ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2016 OF THE EU-REPUBLIC OF MOLDOVA CUSTOMS SUB-COMMITTEE

of 6 October 2016

replacing Protocol II to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation [2017/266]

THE EU-REPUBLIC OF MOLDOVA CUSTOMS SUB-COMMITTEE,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ([1]), and in particular Article 38 of Protocol II to that Agreement concerning the definition of the concept of 'originating products' and methods of administrative cooperation,

Whereas:

(1) Article 144(2) of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part ('the Agreement') refers to Protocol II to the Agreement ('Protocol II') which lays down the rules of origin and provides for cumulation of origin between the European Union and the Republic of Moldova.

(2) Most of the provisions on trade and trade-related matters of the Agreement, including Protocol II, have been applied provisionally since 1 September 2014.

(3) Article 38 of Protocol II provides that the Customs Sub-Committee provided for in Article 200 of the Agreement may decide to amend the provisions of that Protocol.

(4) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin ([2]) ('the Convention') aims to replace the protocols on rules of origin currently in force among the countries of the pan-Euro-Mediterranean area with a single legal act.

(5) The Union signed the Convention on 15 June 2011. The Joint Committee of the Convention decided, by Decision No 2 of 21 May 2014 ([3]), that the Republic of Moldova should be invited to accede to the Convention.

(6) The Union and the Republic of Moldova deposited their instruments of acceptance with the depositary of the Convention on 26 March 2012 and 31 July 2015 respectively. Consequently, pursuant to Article 10(3) of the Convention, the Convention entered into force in relation to the Union and the Republic of Moldova on 1 May 2012 and on 1 September 2015, respectively.

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

HAS ADOPTED THIS DECISION:

Article 1

Protocol II to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, concerning the definition of the concept of 'originating products' and methods of administrative cooperation shall be replaced by the text set out in the Annex to this Decision.

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([1]) OJ L 260, 30.8.2014, p. 4.
([2]) OJ L 54, 26.2.2013, p. 4.
([3]) OJ L 217, 23.7.2014, p. 88.

Article 2

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

It shall apply from 1 December 2016.

Done at Brussels, 6 October 2016.

For the Customs Sub-Committee

The Chairman	*Secretaries*	
P. KOVACS	O. ZIKUNA	N. CALENIC

ANNEX

'PROTOCOL II

CONCERNING THE DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS" AND METHODS OF ADMINISTRATIVE COOPERATION

Article 1

Applicable rules of origin

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

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

Article 2

Dispute settlement

1.   Where disputes arise in relation to the verification procedures of Article 32 of Appendix I to the Convention that cannot be settled between the customs authorities requesting the verification and the customs authorities responsible for carrying out that verification, they shall be submitted to the Customs Sub-Committee. The provisions on the dispute settlement mechanism in Chapter 14 (Dispute Settlement) of Title V (Trade and Trade-related Matters) of this Agreement shall not apply.

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

Article 3

Amendments to the Protocol

The Customs Sub-Committee may decide to amend the provisions of this Protocol.

Article 4

Withdrawal from the Convention

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

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

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(¹) OJ L 54, 26.2.2013, p. 4.

Article 5

Transitional provisions — cumulation

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