TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Convention:

(a) 'chapters', 'headings' and 'subheadings' mean the chapters, the headings and the subheadings (four- or six-digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System ('Harmonised System') with the changes pursuant to the Recommendation of 26 June 2004 of the Customs Cooperation Council;

(b) 'classified' means the classification of a good under a particular heading or subheading of the Harmonised System;

(c) 'consignment' means products which are either:

(i) sent simultaneously from one exporter to one consignee; or

(ii) 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;

(d) 'customs authorities of the Contracting Party' for the European Union means any of the customs authorities of the Member States of the European Union;

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

(f) 'ex-works price' means the price paid for the product ex works to the manufacturer in the Contracting Party in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported. Where the last working or processing has been sub-contracted to a manufacturer, the term 'manufacturer' refers to the enterprise that has employed the subcontractor.

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

(g) 'fungible material' or 'fungible product' means material or product that is of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another;

(h) 'good' means both material and product;

(i) 'manufacture' means any kind of working or processing, including assembly;

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

(k) 'maximum content of non-originating materials' means the maximum content of non-originating materials which is permitted in order to consider a manufacture to be working or processing sufficient to confer originating status on the product. It may be expressed as a percentage of the ex-works price of the product or as a percentage of the net weight of these materials used falling under a specified group of chapters, chapter, heading or subheading;

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

(m) 'territory' includes the land territory, internal waters and the territorial sea of a Contracting Party;

(n) 'value added' shall be taken to be the ex-works price of the product minus the customs value of each of the materials incorporated which originate in the other Contracting Parties with which cumulation is applicable or, where the customs value is not known or cannot be ascertained, the first ascertainable price paid for the materials in the exporting Contracting Party;

(o) '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 exporting Contracting Party. Where the value of the originating materials used needs to be established, this point shall be applied *mutatis mutandis*.

TITLE II

DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'

Article 2

General requirements

For the purpose of implementing the relevant Agreement, the following products shall be considered as originating in a Contracting Party when exported to another Contracting Party:

(a) products wholly obtained in the Contracting Party, within the meaning of Article 3;

(b) products obtained in the Contracting Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in that Contracting Party within the meaning of Article 4.

Article 3

Wholly obtained products

1. The following shall be considered as wholly obtained in a Contracting Party when exported to another Contracting Party:

(a) mineral products and natural water extracted from its soil or from its seabed;

(b) plants, including aquatic plants, and vegetable products grown or harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

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

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

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

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

(i) products made on board its factory ships exclusively from products referred to in point (h);

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

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

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

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

2. The terms 'its vessels' and 'its factory ships' in points (h) and (i) of paragraph 1 respectively shall apply only to vessels and factory ships which meet each of the following requirements:

(a) they are registered in the exporting or the importing Contracting Party;

(b) they sail under the flag of the exporting or the importing Contracting Party;

(c) they meet one of the following conditions:

(i) they are at least 50 % owned by nationals of the exporting Contracting or the importing Contracting Party; or

(ii) they are owned by companies which:

— have their head office and their main place of business in the exporting or the importing Contracting Party; and

— are at least 50 % owned by the exporting or the importing Contracting Party or public entities or nationals of these Parties.

3. For the purpose of paragraph 2, when the exporting or the importing Contracting Party is the European Union, it means the Member States of the European Union.

4. For the purpose of paragraph 2, the EFTA States are to be considered as one Contracting Party.

Article 4

Sufficient working or processing

1. Without prejudice to paragraph 3 of this Article and to Article 6, products which are not wholly obtained in a Contracting Party shall be considered to be sufficiently worked or processed when the conditions laid down in the list in Annex II for the goods concerned are fulfilled.

2. If a product which has obtained originating status in a Contracting Party in accordance with paragraph 1 of this Article is used as a material in the manufacture of another product, no account shall be taken of the non-originating materials which may have been used in its manufacture.

3. The determination of whether the requirements of paragraph 1 of this Article are met, shall be carried out for each product.

However, where the relevant rule is based on compliance with a maximum content of non-originating materials, the customs authorities of the Contracting Parties may authorise exporters to calculate the ex-works price of the products and the value of the non-originating materials on an average basis as set out in paragraph 4 of this Article, in order to take into account the fluctuations in costs and currency rates.

4. Where the second subparagraph of paragraph 3 of this Article applies, an average ex-works price of the product and average value of non-originating materials used shall be calculated respectively on the basis of the sum of the ex-works prices charged for all sales of the products carried out during the preceding fiscal year and the sum of the value of all the non-originating materials used in the manufacture of the products over the preceding fiscal year as defined in the exporting Contracting Party, or, where figures for a complete fiscal year are not available, a shorter period which should not be less than three months.

