes 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 Community.

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 36.



## Article 36 Special conditions

1. Providing they have been transported directly in accordance with the provisions of Article 12, 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 of this Protocol; or that

(ii) those products are originating in the Faeroes or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6 (1).

(2) products originating in the Faeroes:

(a) products wholly obtained in the Faeroes;

(b) products obtained in the Faeroes, 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 of this Protocol; or that

(ii) those products are originating in Ceuta and Melilla or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6 (1).

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

3. The exporter or his authorized representative shall enter 'the Faeroes` and 'Ceuta and Melilla` in box 2 of EUR.1 movement certificates or on invoice declarations. In addition, in the case of products originating in Ceuta and Melilla, this shall be indicated in box 4 of EUR.1 movement certificates or on invoice declarations.

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

## ANNEX I

### INTRODUCTORY NOTES TO THE LIST IN ANNEX II

#### Note 1:

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 the Protocol.

#### Note 2:

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 columns 3 or 4. Where, in some cases, the entry in the first column is preceded by an 'ex` , this signifies that the rules in columns 3 or 4 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 columns 3 or 4 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 columns 3 or 4.

2.4. Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4. If no origin rule is given in column 4, the rule set out in column 3 has to be applied.

Note 3:

3.1. The provisions of Article 5 of the Protocol concerning products having acquired originating status which are used in the manufacture of other products apply regardless of whether this status has been acquired inside the factory where these products are used or in another factory in the Community or in the Faeroes.

Example:

An engine of heading No 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40 % of the ex-works price, is made from 'other alloy steel roughly shaped by forging` of heading No ex 7224.

If this forging has been forged in the Community from a non-originating ingot, it has already acquired originating status by virtue of the rule for heading No ex 7224 in the list. The forging can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or in another factory in the Community. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.2. The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer originating status. Thus if a rule provides that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.

3.3. Without prejudice to Note 3.2 where a rule states that 'materials of any heading` may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression 'manufacture from materials of any heading, including other materials of heading No . . .` means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.

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

Example:

The rule for fabrics of heading Nos 5208 to 5212 provides that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other or both.

3.5. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.2 below in relation to textiles).

Example:

The rule for prepared foods of heading No 1904 which specifically excludes the use of cereals and their derivatives does not prevent the use of mineral salts, chemicals and other additives which are not products from cereals.

However, this does not apply to products which, although they cannot be manufactured from the particular materials specified in the list, can be produced from a material of the same nature at an earlier stage of manufacture.

Example:

In the case of an article of apparel of ex Chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth - even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn - that is the fibre stage.

3.6. Where, in a rule in the list, two percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. In other words, the maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

Note 4:

4.1. 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 that have been carded, combed or otherwise processed but not spun.

4.2. The term 'natural fibres` includes horsehair of heading No 0503, silk of heading Nos 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of heading Nos 5101 to 5105, the cotton fibres of heading Nos 5201 to 5203 and the other vegetable fibres of heading Nos 5301 to 5305.

4.3. 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.

4.4. The term 'man-made staple fibres` is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of heading Nos 5501 to 5507.

Note 5:

5.1. Where for a given product in the list a 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, which, taken together, represent 10 per cent or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4 below).

5.2. However, the tolerance mentioned in Note 5.1 may only be applied 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,
- 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 polyphenylene sulphide,
- synthetic man-made staple fibres of polyvinyl 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 No 5605 (metallized 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 No 5605.

Example:

A yarn of heading No 5205 made from cotton fibres of heading No 5203 and synthetic staple fibres of heading No 5506 is a mixed yarn. Therefore, non-originating synthetic staple fibres that do not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) may be used up to a weight of 10 per cent of the yarn.

Example:

A woollen fabric of heading No 5112 made from woollen yarn of heading No 5107 and synthetic yarn of staple fibres of heading No 5509 is a mixed fabric. Therefore synthetic yarn which does not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) or woollen yarn that does not satisfy the origin rules (which require manufacture from natural fibres, not carded or combed or otherwise prepared for spinning) or a combination of the two may be used provided their total weight does not exceed 10 per cent of the weight of the fabric.

Example:

Tufted textile fabric of heading No 5802 made from cotton yarn of heading No 5205 and cotton fabric of heading No 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being 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 No 5205 and synthetic fabric of heading No 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

Example:

A carpet with tufts made from both artificial yarns and cotton yarns and with a jute backing is a mixed product because three basic textile materials are used. Thus, any non-originating materials that are at a later stage of manufacture than the rule allows may be used, provided their total weight does not exceed 10 per cent of the weight of the textile materials of the carpet. Thus, both the jute backing and/or the artificial yarns could be imported at that stage of manufacture, provided the weight conditions are met.

