

## ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

### 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, on the one part, and the European Community and its Member States, on 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**

(2012/787/EU)

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, on the one part, and the European Community and its Member States, on 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, on the one part, and the European Community and its Member States, on the other part <sup>(1)</sup> ('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) 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 2013 to 31 December 2022.

(5) Since the requested quantities fall within the limits of the annual quota which 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 canned tuna and of tuna loins for the quantities requested.

(6) 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 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(2)</sup> ('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'.

(7) In the interest of clarity, it is appropriate to set out explicitly that the only non-originating materials to be used for the manufacture of preserved tuna and tuna loins of CN code 1604 14 16 should be tuna of HS Headings 0302 or 0303, in order for the preserved tuna and tuna loins to benefit from the derogation.

(8) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(3)</sup> lays down rules relating to the management of tariff quotas. In order to ensure efficient management carried out in close cooperation between the authorities of the ESA States, the customs authorities of the Union and the Commission, those rules should apply mutatis mutandis to the quantities imported under the derogation granted by this Decision.

<sup>(1)</sup> OJ L 111, 24.4.2012, p. 2.

<sup>(2)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(3)</sup> OJ L 253, 11.10.1993, p. 1.

- (9) The derogation should be granted for a period of five years as foreseen in Article 42(10) point (a) of Protocol 1 to the interim EPA.
- (10) 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 the ESA States 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 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 the ESA States during the period of 1 January 2013 to 31 December 2017.

*Article 3*

The quantities set out in the Annex shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

*Article 4*

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

All the EUR.1 movement certificates they issue in relation to the products referred to in Article 1 shall bear a reference to this Decision.

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.

*Article 5*

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

'Derogation — Decision No 1/2012 of the ESA-EU Customs Cooperation Committee of [...]'; 'Dérégation — Décision n° 1/2012 du Comité de Coopération Douanière AFOA-UE du [...]';

*Article 6*

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 7*

This Decision shall enter into force on the date of its adoption.

This Decision shall apply from 1 January 2013.

Done at Brussels, 29 November 2012.

*For the ESA-EU Customs Cooperation  
Committee*

*The Joint Chairmen*

Péter KOVÁCS, Vivianne FOCK TAVE

## ANNEX

Order No	CN Code	Description of goods	Period	Quantities (in tonnes)
09.1618	ex 1604 14 11, ex 1604 14 18, ex 1604 20 70	Preserved tuna <sup>(1)</sup>	1.1.2013 – 31.12.2013	8 000
			1.1.2014 – 31.12.2014	8 000
			1.1.2015 – 31.12.2015	8 000
			1.1.2016 – 31.12.2016	8 000
			1.1.2017 – 31.12.2017	8 000
09.1619	1604 14 16	Tuna loins	1.1.2013 – 31.12.2013	2 000
			1.1.2014 – 31.12.2014	2 000
			1.1.2015 – 31.12.2015	2 000
			1.1.2016 – 31.12.2016	2 000
			1.1.2017 – 31.12.2017	2 000

<sup>(1)</sup> In any form of packaging whereby the product is considered as preserved within the meaning of HS heading 1604.