

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

INDEX

TITLE I: General Provisions

ARTICLES

1. Definitions

TITLE II: Definition of the concept of "originating products"

ARTICLES

2. General requirements
3. Cumulation in the EC Party
4. Cumulation in the CARIFORUM States
5. Cumulation with neighbouring developing countries
6. Wholly obtained products
7. Sufficiently worked or processed products
8. Insufficient working or processing operations
9. Unit of qualification
10. Accessories, spare parts and tools
11. Sets
12. Neutral elements

TITLE III: Territorial requirements

ARTICLES

13. Principle of territoriality
14. Direct transport
15. Exhibitions

TITLE IV: Proof of origin

ARTICLES

16. General requirements
17. Procedure for the issue of a movement certificate EUR 1
18. Movement certificates EUR 1 issued retrospectively
19. Issue of a duplicate movement certificate EUR 1
20. Issue of movement certificates EUR 1 on the basis of a proof of origin issued or made out previously
21. Conditions for making out an invoice declaration
22. Approved exporter
23. Validity of proof of origin
24. Submission of proof of origin
25. Importation by instalments
26. Exemptions from proof of origin
27. Information procedure for cumulation purposes
28. Supporting documents
29. Preservation of proof of origin and supporting documents
30. Discrepancies and formal errors

TITLE V: Arrangements for administrative cooperation

ARTICLES

31. Administrative conditions for products to benefit from the Agreement
32. Notification of information related to customs authorities
33. Mutual assistance
34. Verification of proof of origin
35. Verification of suppliers' declarations
36. Dispute settlement
37. Penalties
38. Free zones
39. Derogations

TITLE VI: Ceuta and Melilla

ARTICLES

40. Special conditions

TITLE VII: Final Provisions

## ARTICLES

41. Amendment of the Protocol
42. Tasks of the Special Committee on Customs Cooperation and Trade Facilitation
43. Review
44. Annexes

## ANNEXES

ANNEX I to Protocol I:	Introductory notes to the list in Annex II
ANNEX II to Protocol I:	List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status
ANNEX III to Protocol I:	Form for movement certificate
ANNEX IV to Protocol I:	Invoice declaration
ANNEX V A to Protocol I:	Supplier declaration for products having preferential origin status
ANNEX V B to Protocol I:	Supplier declaration for products not having preferential original status
ANNEX VI to Protocol I:	Information certificate
ANNEX VII to Protocol I:	Form for application for a derogation
ANNEX VIII to Protocol I:	Neighbouring developing countries
ANNEX IX to Protocol I:	Overseas countries and territories
ANNEX X to Protocol I:	Products for which the cumulation provisions referred to in Articles 2(3) and 4 apply after 1 October 2015 and to which the provisions of Article 5 shall not be applicable
ANNEX XI to Protocol I:	Other ACP States
ANNEX XII to Protocol I:	Products originating in South Africa excluded from cumulation provided for in Article 4
ANNEX XIII to Protocol I:	Products originating in South Africa for which the cumulation provisions of Article 4 apply after 31 December 2009

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 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 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 paid 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 territory concerned;
- (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 third country materials imported into the EC Party, the CARIFORUM States or the Overseas Countries and Territories (OCTs);
- (j) "chapters" and "headings" mean the chapters and the four-digit headings 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) "OCTs" means the Overseas Countries and Territories as defined in Annex IX;
- (o) "other ACP States" means the countries listed in Annex XI.

TITLE II  
DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

ARTICLE 2  
General requirements

1. For the purpose of the CARIFORUM-EC Economic Partnership Agreement, hereinafter referred to as "the Agreement", the following products shall be considered as originating in the EC Party:
  - (a) products wholly obtained in the EC Party within the meaning of Article 6 of this Protocol;
  - (b) products obtained in the EC Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the EC Party within the meaning of Article 7.
2. For the purpose of the Agreement, the following products shall be considered as originating in the CARIFORUM States:
  - (a) products wholly obtained in the CARIFORUM States within the meaning of Article 6 of this Protocol;
  - (b) products obtained in CARIFORUM States incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in that CARIFORUM State within the meaning of Article 7.
3. For the purpose of implementing paragraph 2, the territories of the CARIFORUM States shall be considered as being one territory.