5.3. In the case of products incorporating 'yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped' this tolerance is 20 per cent in respect of this yarn.

5.4. 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 an adhesive between two layers of plastic film', this tolerance is 30 per cent in respect of this strip.

Note 6:

6.1. In the case of those textile products which are marked in the list by a footnote referring to this note, textile materials, with the exception of linings and interlinings, 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 per cent of the ex-works price of the product.

6.2. 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.

6.3. Where a percentage rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

Note 7:

7.1. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, the 'specific processes' are the following:

(a) vacuum distillation;

(b) redistillation by a very thorough fractionation process (1);

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

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

(g) polymerization;

(h) alkylation;

(i) isomerization.

7.2. For the purposes of heading Nos 2710, 2711 and 2712, the 'specific processes' are the following:

(a) vacuum distillation;

(b) redistillation by a very thorough fractionation process (2);

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

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

(g) polymerization;

(h) alkylation;

(ij) isomerization;

(k) in respect of heavy oils falling within heading No ex 2710 only, desulphurization with hydrogen resulting in a reduction of at least 85 per cent of the sulphur content of the products processed (ASTM D 1266-59 T method);

(l) in respect of products falling within heading No 2710 only, deparaffining by a process other than filtering;

(m) in respect of heavy oils falling within heading No 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 desulphurization, when the hydrogen constitutes an active element in a chemical reaction. The further treatment with hydrogen of lubricating oils of heading No ex 2710 (e.g. hydrofinishing or decolorization) 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 falling within heading No ex 2710 only, atmospheric distillation, on condition that less than 30 per cent of these products distil, 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 falling within heading No ex 2710 only, treatment by means of a high-frequency electrical brush-discharge.

7.3. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, 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 content, any combination of these operations or like operations do not confer origin.

(1) See Additional Explanatory Note 4 (b) to Chapter 27 of the Combined Nomenclature.

## 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

The products mentioned in the list may not all be covered by the Agreement. It is therefore necessary to consult the other parts of the Agreement

>TABLE>

## ANNEX III

## MOVEMENT CERTIFICATE EUR.1 AND APPLICATION FOR A MOVEMENT CERTIFICATE EUR.1

### Printing instructions

1. Each form shall measure 210 × 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<sup>2</sup>. 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 Member States of the Community and of the Faroe Islands 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.

>REFERENCE TO A GRAPHIC<

>REFERENCE TO A GRAPHIC<

>REFERENCE TO A GRAPHIC<

>REFERENCE TO A GRAPHIC<

### ANNEX IV

#### INVOICE DECLARATION

>START OF GRAPHIC<

The invoice 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.

#### 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 . . . preferential origin (2).

#### Spanish version

El exportador de los productos incluidos en el presente documento (autorización aduanera no . . . (1)) declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial . . . (2).

#### Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (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 anders angegeben, präferenzbegünstigte . . . Ursprungswaren sind (2).

#### Greek version

Ἰ ἀιᾶᾶᾶᾶᾶᾶ ᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶ ᾶᾶᾶᾶᾶᾶᾶ ᾶᾶ ᾶᾶ ᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ (ᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶ ᾶᾶᾶᾶ . . . (1)) ᾶᾶᾶᾶᾶ ᾶᾶᾶᾶ, ᾶᾶᾶᾶ ᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ ᾶᾶᾶᾶᾶᾶ . . . (2).

#### French version

L'exportateur des produits couverts par le présent document (autorisation douanière no . . . (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).

#### 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).

#### Portuguese version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autorização aduaneira no. . . . (1)), declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial . . . (2).

(1) When the invoice declaration is made out by an approved exporter within the meaning of Article 21 of the Protocol, the authorization 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 within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol 'CM'.Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupan: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).

#### Faeroese version

Útflytarin av vørunum, sum hetta skjal fevnir um (tollvaldsins loyvi nr. . . . (1)) váttar, at um ikki naka??d anna??d t´y??diliga er tilskila??d, eru hesar vørir upprunavørir . . . (2).

