

PROTOCOL I
CONCERNING THE DEFINITION OF THE CONCEPT
OF "ORIGINATING PRODUCTS" AND METHODS OF
ADMINISTRATIVE CO-OPERATION

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 a product;
- (c) 'product' means a 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 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
- (f) 'ex-works price' means the price paid for the product ex works to the manufacturer in the United Kingdom or Ukraine 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 United Kingdom or in Ukraine;
- (h) 'value of originating materials' means the value of such materials as defined in (g) applied *mutatis mutandis*;

- (i) 'value added' means the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries referred to in Articles 3 and 4 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 United Kingdom or in Ukraine;
- (j) 'chapters' and 'headings' mean the chapters and the headings (four-digit codes) used in the nomenclature which makes up the Harmonised Commodity Description and Coding System, referred to in this Protocol as 'the Harmonised 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;
- (n) 'Incorporated Annexes I to IV b' mean Annexes I to IV b of Appendix I to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹, as those Annexes are incorporated by Article 39 of this Protocol

¹ References to the text of Regional Convention on pan-Euro-Mediterranean preferential rules of origin shall be taken to mean the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin as at the date this Agreement is signed.

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 United Kingdom:
 - (a) products wholly obtained in the United Kingdom within the meaning of Article 5 of this Protocol;
 - (b) products obtained in the United Kingdom incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the United Kingdom within the meaning of Article 6 of this Protocol.
2. For the purpose of implementing this Agreement, the following products shall be considered as originating in Ukraine:
 - (a) products wholly obtained in Ukraine within the meaning of Article 5 of this Protocol;
 - (b) products obtained in Ukraine incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in Ukraine within the meaning of Article 6 of this Protocol.

ARTICLE 3

Cumulation in the United Kingdom

1. Without prejudice to the provisions of Article 2(1), products shall be considered as originating in the United Kingdom, if they are obtained there, incorporating materials originating in Switzerland (including Liechtenstein)², Iceland, Norway, Turkey or the European Union, provided that the working or processing carried out in the United Kingdom goes beyond the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.

² Due to the Customs Treaty between Liechtenstein and Switzerland, products originating in Liechtenstein are considered as originating in Switzerland.

2. Without prejudice to the provisions of Article 2(1), products shall be considered as originating in the United Kingdom if they are obtained there, incorporating materials originating in Ukraine or any of the ‘Contracting Parties’³ (other than those referred to in paragraph 1 of this Article) to the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin, provided that the working or processing carried out in the United Kingdom goes beyond the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.
3. Without prejudice to the provisions of Article 2(1), working or processing carried out in Iceland, Norway, or the European Union, shall be considered as having been carried out in the United Kingdom when the products obtained undergo subsequent working or processing in the United Kingdom that goes beyond the operations referred to in Article 7.
4. For cumulation provided in paragraphs 1 and 2, where the working or processing carried out in the United Kingdom does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in the United Kingdom only where the value added there is greater than the value of the materials used that are originating in any of the other countries. If this is not so, the product obtained shall be considered as originating in the country which accounts for the highest value of originating materials used in the manufacture in the United Kingdom.
5. For cumulation provided in paragraph 3, where the working or processing carried out in the United Kingdom does not go beyond the operation referred to in Article 7, the product obtained shall be considered as originating in the United Kingdom only where the value added there is greater than the value added in any of the other countries.
6. Products originating in the countries referred to in paragraphs 1 and 2, which do not undergo any working or processing in the United Kingdom retain their origin if exported into one of these countries.
7. (a) The cumulation provided for in this Article in respect of the European Union may be applied provided that:
 - i. the United Kingdom, Ukraine and the European Union have arrangements on administrative cooperation which ensure a correct implementation of this Article;
 - ii. materials and products have acquired originating status by the application of rules of origin identical to those in this Protocol; and notices indicating the fulfilment of the necessary requirements to apply cumulation have been published by the Parties.

³ As defined in the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin as at the date this Agreement is signed.

- (b) Except as provided for in paragraph 7(a), the cumulation provided for in this Article may be applied provided that:
 - i. a preferential trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade 1994 (“GATT 1994”) is applicable between the countries involved in the acquisition of the originating status and the country of destination;
 - ii. materials and products have acquired originating status by the application of rules of origin identical to those in this Protocol; and
 - iii. notices indicating the fulfilment of the necessary requirements to apply cumulation have been published by the Parties.
- 8. The United Kingdom shall provide Ukraine with details of the agreements or arrangements including their dates of entry into force, and their corresponding rules of origin, which are applied with the other countries referred to in paragraphs 1 and 2.

