

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

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]

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 Article 39(2) 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') applied provisionally as from 29 December 2008 between the European Union (EU) and Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, Saint Kitts 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 14 July 2014 the Chair of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation received from the Dominican Republic a request for derogation to take account of the special situation with regard to certain textile products. On 8 October and 3 November 2014 the Chair received additional information, following his requests of 18 July and 28 October 2014.
- (5) 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 and is therefore not considered a CARIFORUM State within the framework of the Agreement. In accordance with Article 8 of Protocol I washing, 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 Articles 8 and 13(1) of Protocol to confer origin on the final product exported from the Dominican Republic to the EU.

⁽¹⁾ OJ L 289, 30.10.2008, p. 3.

- (6) The Dominican Republic has requested derogation from the rules of origin laid down in Protocol I to the CARIFORUM-EU EPA with regard to textile products of HS codes 6203.42, 6107.11 and 6109.10 imported into the EU from 1 January 2012 to 31 December 2016 in accordance with Article 39(2) of that Protocol. The request is based on the fact that the industry is 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. If the Dominican Republic can no longer source from Haiti the continued exports to the EU of the existing textile industry in the Dominican Republic would be significantly affected. A derogation would contribute to the stability of production and development of the industry and the preservation of employment in the Dominican Republic as well as in Haiti.
- (7) A derogation should not be granted for underpants of HS code 6107.11. These products are knitted and cut in the Dominican Republic and subsequently sewn, finished and packed in Haiti. These products are transported directly from Haiti to the EU while transiting the territory of the Dominican Republic without subsequent processing taking place there. Hence, the CARIFORUM-EU EPA does not apply because the goods are not sufficiently worked or processed in the Dominican Republic as to obtain the status of originating products.
- (8) The request covers the period from January 2012 to December 2016. Retro-active application from 2012 is requested. However, the rules of origin set out in the CARIFORUM-EU EPA should have been applied correctly up until a derogation is granted. A derogation to the rules should therefore be granted with effect from the date of adoption of the Decision of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation to grant the derogation. Given the current status of Haiti in the framework of the CARIFORUM-EU EPA, the derogation should be granted for a period of two years, in order to allow the Dominican Republic to prepare itself to comply with the rules for acquisition of origin and to ensure predictability for operators.
- (9) The derogation is requested for an anticipated annual quantity of exports to the EU of 407 452 pieces of denim trousers falling under HS code 6203.42. Based on statistical data for the period from 2009 to 2013, average imports of denim trousers from the Dominican Republic in the Union amounted to approximately 63 000 pieces of denim trousers, yearly. In 2012 imports increased considerably to approximately 250 000 pieces. In 2013 imports fell back to approximately 40 000 pieces. The derogation quota shall therefore be fixed at the highest level of imports from the Dominican Republic, which was observed in 2012, increased by a 20 % tolerance.
- (10) The CARIFORUM-EU Special Committee on Customs Cooperation and Trade Facilitation should grant derogation for 300 000 pieces of denim trousers of HS code ex 6203.42 (CN code 6203 42 31) and 54 054 pieces of T-shirts of HS code ex 6109.10 (CN code ex 6109 10 00) imported into the Union for a period of two years from the date of adoption of this Decision.
- (11) Commission Regulation (EEC) No 2454/93 ⁽¹⁾ lays down rules relating to the management of tariff quotas. In order to ensure efficient management of the tariff quotas carried out in close cooperation between the authorities of the Dominican Republic, the customs authorities in the EU and the Commission, those rules should apply *mutatis mutandis* to the quantities imported under the derogation 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

1. By way of derogation from Protocol I to the EPA and in accordance with Article 39(2) of that Protocol, the following products shall be regarded as originating in the Dominican Republic in accordance with the terms set out in Articles 2 to 5 of this Decision:

- (a) denim trousers of HS code ex 6203.42 (CN code 6203 42 31) manufactured from non-originating fabric of HS codes 5209.42, 5513.12 and 5513.19 (CN codes 5209 42 00, 5513 12 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 and packed in the Dominican Republic;

⁽¹⁾ 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 (OJ L 253, 11.10.1993, p. 1).

(b) cotton T-shirts of HS code ex 6109.10 (CN code ex 6109 10 00) manufactured from non-originating yarn of HS code 5205.23 (CN code 5205 23 00), knitted, dyed, finished and cut in the Dominican Republic, sewn outside the territory of the CARIFORUM States and subsequently printed and packed in the Dominican Republic.

2. For the purpose of paragraph 1, washing, ironing or pressing of textiles, affixing or printing marks, labels and logos, simple packaging operations or a combination of two or more of these operations carried out in the CARIFORUM States shall be considered as sufficient working or processing to confer originating status.

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 EU from the Dominican Republic during the period from 10 March 2015 to 9 March 2017.

Article 3

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

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 1/2015 of the CARIFORUM-EU Special Committee on Customs Cooperation and Trade facilitation of 10 March 2015',
- 'Dérogação — Décision n° 1/2015 du Comité spécial de coopération douanière et de facilitation des échanges CARIFORUM-UE du 10 mars 2015',
- 'Excepción — Decisión n° 1/2015 del Comité Especial CARIFORUM-UE de Cooperación Aduanera y Facilitación del Comercio del 10 de marzo 2015'.

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 22(5) and (6) of the CARIFORUM-EU EPA.

Article 7

This Decision shall enter into force on 10 March 2015.

Done at Georgetown and Brussels, 10 March 2015.

Jameel Ahamad BAKSH
CARIFORUM Representative
on behalf of the CARIFORUM States

Jean-Michel GRAVE
European Commission
on behalf of the EU Party

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 and breeches, of denim	10.3.2015 — 9.3.2016	300 000
				10.3.2016 — 9.3.2017	300 000
09.1951	ex 6109.10	ex 6109 10 00	T-shirts, knitted or crocheted, of cotton	10.3.2015 — 9.3.2016	54 054
				10.3.2016 — 9.3.2017	54 054