

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2017 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 the Eastern and Southern Africa States with regard to preserved tuna and tuna loins [2017/1923]

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, of the one part, and the European Community and its Member States, of the other part, and in particular Article 41(4) of Protocol I 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.
- (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(8) of Protocol 1 to the interim EPA, derogations from those rules of origin are granted automatically within an annual quota of 8 000 tonnes for canned tuna and of 2 000 tonnes for tuna loins.
- (4) On 29 November 2012 the ESA-EU Customs Cooperation Committee adopted Decision No 1/2012 ⁽²⁾ granting an automatic derogation from the rules of origin with regard to canned tuna and tuna loins imported into the Union in accordance with Article 42(8) of Protocol 1 to the interim EPA from 1 January 2012 to 31 December 2017.
- (5) In order to permit the effective and full utilisation of the quota available, Mauritius, Seychelles and Madagascar requested a derogation covering the annual quantities of 8 000 tonnes of canned tuna and of 2 000 tonnes of tuna loins imported into the Union from 1 January 2018.
- (6) Since the annual quota is granted automatically upon request of the ESA States, the Customs Cooperation Committee should allocate the global quota to the ESA States. Therefore, a derogation should be granted to the ESA States in respect of 8 000 tonnes of canned tuna and 2 000 tonnes of tuna loins.

⁽¹⁾ OJ L 111, 24.4.2012, p. 2.

⁽²⁾ Decision No 1/2012 of the ESA-EU Customs Cooperation Committee of 29 November 2012 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 the Eastern and Southern Africa States with regard to preserved tuna and tuna loins (OJ L 347, 15.12.2012, p. 38).

- (7) The reference in Article 42(8) of Protocol 1 to the interim EPA to 'canned tuna' is to be understood as to cover tuna preserved in vegetable oil or in other ways. For those types of tuna, Annex I to Council Regulation (EEC) No 2658/87 ⁽¹⁾ ('the Combined Nomenclature') refers to the term 'preserved'. The term 'preserved tuna' comprises canned tuna, but also tuna vacuum-packed in plastic bags or other containers. It is therefore appropriate to use the term 'preserved tuna'.
- (8) In the interest of clarity, it is appropriate to set out explicitly that the non-originating tuna to be used for the manufacture of preserved tuna of CN codes 1604 14 21, 31 and 41, 1604 14 28, 38 and 48, ex 1604 20 70 and tuna loins of CN code 1604 14 26, 36 and 46 should be tuna of HS Headings 0302 or 0303, in order for the preserved tuna and tuna loins to benefit from the derogation.
- (9) Commission Implementing Regulation (EU) 2015/2447 ⁽²⁾ 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) The derogation should be granted for a period of 5 years as foreseen in Article 42(10) point (a) of Protocol 1 to the interim EPA.
- (11) In order to allow efficient monitoring of the operation of the derogation, the authorities of the ESA States 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(8) of that Protocol, preserved tuna and tuna loins of HS Heading 1604 manufactured from non-originating tuna of HS Headings 0302 or 0303 shall be regarded as originating in an ESA State in accordance with the terms set out in Articles 2 to 4 of this Decision.

Article 2

The derogation provided for in Article 1 shall apply on an annual basis to the products and the quantities set out in the Annex to this Decision which are declared for release for free circulation into the Union from an ESA State during the period of 1 January 2018 to 31 December 2022.

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

1. The customs authorities of the ESA States shall carry out quantitative checks on exports of the products referred to in Article 1.
2. Before the end of the month following each quarter, the customs authorities of those countries 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.
3. 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 ESA-EU Customs Cooperation Committee of 2 October 2017';
 - 'Dérogação — Décision n° 1/2017 du comité de coopération douanière AfOA-UE du 2 octobre 2017';

⁽¹⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

⁽²⁾ 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

1. The ESA States 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 6

This Decision shall enter into force on 1 January 2018.

Done at Antananarivo, 2 October 2017.

Mr M. R. NABEE
 ESA Representative
 on behalf of the ESA States

Mr J. G. SANCHEZ
 European Commission
 on behalf of the European Union

ANNEX

Order No	CN Code	Description of goods	Period	Net weight (in tonnes)
09.1618	1604 14 21, 31 and 41 1604 14 28, 38 and 48 ex 1604 20 70 ⁽¹⁾	Preserved tuna ⁽²⁾	1.1.2018-31.12.2018	8 000
			1.1.2019-31.12.2019	8 000
			1.1.2020-31.12.2020	8 000
			1.1.2021-31.12.2021	8 000
			1.1.2022-31.12.2022	8 000
09.1619	1604 14 26, 36 and 46	Tuna loins	1.1.2018-31.12.2018	2 000
			1.1.2019-31.12.2019	2 000
			1.1.2020-31.12.2020	2 000
			1.1.2021-31.12.2021	2 000
			1.1.2022-31.12.2022	2 000

⁽¹⁾ TARIC codes 1604 20 70 30, 1604 20 70 40, 1604 20 70 50, 1604 20 70 92 and 1604 20 70 94.

⁽²⁾ In any form of packaging whereby the product is considered as preserved within the meaning of HS Heading 1604.