ARTICLE 4

Cumulation in Ukraine

- 1. Without prejudice to the provisions of Article 2(2), products shall be considered as originating in Ukraine, if they are obtained there, incorporating materials originating in the United Kingdom, Switzerland (including Liechtenstein), Iceland, Norway, Turkey or the European Union, provided that the working or processing carried out in Ukraine goes beyond the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.
- 2. Without prejudice to the provisions of Article 2(2), products shall be considered as originating in Ukraine if they are obtained there, incorporating materials originating in any of the ‘Contracting Parties’⁴ (other than those referred to in paragraph 1 of this Article) to the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin, provided that the working or processing carried out in Ukraine goes beyond the operations referred to in Article 7. It shall not be necessary for such materials to have undergone sufficient working or processing.

⁴ As defined in the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin as at the date this Agreement is signed.

3. Where the working or processing carried out in Ukraine does not go beyond the operations referred to in Article 7, the product obtained shall be considered as originating in Ukraine only where the value added there is greater than the value of the materials used that are originating in any of the other countries referred to in paragraphs 1 and 2. If this is not so, the product obtained shall be considered as originating in the country which accounts for the highest value of originating materials used in the manufacture in Ukraine.
4. Products originating in the countries referred to in paragraphs 1 and 2, which do not undergo any working or processing in Ukraine, retain their origin if exported into one of these countries.
5. (a) The cumulation provided for in this Article in respect of the European Union may be applied provided that:
 - i. the United Kingdom, Ukraine and the European Union have arrangements on administrative cooperation which ensure a correct implementation of this Article;
 - ii. materials and products have acquired originating status by the application of rules of origin identical to those in this Protocol; and
 - iii. notices indicating the fulfilment of the necessary requirements to apply cumulation have been published by the Parties.
- (b) Except as provided for in paragraph 5(a), the cumulation provided for in this Article may be applied provided that:
 - i. a preferential trade agreement in accordance with Article XXIV of the GATT 1994 is applicable between the countries involved in the acquisition of the originating status and the country of destination;
 - ii. materials and products have acquired originating status by the application of rules of origin identical to those in this Protocol; and
 - iii. notices indicating the fulfilment of the necessary requirements to apply cumulation have been published by the Parties.
6. Ukraine shall provide the United Kingdom with details of the agreements or arrangements including their dates of entry into force, and their corresponding rules of origin, which are applied with the other countries referred to in paragraphs 1 and 2.

ARTICLE 5

Wholly Obtained Products

1. The following shall be considered as wholly obtained in the United Kingdom or Ukraine:
 - (a) mineral products extracted from its soil or from its 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 Party by its vessels;
 - (g) products made aboard its factory ships exclusively from products referred to in (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 its territorial waters provided that it has sole rights to work that soil or subsoil;
 - (k) goods produced there exclusively from the products specified in (a) to (j).

2. The terms ‘its vessels’ and ‘its factory ships’ in paragraphs 1(f) and (g) shall apply only to vessels and factory ships:
 - (a) which are registered or recorded in the United Kingdom or Ukraine;
 - (b) which sail under the flag of the United Kingdom or Ukraine;

- (c) which are owned to an extent of at least 50% by nationals of the United Kingdom, a Member State of the European Union or Ukraine, 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 the United Kingdom, a Member State of the European Union or Ukraine 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 the United Kingdom, a Member State of the European Union or Ukraine; and
- (e) of which at least 75% of the crew are nationals of the United Kingdom, a Member State of the European Union or Ukraine.

ARTICLE 6

Sufficiently Worked or Processed Products

1. For the purposes of Article 2, products which are not wholly obtained shall be considered to be sufficiently worked or processed when the conditions set out in the list in Incorporated Annex II are fulfilled.

The conditions referred to above indicate the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. 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 in Incorporated Annex II, 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 by virtue of this paragraph.

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

3. Paragraphs 1 and 2 shall apply subject to the provisions of Article 7.

ARTICLE 7

Insufficient Working or Processing

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 6 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, partial or total bleaching, polishing, and glazing of cereals and rice;
 - (g) operations to colour sugar or form sugar lumps;
 - (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 assembly of parts of articles to constitute a complete article or disassembly of products into parts;
 - (p) a combination of two or more operations specified in (a) to (n);
 - (q) slaughter of animals.

2. All operations carried out in the United Kingdom or in Ukraine 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 8

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 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 of the Harmonised System, each product must be taken individually when applying the provisions of this Protocol.
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.

ARTICLE 9

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 10

Sets

Sets, as defined in General Rule 3 of the Harmonised 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 11

Neutral Elements

In order to determine whether a product is an originating product, 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 neither enter into the final composition of the product nor are intended to do so.