. (3)

(Place and date)

. (4)

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

(1) When the invoice declaration is made out by an approved exporter within the meaning of Article 21 of the Protocol, the authorization 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 within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol 'CM'.(3) These indications may be omitted if the information is contained on the document itself.(4) See Article 20 (5) of the Protocol. In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.>END OF GRAPHIC<

PROTOCOL 4 concerning the special provisions applicable to imports of certain agricultural products other than those listed in Protocol 1

Article 1

The Community shall grant to products originating in and coming from the Faeroes the following tariff quotas:

>TABLE>

#### Article 2

The Faeroes shall grant freedom from tariffs and duties to goods of Community origin, falling within Chapters 1 to 24 in the Harmonized System, with the following exceptions:

>TABLE>

#### PROTOCOL 5 on mutual assistance between administrative authorities in customs matters

##### Article 1 Definitions

For the purposes of this Protocol:

- (a) 'customs legislation` shall mean any legal or regulatory provision adopted by the Contracting Parties governing the import, export, and transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control;
- (b) 'applicant authority` , shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which makes a request for assistance in customs matters;
- (c) 'requested authority` , shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which receives a request for assistance in customs matters;
- (d) 'personal data` , shall mean all information relating to an identified or identifiable individual.

##### Article 2 Scope

1. The Contracting Parties shall assist each other, in the areas within their jurisdiction, in the manner and under the conditions laid down in this Protocol, in ensuring that the customs legislation is correctly applied, in particular by the prevention, detection and investigation of operations in breach of that legislation.
2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Contracting Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of the judicial authorities, except where communication of such information has the prior authorization of the said authorities.

##### Article 3 Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information which may enable it to ensure compliance with customs legislation, including information regarding operations noted or planned which are or might be in breach of such legislation.
2. At the request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Contracting Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the applicant authority, the requested authority shall, within the framework of its laws, take the necessary steps to ensure special surveillance of:
  - (a) natural or legal persons of whom there are reasonable grounds for believing that they are or have been in breach of customs legislation;
  - (b) places where goods are stored in a way that gives grounds for suspecting that they are intended to supply operations in breach of customs legislation;



(c) movements of goods notified as possibly giving rise to breaches of customs legislation;

(d) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in operations in breach of customs legislation.

#### Article 4 Spontaneous assistance

The Contracting Parties shall provide each other, at their own initiative and in accordance with their laws, rules and other legal instruments, with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

- operations which are or appear to be in breach of such legislation and which may be of interest to the other Contracting Party,
- new means or methods employed in carrying out such operations,
- goods known to be subject to breaches of customs legislation.

#### Article 5 Delivery/notification

At the request of the applicant authority, the requested authority shall, in accordance with its legislation, take all necessary measures in order:

- to deliver all documents,
- to notify all decisions,

falling within the scope of this Protocol to an addressee, residing or established in its territory. In such a case, Article 6 (3) shall apply.

#### Article 6 Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:

- (a) the applicant authority making the request;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) the laws, rules and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out, except in cases provided for in Article 5.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority.

4. If a request does not meet the formal requirements, its correction or completion may be requested; precautionary measures may, however, be ordered.

#### Article 7 Execution of requests

1. In order to comply with a request for assistance, the requested authority or, when the latter cannot act on its own, the administrative department to which the request has been addressed by this authority, shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.

2. Requests for assistance shall be executed in accordance with the laws, rules and other legal instruments of the requested Contracting Party.

3. Duly authorized officials of a Contracting Party may, with the agreement of the other Contracting Party involved and subject to the conditions laid down by the latter, obtain from the offices of the requested authority or other authority for which the requested authority is responsible, information relating to operations which are or may be in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Officials of a Contracting Party may, with the agreement of the other Contracting Party involved and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

#### Article 8 Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like.

2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose.

3. Original files and documents shall be requested only in cases where certified copies would be insufficient. Originals which have been transmitted shall be returned at the earliest opportunity.

#### Article 9 Exceptions to the obligation to provide assistance

1. The Contracting Parties may refuse to give assistance as provided for in this Protocol, where to do so would:

(a) be likely to prejudice the sovereignty of the Faeroes or that of a Member State of the Community which has been asked to provide assistance under this Protocol; or

(b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10 (2); or

(c) involve currency or tax regulations other than customs legislation; or

(d) violate an industrial, commercial or professional secret.

2. Where the applicant authority requests assistance which it would itself be unable to provide if so asked, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

3. If assistance is refused, the decision and the reasons therefor must be notified to the applicant authority without delay.

#### Article 10 Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party which received it and the corresponding provisions applying to the Community institutions.

2. Personal data may be exchanged only where the receiving Contracting Party undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the supplying Contracting Party.

3. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Contracting Parties requests the use of such information for other purposes, it shall ask for the prior written consent of the authority which furnished the information. Such use shall then be subject to any restrictions laid down by that authority.

4. Paragraph 3 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation. The competent authority which supplied that information shall be notified of such use.

5. The Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol.

#### Article 11 Experts and witnesses

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol in the jurisdiction of the other Contracting Party, and produce such objects, documents or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

#### Article 12 Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses and to interpreters and translators who are not public service employees.

#### Article 13 Application

1. The application of this Protocol shall be entrusted to the central customs authorities of the Faeroes on the one hand and the competent services of the Commission of the European Communities and, where appropriate, the customs authorities of the Member States of the European Community on the other. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in the field of data protection.

2. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

#### Article 14 Complementarity

Without prejudice to Article 10, any agreements on mutual assistance which have been or may be concluded between one or more Member States of the European Community and the Faeroes shall not prejudice Community provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.

**JOINT DECLARATION concerning the review of the Agreement in keeping with the development of EC-EFTA trade relations**

If the Community - in the context of the Agreement on the European Economic Area - grants concessions to the EFTA-EEA countries going beyond those granted to the Faeroes in areas covered by this Agreement, the Community will, on request from the Faeroes, consider in a positive spirit, case-by-case, to what extent and on what basis corresponding concessions could be offered to the Faeroes.

If agreements or arrangements are concluded between the Faeroes and the Member States of EFTA whereby the Faeroes grant concessions to EFTA countries going beyond those granted to the Community in areas covered by this Agreement, the Faeroes will, on request from the Community, consider in a positive spirit, case-by-case, to what extent and on what basis corresponding concessions could be offered to the Community.

**JOINT DECLARATIONS concerning Protocol 3 to the Agreement**

#### I. POSSIBILITY TO CUMULATE WITH MATERIALS FROM EFTA COUNTRIES

The Contracting Parties agree to examine the feasibility and economic interest of including provisions in Protocol 3 concerning the possibility to cumulate with materials from EFTA countries.

**II. TRANSITIONAL PERIOD CONCERNING THE ISSUING OR MAKING OUT OF DOCUMENTS RELATING TO THE PROOF OF ORIGIN ISSUED WITHIN THE FRAMEWORK OF THE INITIAL AGREEMENT SIGNED ON 2 DECEMBER 1991**

1. Until 31 December 1997, the competent customs authorities of the Community and of the Faeroes shall accept as valid proof of origin within the meaning of Protocol 3:

(i) EUR.1 movement certificates, endorsed beforehand with the stamp of the competent customs office of the exporting State;

(ii) EUR.1 movement certificates, issued within the context of this Agreement, endorsed by an approved exporter with a special stamp which has been approved by the customs authorities of the exporting State;

(iii) EUR.2 forms, issued within the context of this Agreement.

2. Requests for subsequent verification of documents referred to above shall be accepted by the competent customs authorities of the Community and of the Faeroes for a period of two years after the issuing and making out of the proof of origin concerned. These verifications shall be carried out in accordance with Title VI of Protocol 3 to this Agreement.

### III. PRINCIPALITY OF ANDORRA

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

2. Protocol 3 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

### IV. REPUBLIC OF SAN MARINO

1. Products originating in the Republic of San Marino shall be accepted by the Faeroes as originating in the Community within the meaning of the Agreement.

2. Protocol 3 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

### DECLARATION BY THE COMMUNITY concerning Article 24 (1) of the Agreement

The Community declares that, in the context of the autonomous implementation of Article 24 (1) of the Agreement which is incumbent on the Contracting Parties, it will assess any practices contrary to that Article on the basis of criteria arising from the application of the rules of Articles 85, 86, 90 and 92 of the Treaty establishing the European Community.

### DECLARATION BY THE COMMUNITY concerning the regional application of certain provisions of the Agreement

The Community declares that the application of any measures it may take under Articles 24, 25, 26, 27 or 28 of the Agreement, in accordance with the procedure and pursuant to the arrangements set out in Article 29, or pursuant to Article 30, may be limited to one of its regions by virtue of Community rules.

### DECLARATION BY DENMARK AND THE FAEROES concerning Article 36 of the Agreement

In accordance with Article 36 of the Agreement, the Community will, at the request of the Faeroes, consider improving the access possibilities for specific products.

It is the view of the Faeroes that this Article needs a qualification to serve its purpose for a progressive development of trade between the parties and the Faeroes therefore appeals to the Community to undertake serious consideration of access possibilities when quotas and ceilings of such products are proved to be exhausted.