Originating products made up of materials wholly obtained or sufficiently worked or processed in two or more CARIFORUM States shall be considered as products originating in the CARIFORUM State where the last working or processing took place, provided the working or processing carried out there goes beyond that referred to in Article 8 of this Protocol.
4. For the products listed in Annex X and the products of tariff heading 1006, the provisions of paragraph 3 shall apply after 1 October 2015 and 1 January 2010 respectively.

ARTICLE 3  
Cumulation in the EC Party

1. For the purpose of Article 2(1), materials originating in the CARIFORUM States, in the OCTs or in the other ACP States shall be considered as materials originating in the EC Party 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 8.
2. For the purpose of Article 2(1), working and processing carried out in the CARIFORUM States, in the OCTs or in the other ACP States shall be considered as having been carried out in the EC Party, when the materials undergo subsequent working or processing in the EC Party going beyond that referred to in Article 8.
3. The cumulation provided for in paragraphs 1 and 2 of this Article may only be applied with respect to the OCTs and the other ACP States provided that:
  - (a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;
  - (b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Protocol;

(c) the EC Party provides the CARIFORUM States, through the Commission of the European Communities, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The Commission shall publish in the Official Journal of the European Union (C series) and the CARIFORUM States shall publish according to their own procedures the date on which the cumulation provided for in this article may be applied with those countries or territories listed in this Article which have fulfilled the necessary requirements.

#### ARTICLE 4

##### Cumulation in the CARIFORUM States

1. For the purpose of Article 2(2), materials originating in the EC Party, in the OCTs or in the other ACP States shall be considered as materials originating in the CARIFORUM States 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 8.

2. For the purpose of Article 2(2), working and processing carried out in the EC Party, in the OCTs or in the other ACP States shall be considered as having been carried out in the CARIFORUM States, when the materials undergo subsequent working or processing in the CARIFORUM States going beyond that referred to in Article 8.

3. The cumulation provided for in paragraphs 1 and 2 of this Article may only be applied with respect to the OCTs and the other ACP States provided that:

(a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;

(b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Protocol;

(c) the CARIFORUM States will provide the EC Party, through the Commission of the European Communities, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The Commission shall publish in the Official Journal of the European Union (C series) and the CARIFORUM States shall publish according to their own procedures the date on which the cumulation provided for in this article may be applied with those countries or territories listed in this article which have fulfilled the necessary requirements.

4. Notwithstanding paragraphs 1 to 3, with regard to the products listed in Annex X and to the products of tariff heading 1006, the provisions of this Article shall apply after 1 October 2015 and 1 January 2010 respectively, and only when the materials used in the manufacture of such products are originating in, or the working or processing is carried out in other ACP States.

5. This Article shall not apply to products of Annex XII originating in South Africa. The cumulation provided for in this Article shall apply after 31 December 2009 for the products originating in South Africa listed in Annex XIII.

#### ARTICLE 5

##### Cumulation with neighbouring developing countries

1. At the request of the CARIFORUM States, materials originating in a neighbouring developing country listed in Annex VIII shall be considered as materials originating in a CARIFORUM State when incorporated into a product obtained there.

2. The requests shall be addressed to the Special Committee on Customs Cooperation and Trade Facilitation in accordance with Article 42.

3. It shall not be necessary that such materials have undergone sufficient working or processing, provided that:

(a) the working or processing carried out in the CARIFORUM State exceeds the operations listed in Article 8;

(b) the CARIFORUM States, the EC Party and the neighbouring developing countries concerned have concluded an agreement on adequate administrative cooperation procedures which will ensure correct implementation of this paragraph.

4. The Parties shall notify to the Special Committee on Customs Cooperation and Trade Facilitation the products to which the provisions of this Article shall not apply.

5. For the purpose of determining whether the products originate in the neighbouring developing country as defined in Annex VIII, the provisions of this Protocol shall apply.

