

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2020 OF THE ESA-EU CUSTOMS COOPERATION COMMITTEE

of 5 May 2020

on a derogation from the rules of origin laid down in Protocol 1 to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part, to take account of the special situation of Mauritius with regard to salted snoek [2020/656]

THE CUSTOMS COOPERATION COMMITTEE,

Having regard to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States ('ESA'), of the one part, and the European Community and its Member States, of the other part, and in particular Article 41(4) of Protocol 1 thereto,

Whereas:

- (1) The Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part ⁽¹⁾ ('the interim EPA') applies provisionally as from 14 May 2012 between the Union and the Republic of Madagascar, the Republic of Mauritius, the Republic of Seychelles and the Republic of Zimbabwe. Comoros is provisionally applying the interim EPA since 7 February 2019.
- (2) Protocol 1 to the interim EPA concerning the definition of the concept of 'originating products' and methods of administrative cooperation contains the rules of origin for the importation of products originating in the ESA States into the Union.
- (3) In accordance with Article 42(1) of Protocol 1 to the interim EPA, derogations from those rules of origin are granted where the development of existing industries in the ESA States justifies them.
- (4) On 2 October 2017 the ESA-EU Customs Cooperation Committee adopted Decision No 2/2017 ⁽²⁾ granting a derogation from the rules of origin with regard to salted snoek imported into the Union from 2 October 2017 to 1 October 2018 in accordance with Article 42(1) of Protocol 1 to the interim EPA. However, due to the delay in obtaining orders the use of the derogation quota was low.
- (5) On 14 January 2019 the ESA-EU Customs Cooperation Committee adopted Decision No 1/2019 ⁽³⁾ granting a new derogation from the rules of origin with regard to salted snoek imported into the Union from 14 January 2019 to 13 January 2020 in accordance with Article 42(1) of Protocol 1 to the interim EPA. However, financial difficulties encountered by EU buyers made that the use of the derogation quota was below expectations.

⁽¹⁾ OJ L 111, 24.4.2012, p. 2.

⁽²⁾ Decision No 2/2017 of the ESA-EU Customs Cooperation Committee of 2 October 2017 on a derogation from the rules of origin laid down in Protocol 1 to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part, to take account of the special situation of Mauritius with regard to salted snoek (OJ L 271, 20.10.2017, p. 47).

⁽³⁾ Decision No 1/2019 of the ESA-EU Customs Cooperation Committee of 14 January 2019 on a derogation from the rules of origin laid down in Protocol 1 to the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, of the one part, and the European Community and its Member States, of the other part, to take account of the special situation of Mauritius with regard to salted snoek (OJ L 32, 4.2.2019, p. 32).

- (6) Mauritius has requested another derogation from the rules of origin with regard to 125 tonnes of salted snoek of HS Heading 0305 69 imported into the Union from March 2020 to March 2021 in accordance with Article 42 of Protocol 1 to the interim EPA. Mauritius reiterates in its request that there is no availability of snoek originating in the Union or Mauritius, and that snoek from other African, Caribbean and Pacific Group of States ('ACP States') does not meet the requirements regarding quality and regular supply. Therefore, Mauritius needs to continue sourcing non-originating raw materials for its processing industry.
- (7) The derogation would contribute to the development of small and medium size enterprises in Mauritius, would allow diversification of the Mauritian seafood sector and would help continue its operation at full capacity while sustaining employment. The low quantities, representing less than 1 % in value of total imports of fisheries products of HS Chapter 03 from Mauritius into the Union, and the limited period requested for the derogation are not such as to cause serious injury to an economic sector of the Union or of one or more Member States.
- (8) According to Mauritius the forecasted sales to the EU amount to 125 tonnes for the year 2020/2021. However, given the low use of the derogations granted in the past, it does not appear appropriate to increase the quota for the requested period as compared to the quota granted for the year 2019/2020. Mauritius should therefore be provided with a derogation for 100 tonnes of salted snoek, which respects the ability of the existing industry to continue its exports to the Union, for one year.
- (9) Commission Implementing Regulation (EU) 2015/2447 (*) lays down rules for the management of tariff quotas. Those rules should be applied to the management of the quantity in respect of which the derogation is granted by this decision.
- (10) In order to allow efficient monitoring of the operation of the derogation, the Mauritian authorities should communicate regularly to the Commission details of the EUR.1 movement certificates issued,

HAS DECIDED AS FOLLOWS:

Article 1

By way of derogation from Protocol 1 to the interim EPA and in accordance with Article 42(1) of that Protocol, salted snoek of HS Heading 0305 69 (CN code 0305 69 80) manufactured from non-originating snoek (barracouta) of HS Heading 0303 89 shall be regarded as originating in Mauritius in accordance with the terms set out in Articles 2 to 5 of this Decision.

Article 2

The derogation provided for in Article 1 shall apply to the product and the quantity set out in the Annex to this Decision, declared for release for free circulation into the Union from Mauritius for a period limited to one year from the date of adoption of this Decision.

Article 3

The quantity set out in the Annex shall be managed in accordance with Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

Article 4

The customs authorities of Mauritius shall carry out quantitative checks on exports of the products referred to in Article 1.

Before the end of the month following each quarter, the customs authorities of Mauritius shall forward to the Commission, via the Secretariat of the Customs Cooperation Committee, a statement of the quantities in respect of which movement certificates EUR.1 have been issued pursuant to this Decision and the serial numbers of those certificates.

(*) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

Article 5

Box 7 of movement certificates EUR.1 issued under this Decision shall contain one of the following indications:

‘Derogation – Decision No 1/2020 of the ESA-EU Customs Cooperation Committee of 5 May 2020’;

‘Dérégation – Décision n° 1/2020 du Comité de Coopération Douanière AfOA-UE du 5 mai 2020’.

Article 6

1. Mauritius and the Union shall take the measures necessary on their part to implement this Decision.
2. Where the Union has made a finding, on the basis of objective information, of irregularities or fraud or of a repeated failure to respect the obligations laid down in Article 4, the Union may seek temporary suspension of the derogation referred to in Article 1 in accordance with the procedure provided for in Article 22(5) and (6) of the interim EPA.

Article 7

The derogation provided for in Article 1 may be renewed, provided that the ESA State concerned submits three months before the end date of this Decision, proof that it is still unable to meet the conditions of Protocol 1, together with evidence of the progress made to overcome the need for a derogation and a clear indication of how much time it will take to comply with the said conditions. The European Union shall reassess its position to be taken in the ESA – EU Customs Cooperation Committee and shall adopt a new Decision.

Article 8

This Decision shall enter into force on 5 May 2020.

Done at Brussels, 5 May 2020.

B. SAMSON
*ESA States Representative
on behalf of the ESA States*

J-M. GRAVE
*European Commission
on behalf of the European Union*

ANNEX

Order No.	CN Code	TARIC code	Description of goods	Period	Net weight (in tonnes)
09.1611	Ex0305 69 80	25	snoek (barracouta), salted	5.5.2020 – 4.5.2021	100