5. Exporters having opted for calculation on an average basis shall consistently apply such a method during the year following the fiscal year of reference, or, where appropriate, during the year following the shorter period used as a reference. They may cease to apply such a method where during a given fiscal year, or a shorter representative period of no less than three months, they record that the fluctuations in costs or currency rates which justified the use of such a method have ceased.

6. The averages referred to in paragraph 4 of this Article shall be used as the ex-works price and the value of non-originating materials, respectively, for the purpose of establishing compliance with the maximum content of non-originating materials.

Article 5

Tolerance rule

1. By way of derogation from Article 4 and subject to paragraphs 2 and 3 of this Article, non-originating materials which, according to the conditions set out in the list in Annex II, are not to be used in the manufacture of a given product may nevertheless be used, provided that their total net weight or value assessed for the product does not exceed:

(a) 15 % of the net weight of the product falling within Chapters 2 and 4 to 24, other than processed fishery products of Chapter 16;

(b) 15 % of the ex-works price of the product for products other than those covered by point (a).

This paragraph shall not apply to products falling within Chapters 50 to 63, for which the tolerances mentioned in Notes 6 and 7 of Annex I shall apply.

2. Paragraph 1 of this Article shall not allow to exceed any of the percentages for the maximum content of non-originating materials as specified in the rules laid down in the list in Annex II.

3. Paragraphs 1 and 2 of this Article shall not apply to products wholly obtained in a Contracting Party within the meaning of Article 3. However, without prejudice to Article 6 and Article 9(1), the tolerance provided for in those provisions shall nevertheless apply to product for which the rule laid down in the list in Annex II requires that the materials which are used in the manufacture of that product are wholly obtained.

Article 6

Insufficient working or processing

1. Without prejudice to paragraph 2 of this Article, the following operations shall be considered to be insufficient working or processing to confer the status of an originating product, whether or not the requirements of Article 4 are satisfied:

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

(b) breaking-up and assembly of packages;

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

(d) ironing or pressing of textiles;

(e) simple painting and polishing operations;

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

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

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

(i) sharpening, simple grinding or simple cutting;

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

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

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

(m) simple mixing of products, whether or not of different kinds;

(n) mixing of sugar with any material;

(o) simple addition of water or dilution or dehydratation or denaturation of products;

(p) simple assembly [1] of parts of articles to constitute a complete article or disassembly of products into parts;

(q) slaughter of animals.

(r) a combination of two or more operations specified in points (a) to (q).

2. All the operations carried out in the exporting Contracting Party on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1 of this Article.

Article 7

Cumulation of origin

1. Without prejudice to Article 2, products shall be considered as originating in the exporting Contracting Party when exported to another Contracting Party if they are obtained there, incorporating materials originating in any other Contracting Party provided that the working or processing carried out in the exporting Contracting Party goes beyond the operations referred to in Article 6. It shall not be necessary for such materials to have undergone sufficient working or processing.

[1] Explanatory notes including a definition of 'simple assembly' will be established by the Contracting Parties.

2. Where the working or processing carried out in the exporting Contracting Party does not go beyond the operations referred to in Article 6, the product obtained by incorporating materials originating in any other Contracting Party, shall be considered as originating in the exporting Contracting Party only where the value added there is greater than the value of the materials used originating in more than one other Contracting Party. If this is not so, the product obtained shall be considered as originating in the Contracting Party which accounts for the highest value of originating materials used in the manufacture in the exporting Contracting Party.

3. Without prejudice to Article 2, and with the exclusion of products falling within Chapters 50 to 63, working or processing carried out in a Contracting Party other than the exporting Contracting Party shall be considered as having been carried out in the exporting Contracting Party when the products obtained undergo subsequent working or processing in that exporting Contracting Party.

4. Without prejudice to Article 2, for products falling within Chapters 50 to 63 and only for the purpose of bilateral trade between two Contracting Parties, working or processing carried out in the importing Contracting Party shall be considered as having been carried out in the exporting Contracting Party when the products undergo subsequent working or processing in that exporting Contracting Party.

For the purpose of this paragraph, the participants in the European Union's Stabilisation and Association Process and the Republic of Moldova are to be considered as one Contracting Party.