#### ARTICLE 6

##### Wholly obtained products

1. The following shall be considered as wholly obtained in the territory of the CARIFORUM States or in the territory of the EC Party:

(a) mineral products extracted from their soil or from their seabed;

(b) fruit and vegetable products harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) (i) products obtained by hunting or fishing conducted there;

(ii) products of aquaculture, including mariculture, where the fish are born and raised there;

(f) products of sea fishing and other products taken from the sea outside the territorial waters of the EC Party or of a CARIFORUM State by their vessels;

(g) products made aboard their 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 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 (a) to (j).

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

(a) which are registered in a Member State of the European Union or in a CARIFORUM State;

(b) which sail under the flag of a Member State of the European Union or of a CARIFORUM State;

(c) which meet one of the following conditions:

- (i) they are at least 50 per cent owned by nationals of a Member State of the European Union or of a CARIFORUM State; or
- (ii) they are owned by companies
  - which have their head office and their main place of business in a Member State of the European Union or in a CARIFORUM State; and
  - which are at least 50 per cent owned by a Member State of the European Union or by a CARIFORUM State, public entities or nationals of that State.

3. Notwithstanding the provisions of paragraph 2, the EC Party shall recognise, upon request of a CARIFORUM State, that vessels chartered or leased by operators of such CARIFORUM State be treated as "their vessels" in order to undertake fisheries activities in its exclusive economic zone, provided that the charter or lease agreement, for which operators of the EC Party have been offered the right of first refusal, has been accepted by the Special Committee on Customs Cooperation and Trade Facilitation as providing adequate opportunities for developing the fishing capacity of the requesting CARIFORUM State and in particular as conferring on such CARIFORUM State the nautical and commercial responsibility for the chartered or leased vessels.

#### ARTICLE 7

##### 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.

2. The conditions referred to in paragraph 1 above indicate, for all products covered by the 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.

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

- (a) their total value does not exceed 15 per cent 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.

4. Paragraphs 1 to 3 shall apply except as provided in Article 8.

#### ARTICLE 8

##### 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 7 are satisfied:

- (a) operations to ensure the preservation of products 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) 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; partial or total milling of crystal sugar;<sup>1</sup>
- (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; mixing of sugar with any other material<sup>2</sup>;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more operations specified in (a) to (n);
- (p) slaughter of animals.

2. All operations carried out either in the EC Party or in the CARIFORUM States 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 9

##### 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.

Accordingly, 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.

<sup>1</sup> This is understood to mean the reduction of the size of the sugar particles as a result of grinding or milling.

<sup>2</sup> For the purpose of applying this subparagraph and in relation to Article 7 (Sufficiently worked or processed products), the Parties agree that paragraph 2 of Article 8 means that the use of one or more materials already originating in the country of manufacture implies that a processing going beyond a "minimal operation" has already been carried out in that country of manufacture.

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 10

##### 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 11

##### 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 per cent of the ex-works price of the set.

#### ARTICLE 12

##### Neutral elements

In order to determine whether a product is originating, 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 13

##### Principle of territoriality

1. The conditions for acquiring originating status set out in Title II must be fulfilled without interruption in the CARIFORUM States or in the EC Party, except as provided for in Articles 3, 4 and 5.

2. Where originating goods exported from the CARIFORUM States or from the EC Party to another country are returned, except insofar as provided for in Article 3, 4 and 5, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the returned goods 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 14

##### Direct transport

1. The preferential treatment provided for under the Agreement applies only to products which satisfy the requirements of this Protocol and which are transported directly between the territory of the CARIFORUM States and the EC Party without entering any other territory. 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 a CARIFORUM State, of the EC Party or of an OCT.