TITLE III
TERRITORIAL REQUIREMENTS

ARTICLE 12

Principle of Territoriality

1. Except as provided for in Articles 3, 4 and paragraph 3 of this Article, the conditions for acquiring originating status set out in Title II shall be fulfilled without interruption in the United Kingdom, or in Ukraine.
2. Except as provided for in Articles 3 and 4, where originating goods exported from the United Kingdom or from Ukraine to another country return, they shall be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:
 - (a) the returning goods are the same 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.
3. The acquisition of originating status in accordance with the conditions set out in Title II shall not be affected by working or processing done outside the United Kingdom or Ukraine on materials exported from the United Kingdom or Ukraine and subsequently re-imported there, provided:
 - (a) the said materials are wholly obtained in the United Kingdom or Ukraine or have undergone working or processing beyond the operations referred to in Article 7 prior to being exported; and
 - (b) it can be demonstrated to the satisfaction of the customs authorities that:
 - (i) the re-imported goods have been obtained by working or processing the exported materials; and
 - (ii) the total added value acquired outside the United Kingdom or Ukraine by applying the provisions of 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, the conditions for acquiring originating status set out in Title II shall not apply to working or processing done outside the United Kingdom or Ukraine. However, where, in the list in Incorporated 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 Party concerned, taken together with the total added value acquired outside the United Kingdom or Ukraine by applying the provisions of this Article, shall not exceed the stated percentage.
5. For the purposes of applying the provisions of paragraphs 3 and 4, ‘total added value’ means all costs arising outside the United Kingdom or Ukraine, including the value of the materials incorporated there.
6. The provisions of paragraphs 3 and 4 shall not apply to products which do not fulfil the conditions set out in the list in Incorporated Annex II or which can be considered sufficiently worked or processed only if the general tolerance fixed in Article 6(2) is applied.
7. The provisions of paragraphs 3 and 4 shall not apply to products of Chapters 50 to 63 of the Harmonised System.
8. Any working or processing of the kind covered by the provisions of this Article and done outside the United Kingdom or Ukraine shall be done under the outward processing arrangements, or similar arrangements.

ARTICLE 13

Direct Transport

1. The preferential treatment provided for under this Agreement shall apply only to products satisfying the requirements of this Protocol, which are transported directly between the Parties or through the territories of the other countries referred to in Articles 3 and 4 with which cumulation is applicable. 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 a territory other than that of the Parties.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing Party by the production of:

- (a) a single transport document covering the passage from the exporting Party 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 14

Exhibitions

1. Originating products sent for exhibition in a country other than those referred to in Articles 3 and 4 with which cumulation is applicable, and sold after the exhibition for importation in the United Kingdom or Ukraine, shall benefit on importation from the provisions of this Agreement, provided it is shown to the satisfaction of the customs authorities that:
 - (a) an exporter has consigned these products from the United Kingdom or Ukraine 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 United Kingdom or Ukraine;
 - (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 the provisions of Title V and submitted to the customs authorities of the United Kingdom or Ukraine 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 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 15

Prohibition of drawback of, or exemption from, customs duties

1. Non-originating materials used in the manufacture of products originating in the United Kingdom or in Ukraine 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 United Kingdom or Ukraine 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 United Kingdom or Ukraine 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 provisions of paragraphs 1, 2 and 3 of this Article shall also apply in respect of packaging within the meaning of Article 8(2), accessories, spare parts and tools within the meaning of Article 9 and products in a set within the meaning of Article 10 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 this Agreement applies.
6. The prohibition in paragraph 1 of this Article shall not apply in bilateral trade between one of the Parties referred to in Article 3(1) and 4(1) with one of the Parties referred to in Articles 3(2) and 4(2), excluding Israel, the Faroe Islands and the participants in the European Union's Stabilisation and Association Process, if the products are considered as originating in the exporting or importing Party without application of cumulation with materials originating in Switzerland (including Liechtenstein), Turkey or one of the other countries referred to in Articles 3(2) and 4(2).

ANNEX A

JOINT DECLARATION concerning the Principality of Andorra

1. Products originating in the Principality of Andorra meeting the conditions of Articles 3(7)(b)(ii) and 4(5)(b)(ii) of Protocol I of this Agreement, and falling within Chapters 25 to 97 of the Harmonised System shall be accepted by the Parties as originating in the European Union within the meaning of this Agreement.

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

ANNEX B

JOINT DECLARATION concerning the Republic of San Marino

1. Products originating in the Republic of San Marino, meeting the conditions of Articles 3(7)(b)(ii) and 4(5)(b)(ii) of Protocol I of this Agreement, shall be accepted by the Parties as originating in the European Union within the meaning of this Agreement.

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