5. Contracting Parties may opt to extend the application of paragraph 3 of this Article on importation of products falling within Chapters 50 to 63 unilaterally. The Contracting Party that decides to extend the application of paragraph 3 shall notify the Joint Committee of that decision, as well as any modifications thereof. Annex VIII shall contain the list of Contracting Parties that have extended the application of paragraph 3 of this Article on importation of products falling within Chapters 50 to 63. The List of Contracting Parties shall be promptly updated after any Contracting Party has ceased to apply the extension. Each Contracting Party shall publish a notice with the list of Contracting Parties in Annex VIII in accordance with their respective internal procedures.

6. For the purpose of cumulation within the meaning of paragraphs 3 to 5, the originating products shall be considered as originating in the exporting Contracting Party only if the working or processing undergone there goes beyond the operations referred to in Article 6.

7. Products originating in the Contracting Parties referred to in paragraphs 1 and 4 of this Article which do not undergo any working or processing in the exporting Contracting Party shall retain their origin if exported into one of the other Contracting Parties.

Article 8

Conditions for the application of cumulation of origin

1. The cumulation provided for in Article 7 may be applied only provided that:

(a) a preferential trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT) is applicable between the Contracting Parties involved in the acquisition of the originating status and the Contracting Party of destination; and

(b) goods have obtained originating status by the application of rules of origin identical to those given in this Convention.

2. Notices indicating the fulfilment of the necessary requirements to apply cumulation shall be published in the *Official Journal of the European Union* (C series) and in the Contracting Parties which are party to the relevant Agreements, in accordance with their own procedures.

The cumulation provided for in Article 7 shall apply from the date indicated in those notices.

The Contracting Parties shall, through the European Commission, provide the other Contracting Parties which are party to the relevant Agreements with details of the Agreements, including their dates of entry into force, which are applied with the other Contracting Parties.

3. The proof of origin should include the statement in English 'CUMULATION APPLIED WITH (name of the country/countries in English)' when products obtained the originating status in the exporting Contracting Party by application of cumulation of origin in accordance with Article 7.

In cases where a movement certificate EUR.1 is used as a proof of origin, that statement shall be made in Box 7 of the movement certificate EUR.1.

4. Contracting Parties may decide, for the products exported to them that obtained the originating status in the exporting Contracting Party by application of cumulation of origin in accordance with Article 7, to waive the obligation of including on the proof of origin the statement referred to in paragraph 3 of this Article.

The Contracting Parties will notify the Joint Committee of their decision to make use of that option. Notices indicating the updated list of Contracting Parties that made use of that option shall be published by the Contracting Parties, according to their own procedures.

Article 9

Unit of qualification

1. The unit of qualification for the application of this Convention shall be the particular product which is considered to be the basic unit when determining classification using the nomenclature of the Harmonised System.

It follows that: (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised 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, each individual item shall be taken into account when applying this Convention.

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

3. 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 ex-works price thereof shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 10

Sets

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

When a set is composed of originating and non-originating products, the set as a whole shall however 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 11

Neutral elements

In order to determine whether a product is an originating product, no account shall be taken of 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) any other goods which do not enter, and which are not intended to enter, into the final composition of the product.

Article 12

Accounting segregation

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

2. Economic operators may ensure the management of originating and non-originating fungible products of heading 1701 using the accounting segregation method, without keeping the products on separate stocks.

3. Contracting Parties may require that the application of accounting segregation is subject to prior authorisation by the Customs authorities. The Customs authorities may grant the authorisation subject to any conditions they deem appropriate and shall monitor the use made of the authorisation. The Customs authorities may withdraw the authorisation whenever the beneficiary makes improper use of the authorisation in any manner whatsoever or fails to fulfil any of the other conditions laid down in this Appendix.

Through the use of accounting segregation it must be ensured that, at any time, no more products can be considered as 'originating in the exporting Contracting Party' than would have been the case if a method of physical segregation of the stocks had been used.

The method shall be applied and the application thereof shall be recorded on the basis of the general accounting principles applicable in the exporting Contracting Party.

4. The beneficiary of the method referred to in paragraphs 1 and 2 of this Article shall make out or apply for proofs of origin for the quantity of products which may be considered as originating in the exporting Contracting Party. At the request of the customs authorities, the beneficiary shall provide a statement of how the quantities have been managed.

TITLE III

TERRITORIAL REQUIREMENTS

Article 13

Principle of territoriality

1. The conditions set out in Title II shall be fulfilled without any interruption in a Contracting Party concerned.

2. If originating products exported from a Contracting Party to another country are returned, they shall be considered to be non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the products returned are the same as those which were exported; and

(b) they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

3. The obtention of originating status in accordance with the conditions set out in Title II shall not be affected by working or processing done outside the exporting Contracting Party on materials exported from that Contracting Party and subsequently re-imported there, provided:

(a) those materials are wholly obtained in the exporting Contracting Party or have undergone working or processing beyond the operations referred to in Article 6 prior to being exported; and

(b) it can be demonstrated to the satisfaction of the customs authorities that:

(i) the re-imported products have been obtained by working or processing the exported materials; and

(ii) the total added value acquired outside the exporting Contracting Party by applying this Article does not exceed 10 % of the ex-works price of the end product for which originating status is claimed.