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 15

##### Exhibitions

1. Originating products, sent from a CARIFORUM State or from the EC Party for exhibition in a country or territory other than those referred to in Articles 3, 4 and 5 and sold after the exhibition for importation into the EC Party or a CARIFORUM State 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 a CARIFORUM State or the EC 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 a CARIFORUM State or in the EC 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 must be issued or made out in accordance with the provisions of Title IV 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 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 PROOF OF ORIGIN

##### ARTICLE 16 General requirements

1. Products originating in a CARIFORUM State shall, on importation into the EC Party and products originating in the EC Party shall, on importation into a CARIFORUM State, benefit from the provisions of the Agreement upon submission of either:

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

(b) in the cases specified in Article 21(1), a declaration, subsequently referred to as the "invoice declaration", 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; the text of the invoice declaration appears in Annex IV.

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 26, benefit from the Agreement without it being necessary to submit any of the documents referred to above.

3. For the purpose of applying the provisions of this Title, the exporters shall endeavour to use a language common to both the CARIFORUM States and the EC Party.

##### ARTICLE 17 Procedure for the issue of a movement certificate EUR.1

1. A movement certificate EUR.1 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 authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Annex III. These forms shall be completed in accordance with the provisions of this Protocol. 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 a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the movement certificate EUR.1 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. A movement certificate EUR.1 shall be issued by the customs authorities of a Member State of the European Union or of a CARIFORUM State if the products concerned can be considered as products originating in the EC Party or in a CARIFORUM State or in one of the other countries or territories referred to in Articles 3, 4 and 5 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 movement certificate EUR.1 shall be indicated in Box 11 of the certificate.

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

##### ARTICLE 18 Movement certificates EUR.1 issued retrospectively

1. Notwithstanding Article 17(7), a movement certificate EUR.1 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 a movement certificate EUR.1 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 movement certificate EUR.1 relates, and state the reasons for his request.

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

4. Movement certificates EUR.1 issued retrospectively must be endorsed with the following phrase in English: "ISSUED RETROSPECTIVELY"

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

## ARTICLE 19

## Issue of a duplicate movement certificate EUR.1

1. In the event of theft, loss or destruction of a movement certificate EUR.1, 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 the following word in English: "DUPLICATE".
3. The endorsement referred to in paragraph 2 shall be inserted in the "Remarks" box of the duplicate movement certificate EUR.1.
4. The duplicate, which must bear the date of issue of the original movement certificate EUR.1, shall take effect as from that date.

## ARTICLE 20

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

## ARTICLE 21

## Conditions for making out an invoice declaration

1. An invoice declaration as referred to in Article 16(1)(b) may be made out:
  - (a) by an approved exporter within the meaning of Article 22; or
  - (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000.
2. An invoice declaration may be made out if the products concerned can be considered as products originating in the CARIFORUM States or in the EC Party 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 to this Protocol, 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 22 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 22

## Approved exporter

1. The customs authorities of the exporting country may authorise any exporter who makes frequent shipments of products under the trade cooperation provisions of the Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation 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 authorisation number which shall appear on the invoice declaration.
4. The customs authorities shall monitor the use of the authorisation by the approved exporter.
5. The customs authorities may withdraw the authorisation 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 authorisation.

## ARTICLE 23

## Validity of proof of origin

1. A proof of origin shall be valid for ten 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. Proof 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 24

## Submission of proof of origin

Proof 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 de-



claration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

#### ARTICLE 25

##### 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 Harmonised System falling within Sections XVI and XVII or heading 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

#### ARTICLE 26

##### 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 customs declaration CN22/CN23 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 EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage.

#### ARTICLE 27

##### Information procedure for cumulation purposes

1. When Articles 2(3), 3(1) and 4(1) are applied, the evidence of originating status within the meaning of this Protocol of the materials coming from a CARIFORUM State, from the EC Party, from another ACP State or from an OCT shall be given by a movement certificate EUR 1 or by the supplier's declaration, a specimen of which appears in Annex V A to this Protocol, given by the exporter in the State or in the EC Party from which the materials came.

2. When Articles 2(3), 3(2) and 4(2) are applied, the evidence of the working or processing carried out in a CARIFORUM State, in the EC Party, in another ACP State or in an OCT shall be given by the supplier's declaration, a specimen of which appears in Annex V A and Annex V B to this Protocol, given by the exporter in the State or in the EC Party from which the materials came.

