

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

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 [2019/167]

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.
- (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 of the ESA-EU Customs Cooperation Committee [2017/1924] ⁽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) Mauritius has requested a new derogation from the rules of origin with regard to 100 tonnes of salted snoek of HS Heading 0305 69 imported into the Union from October 2018 to October 2019 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. Mauritius anticipates that it will be able to fully make use of the requested quota for the period 2018/2019.
- (6) The derogation would contribute to the development of Small and Medium size Enterprises and would allow diversification of the Mauritian seafood sector, which is predominantly based on tuna products. Mauritius has indicated that the value of the anticipated exports under derogation amounts to EUR 390 000. The value of

⁽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 [2017/1924] (OJ L 271, 20.10.2017, p. 47).

imports of fisheries products of HS Chapter 03 from Mauritius into the Union amounted to EUR 21 217 843 in 2017. The low quantities, representing only 1,84 % of the value of these imports, 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.

- (7) It is therefore appropriate to provide Mauritius with a derogation for 100 tonnes of salted snoek, which respects the ability of the existing industry to continue its exports to the Union, limited to a period of one year.
- (8) Commission Implementing Regulation (EU) 2015/2447 ⁽³⁾ 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.
- (9) 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.

Article 5

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

‘Derogation — Decision No 1/2019 of the ESA-EU Customs Cooperation Committee of 14 January 2019’;

‘Dérogação — Décision n° 1/2019 du Comité de Coopération Douanière AfOA-UE du 14 janvier 2019’.

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.

⁽³⁾ 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 7

This Decision shall enter into force on 14 January 2019.

Done at Brussels, 14 January 2019.

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

J.G. SANCHEZ
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 | ex 0305 69 80 | 25 | snoek (barracouta), salted | 14.1.2019- 13.1.2020 | 100 |