4. For the purposes of paragraph 3 of this Article, the conditions for obtaining originating status set out in Title II shall not apply to working or processing done outside the exporting Contracting Party. However, where, in the list in Annex II, a rule setting a maximum value for all the non-originating materials incorporated is applied in determining the originating status of the end product, the total value of the non-originating materials incorporated in the territory of the exporting Contracting Party, taken together with the total added value acquired outside that Contracting Party by applying this Article, shall not exceed the stated percentage.

5. For the purposes of applying paragraphs 3 and 4 of this Article, 'total added value' shall be taken to mean all costs arising outside the exporting Contracting Party, including the value of the materials incorporated there.

6. Paragraphs 3 and 4 of this Article shall not apply to products which do not fulfil the conditions set out in the list in Annex II or which can be considered sufficiently worked or processed only if the general tolerance fixed in Article 4 is applied.

7. Any working or processing of the kind covered by this Article and done outside the exporting Contracting Party shall be done under the outward processing arrangements, or similar arrangements.

Article 14

Non-alteration

1. The preferential treatment provided for under the relevant Agreement shall apply only to products satisfying the requirements of this Convention and declared for importation in a Contracting Party provided that those products are the same as those exported from the exporting Contracting Party. They shall not have been altered, transformed in any way or subjected to operations other than to preserve them in good condition or than adding or affixing marks, labels, seals or any documentation to ensure compliance with specific domestic requirements of the importing Contracting Party carried out under customs supervision in the country(ies) of transit or splitting prior to being declared for home use.

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

3. Without prejudice to Title V of this Appendix, the splitting of consignments may take place, provided they remain under customs supervision in the third country(ies) of splitting.

4. In the case of doubt, the importing Contracting Party may request the importer or its representative to submit at any time all appropriate documents to provide evidence of compliance with this Article, which may be given by any documentary evidence, and notably by:

(a) contractual transport documents such as bills of lading;

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

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

(d) any evidence related to the goods themselves.

Article 15

Exhibitions

1. Originating products, sent for exhibition in a country other than with which cumulation is applicable in accordance with Articles 7 and 8 and sold after the exhibition for importation in a Contracting Party, shall benefit on importation from the relevant Agreement provided it is shown to the satisfaction of the customs authorities that:

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

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

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin shall be issued or made out in accordance with Title V of this Appendix and submitted to the customs authorities of the importing Contracting Party in the normal manner. The name and address of the exhibition shall be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

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

TITLE IV

DRAWBACK OR EXEMPTION

Article 16

Drawback of or exemption from customs duties

1. Non-originating materials used in the manufacture of products falling within Chapters 50 to 63 originating in a Contracting Party for which a proof of origin is issued or made out in accordance with Title V of this Appendix shall not be subject in the exporting Contracting Party to drawback of or exemption from customs duties of whatever kind.

2. The prohibition in paragraph 1 of this Article 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 exporting Contracting Party 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, upon 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 prohibition in paragraph 1 of this Article shall not apply to trade between the Contracting Parties for products that obtained originating status by application of cumulation of origin covered by Article 7(4) or (5).

5. The prohibition in paragraph 1 of this Article shall not apply in bilateral trade between on the one hand Switzerland (including Liechtenstein), Iceland, Norway, Turkey or the European Union with, on the other hand, any participant in the Barcelona process other than Turkey and Israel if the products are considered as originating in the exporting or importing Contracting Party without application of cumulation with materials originating in any of the other Contracting Parties.

6. The prohibition in paragraph 1 of this Article shall not apply in bilateral trade between the Contracting Parties being Member Countries of the Agreement setting up a free trade area between the Arab Mediterranean countries (Agadir Agreement), if the products are considered as originating in one of those countries without application of cumulation with materials originating in any of the other Contracting Parties.

TITLE V

PROOF OF ORIGIN

Article 17

General requirements

1. Products originating in one of the Contracting Parties shall, on importation into other Contracting Parties, benefit from the relevant Agreements upon submission of one of the following proofs of origin:

(a) a movement certificate EUR.1, a specimen of which appears in Annex IV to this Appendix;