3. A separate supplier's declaration shall be made up by the supplier for each consignment of material on the commercial invoice related to that shipment or in an annex to that invoice, or on a delivery note or other commercial document related to that shipment which describes the materials concerned in sufficient detail to enable them to be identified.

4. The supplier's declaration may be made out on a pre-printed form.

5. The suppliers' declarations shall bear the original signature of the supplier in manuscript. However, where the invoice and the supplier's declaration are established using electronic data-processing methods, the supplier's declaration need not be signed in manuscript provided the responsible official in the supplying company is identified to the satisfaction of the customs authorities in the State where the suppliers' declarations are established. The said customs authorities may lay down conditions for the implementation of this paragraph.

6. The supplier's declarations shall be submitted to the customs authorities in the exporting country requested to issue the movement certificate EUR 1.

7. The supplier making out a declaration must be prepared to submit at any time, at the request of the customs authorities of the country where the declaration is made out, all appropriate documents proving that the information given on this declaration is correct.

8. Suppliers' declarations made and information certificates issued before the date of application of this Protocol in accordance with Article 26 of Protocol 1 to the Cotonou Agreement shall remain valid.

#### ARTICLE 28

##### Supporting documents

The documents referred to in Articles 17(3) and 21(3) used for the purpose of proving that products covered by a movement certificate EUR.1 or an invoice declaration can be considered as products originating in a CARIFORUM State, in the EC Party or in one of the other countries or territories referred to in Articles 3, 4 and 5 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 a CARIFORUM State, in the EC Party or in one of the other countries or territories referred to in Articles 3, 4 and 5 where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in the CARIFORUM States, in the EC Party or in one of the other countries or territories referred to in Articles 3 and 4 issued or made out in a CARIFORUM State, in the EC Party or in one of the other countries or territories referred to in Articles 3 and 4 where these documents are used in accordance with domestic law;

(d) movement certificates EUR.1 or invoice declarations proving the originating status of materials used, issued or made out in the CARIFORUM States, in the EC Party or in one of the other countries or territories referred to in Articles 3, 4 and 5 and in accordance with this Protocol.

#### ARTICLE 29

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

1. The exporter applying for the issue of a movement certificate EUR.1 shall keep for at least three years the documents referred to in Article 17(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 21(3).

3. The supplier making out a supplier's declaration shall keep for at least three years copies of the declaration and of the invoice, delivery notes or other commercial document to which this declaration is annexed as well as the documents referred to in Article 27(7).

4. The customs authorities of the exporting country issuing a movement certificate EUR.1 shall keep for at least three years the application form referred to in Article 17(2).

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

#### ARTICLE 30

##### 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.

#### TITLE V

#### ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

#### ARTICLE 31

##### Administrative conditions for products to benefit from the Agreement

Products originating within the meaning of this Protocol in the CARIFORUM States or in the EC Party shall benefit from the preferences resulting from the Agreement only on condition that the necessary arrangements, structures and systems required for the implementation and enforcement of the rules and procedures laid down in this Protocol are in place.

#### ARTICLE 32

##### Notification of information related to customs authorities

1. The CARIFORUM States and the Member States of the European Union shall provide each other, through the Commission of the European Communities, with the addresses of the customs authorities responsible for issuing and verifying of movement certificates EUR.1 and invoice declarations or supplier's declarations, and with specimen impressions of the stamps used in their customs offices for the issue of these certificates.

Movement certificates EUR.1 and invoice declarations or supplier's declarations shall be accepted for the purpose of applying preferential treatment from the date the information is received by the Commission of the European Communities.

2. The CARIFORUM States and the Member States of the European Union shall inform each other through the Commission of the European Communities immediately whenever there are any changes to the information referred to in paragraph 1.

#### ARTICLE 33

##### Mutual assistance

In order to ensure the proper application of this Protocol, the EC Party, the CARIFORUM States and the other countries referred to in Articles 3, 4 and 5 shall assist each other, through the competent customs administrations, in checking the authenticity of the movement certificates EUR.1, the invoice declarations or the supplier's declarations and the correctness of the information given in these documents.

