

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2017 OF THE CARIFORUM-EU SPECIAL COMMITTEE ON CUSTOMS COOPERATION AND TRADE FACILITATION

of 7 July 2017

on a derogation from the rules of origin laid down in Protocol I to the Economic Partnership Agreement between the CARIFORUM 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 the Dominican Republic with regard to certain textile products [2017/1463]

THE SPECIAL COMMITTEE ON CUSTOMS COOPERATION AND TRADE FACILITATION,

Having regard to the Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part, and in particular Articles 39(2) and 42(b) of Protocol I thereto,

Whereas:

- (1) The Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member States, of the other part ⁽¹⁾ (the 'CARIFORUM-EU EPA') is applied provisionally as from 29 December 2008 between the European Union (EU) and Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Jamaica, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago.
- (2) Protocol I to the 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 CARIFORUM States into the EU.
- (3) In accordance with Article 39(2) of Protocol I to the EPA, derogations from those rules of origin may be granted where the development of existing industries or the creation of new industries in the CARIFORUM States justifies the adoption of such derogations. Furthermore, Article 39(6)(b) of that Protocol provides that the examination of requests for derogation shall in particular take into account those 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 its exports to the EU, with particular reference to cases where this could lead to cessation of its activities.
- (4) On 10 March 2015 the CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation adopted Decision No 1/2015 ⁽²⁾ granting a derogation from the rules of origin with regard to certain textile products imported into the Union in accordance with Article 39(2) and Article 39(6)(b) of Protocol I to the EPA, from 10 March 2015 to 9 March 2017.
- (5) On 22 February 2017 the Chair of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation received from the Dominican Republic, a new request for derogation.
- (6) In accordance with Article 13 of Protocol I to the EPA, the conditions for acquiring originating status set out in Title II of Protocol I must be fulfilled without interruption in the CARIFORUM States or the EU. Haiti has signed but has not ratified nor is it provisionally applying the EPA. In accordance with Article 8 of Protocol I washing,

⁽¹⁾ OJ L 289, 30.10.2008, p. 3.

⁽²⁾ Decision No 1/2015 of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation of 10 March 2015 on a derogation from the rules of origin laid down in Protocol I to the Economic Partnership Agreement between the CARIFORUM 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 the Dominican Republic with regard to certain textiles products (2015/600) (OJ L 99, 16.4.2015, p. 34).

ironing or pressing of textiles, affixing or printing marks, labels and logos, simple placing in bags, cases or boxes or a combination of two or more of these operations are considered insufficient working and processing to confer the status of originating products. Derogation should therefore be granted from the provisions of Article 8 and Article 13(1) of Protocol I to confer origin on the final product exported from the Dominican Republic to the EU.

- (7) The Dominican Republic has requested derogation from the rules of origin laid down in Protocol I to the CARIFORUM-EU EPA with regard to 180 647 pieces of denim men's or boys' trousers, breeches and shorts of HS codes 6203.42 imported into the EU in accordance with Article 39(2) of that Protocol. The request is based on the fact that the industry remains in a difficult situation because the working and processing carried out in neighbouring country Haiti is affecting compliance with the rules of origin set out in the CARIFORUM-EU EPA pending ratification by Haiti. If the Dominican Republic cannot source from Haiti, the continued exports to the EU of the existing textile industry in the Dominican Republic would be significantly affected. A new derogation would contribute to the continuity of production and development of the industry and the preservation of employment in the Dominican Republic as well as in Haiti. Ratification of the Agreement by Haiti would provide the business stability and maximum predictability needed by the stakeholders.
- (8) The request covers a period of 2 years. Given that efforts are underway in Haiti towards the ratification of the Agreement in the course of 2017, the derogation should be granted for 1 year in order to allow the Dominican Republic more time to prepare itself to comply with the rules for acquisition of origin and to ensure predictability for operators, pending completion of the ratification process by Haiti. The derogation may be renewed for another year should the ratification process by Haiti not be completed at the end of the first year of derogation.
- (9) The request covers a total of 180 647 pieces of denim trousers anticipated to be exported to the EU. According to the information received from the Dominican Republic, exports under derogation of products of HS codes 6203.42 amounted to 161 634 pieces for the period from March 2015 to March 2016. The quantities to be allocated for 2017 and 2018 should be consistent with this utilisation. In order to permit the effective and full utilisation of the anticipated annual quota of exports, it is appropriate to provide for 180 647 pieces yearly, which respects the ability of the existing industry to continue its exports to the Union.
- (10) The CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation should grant derogation for 180 647 pieces of men's or boys' denim trousers, breeches and shorts of HS code ex 6203.42 (CN code 6203 42 31) imported into the Union for a period of 1 year from the date of adoption of this Decision.
- (11) Commission Implementing Regulation (EU) 2015/2447 ⁽¹⁾ 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.
- (12) In order to allow efficient monitoring of the operation of the derogation, the authorities of the Dominican Republic 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 I to the EPA and in accordance with Article 39(2) of that Protocol, men's or boys' denim trousers, breeches or shorts of HS code ex 6203.42 (CN code 6203 42 31) manufactured from non-originating fabric of HS codes 5209.42 and 5513.19 (CN codes 5209 42 00 and 5513 19 00) and cut in the Dominican Republic, sewn outside the territory of the CARIFORUM States and subsequently washed, ironed or pressed, affixed or printed with marks, labels and logos and packed in the Dominican Republic shall be regarded as originating in the Dominican Republic 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 for 1 year to the products and the quantities set out in the Annex to this Decision which are declared for release for free circulation into the EU from the Dominican Republic during the period from 7 July 2017 to 6 July 2018.

⁽¹⁾ 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 3

The quantities 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 the Dominican Republic 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 the Dominican Republic shall forward to the European Commission, via the Secretariat of the Special Committee on Customs Cooperation and Trade Facilitation, 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.

Article 5

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

- ‘Derogation — Decision No 1/2017 of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade facilitation of 7 July 2017’;
- ‘Dérégation — Décision n° 1/2017 du Comité spécial de coopération douanière et de facilitation des échanges CARIFORUM-UE du 7 juillet 2017’;
- ‘Excepción — Decisión n° 1/2017 del Comité Especial CARIFORUM-UE de Cooperación Aduanera y Facilitación del Comercio del 7 de julio 2017’.

Article 6

Where the EU 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 of this Decision, the EU may seek to temporarily suspend the derogation referred to in Article 1 in accordance with the procedure provided for in Article 20(4) and (5) of the CARIFORUM-EU EPA.

Article 7

The derogation provided for in Article 1 may be renewed for another year by a Decision of the Committee, should the ratification process by Haiti not be completed by the end of the first year of the derogation, provided that the CARIFORUM State concerned submits, 3 months before the end of that period, proof that it is still unable to meet the conditions of Protocol I.

Article 8

This Decision shall enter into force on 7 July 2017.

Done at Georgetown and Brussels, 7 July 2017.

Percival MARIE
CARIFORUM Representative
on behalf of the CARIFORUM States

Jean-Michel GRAVE
European Commission
on behalf of the European Union

ANNEX

Order No	HS code	CN Code	Description of goods	Period	Quantities (in pieces)
09.1950	Ex 6203.42	6203 42 31	Men's or boys' trousers, breeches and shorts of denim	7.7.2017- 6.7.2018	180 647