The authorities consulted shall furnish the relevant information concerning the conditions under which the product has been made, indicating especially the conditions in which the rules of origin have been respected in the various CARIFORUM States, Member States of the European Union and other countries referred to in Articles 3, 4 and 5 concerned.

#### ARTICLE 34

##### Verification of proof of origin

1. Subsequent verifications of proof of origin shall be carried out at random or based on risk analysis 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 movement certificate EUR.1 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 request for verification. 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 a CARIFORUM State, in the EC Party or in one of the other countries referred to in Article 3, 4 and 5 and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within ten 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.

7. Where the verification procedure or any other available information appears to indicate that the provisions of this Protocol are being contravened, the exporting country on its own initiative or at the request of the importing country shall carry out appropriate enquires or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions and for this purpose the exporting country concerned may invite the participation of the importing country in these enquiries.

#### ARTICLE 35

##### Verification of suppliers' declarations

1. Verification of suppliers' declarations shall be carried out at random or based on risk analysis or whenever the customs authorities of the importing State have reasonable doubt as to the authenticity of the document or the accuracy or completeness of the information concerning the true origin of the materials in question.

2. The customs authorities to which a supplier's declaration is submitted may request the customs authorities of the State where the declaration was made to issue an information certificate, a specimen of which appears in Annex VI to this Protocol. Alternatively, the customs authorities to which a supplier's declaration is submitted may request the exporter to produce an information certificate issued by the customs authorities of the State where the declaration was made.

A copy of the information certificate shall be preserved by the office which has issued it for at least three years.

3. The customs authorities requesting the verification shall be informed of the results thereof as soon as possible. The results must indicate clearly whether the information given in the supplier's declaration is correct and make it possible for the customs authorities to determine whether and to what extent this supplier's declaration could be taken into account for issuing a movement certificate EUR.1 or for making out an invoice declaration.

4. The verification shall be carried out by the customs authorities of the country where the supplier's declaration was made out. For this purpose, they shall have the right to call for any evidence or to carry out any inspection of the supplier's account or any other check which they consider appropriate in order to verify the correctness of any supplier's declaration.

5. Any movement certificate EUR.1 or invoice declaration issued or made out on the basis of an incorrect supplier's declaration shall be considered null and void.

#### ARTICLE 36

##### Dispute settlement

Where disputes arise in relation to the verification procedures of Articles 34 and 35 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 Special Committee on Customs Cooperation and Trade Facilitation.

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 37

##### 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 a preferential treatment for products.

#### ARTICLE 38

##### Free zones

1. The CARIFORUM States and the EC Party shall take all necessary steps to ensure that products traded under cover of a proof of origin or a supplier's declaration and 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 originating products 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 movement certificate EUR.1 at the exporter's request, if the treatment or processing undergone complies with the provisions of this Protocol.

#### ARTICLE 39

##### Derogations

1. Derogations from this Protocol may be adopted by the Special Committee on Customs Cooperation and Trade Facilitation, hereafter in this Article referred to as "the Committee", in favour of products exported from the CARIFORUM States.

2. Derogations from this Protocol may be adopted where the development of existing industries or the creation of new industries in the CARIFORUM States justifies the adoption of such derogations.

3. The CARIFORUM State or States concerned shall, either before or when the request for derogation is submitted to the Committee, notify the EC Party of its request for a derogation together with the reasons for the request in accordance with paragraph 5.

4. The EC Party shall respond positively to all the CARIFORUM States' requests which are duly justified in conformity with this Article and which cannot cause serious injury to an established EC Party industry.

5. In order to facilitate the examination by the Committee of requests for derogation, the CARIFORUM State or States making the request shall, by means of the form given in Annex VII to this Protocol, furnish in support of their request the fullest possible information covering in particular the following:

- description of the finished product,
- nature and quantity of materials originating in third countries,

- nature and quantity of materials originating in CARIFORUM States or the countries or territories referred to in Articles 3 and 4, or the materials which have been processed in these countries or territories,
- manufacturing processes,
- added value achieved,
- number of employees in the enterprise concerned,
- anticipated volume of exports to the EC Party,
- other possible sources of supply for raw materials,
- reasons for the duration requested in the light of efforts made to find new sources of supply,
- other observations.

The Committee may modify the form.

6. The examination of requests for derogation shall in particular take into account:

- (a) the level of development or the geographical situation of the CARIFORUM State or States concerned;
- (b) cases where the application of the existing rules of origin would significantly affect the ability of an existing industry in a CARIFORUM State or States to continue their exports to the EC Party, with particular reference to cases where this could lead to cessation of its activities;
- (c) specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by the rules of origin and where a derogation favouring the realisation of the investment programme would enable these rules to be satisfied by stages.

7. In every case an examination shall be made to ascertain whether the rules relating to cumulation of origin do not provide a solution to the problem.

8. The Committee shall take steps necessary to ensure that a decision on a request for derogation is reached as soon as possible and, in any case, not later than seventy-five working days after the request is received by the EC Party. If the EC Party does not inform the CARIFORUM State of its position on the request within this period, the request shall be deemed to have been accepted.

- 9. (a) The derogation shall be valid for a period, generally of five years, to be determined by the Committee.
- (b) The derogation decision may provide for renewals without a new decision of the Committee being necessary, provided that the CARIFORUM State or States concerned submit, three months before the end of each period, proof that they are still unable to meet the conditions of this Protocol which have been derogated from.  
If any objection is made to the extension, the Committee shall examine it as soon as possible and decide whether to prolong the derogation. The Committee shall proceed as provided for in paragraph 8. All necessary measures shall be taken to avoid interruptions in the application of the derogation.
- (c) In the periods referred to in subparagraphs (a) and (b), the Committee may review the terms for implementing the derogation should a significant change be found to have taken place in the substantive factors governing the decision to grant the derogation. On conclusion of its review the Committee may decide to amend the terms of its decision as regards the scope of derogation or any other condition previously laid down.

## TITLE VI CEUTA AND MELILLA

### ARTICLE 40 Special conditions

1. The term "EC Party" used in this Protocol does not cover Ceuta and Melilla. The term "products originating in the EC Party" does not cover products originating in Ceuta and Melilla.

2. The provisions of this Protocol shall apply mutatis mutandis in determining whether products may be deemed as originating in a CARIFORUM State when imported into Ceuta and Melilla.

3. Where products wholly obtained in Ceuta, Melilla or in the EC Party undergo working and processing in a CARIFORUM State, they shall be considered as having been wholly obtained in a CARIFORUM State.

4. Working or processing carried out in Ceuta, Melilla or in the EC Party shall be considered as having been carried out in a CARIFORUM State, when materials undergo further working or processing in a CARIFORUM State.

5. For the purpose of implementing paragraphs 3 and 4, the insufficient operations listed in Article 8 of this Protocol shall not be considered as working or processing.

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

## TITLE VII FINAL PROVISIONS

### ARTICLE 41 Amendment of the Protocol

The Joint CARIFORUM-EC Council may decide to amend the provisions of this Protocol.

### ARTICLE 42 Tasks of the Special Committee on Customs Cooperation and Trade Facilitation

In accordance with the provisions of Article 36 of the Agreement the Special Committee on Customs Cooperation and Trade Facilitation shall:

- (a) take decisions on cumulation under the conditions laid down in Article 5;
- (b) take decisions on derogations from this Protocol under the conditions laid down in Article 39;
- (c) monitor the implementation and the administration of the provisions of this Protocol.

ARTICLE 43

Review

The Parties shall review the provisions of paragraph 4 of Article 2 and of paragraph 4 of Article 4 after three years from the signature of the Agreement with a view to reducing the products listed in Annex X to this Protocol.

ARTICLE 44

Annexes

The Annexes to this Protocol shall form an integral part thereof.