EUROPEAN
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2013/0349 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union within the Association Council established by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, as regards the amendment of Article 15(7) of Protocol No 4 to that Agreement, concerning the definition of the concept of "originating products" and methods of administrative cooperation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The prohibition of drawback of customs duties is stipulated in Article 15 of Protocol No 4 annexed to the EC-Tunisia Association Agreement, as amended by Decision No 1/2012 of the EU-Tunisia Association Council of 20 February 2012[1]. Paragraph 7 of that article provides for a transitional period prior to the full application of the prohibition of drawback of duties by Tunisia and allows the country to grant duty drawback to its exporters or economic operators during this period.

The transitional period expired on 31 December 2012. However, Article 15(7) provides for the possibility of re-examining this provision by mutual agreement.

On 21 December 2012 Tunisia requested in writing that the period in which this provision applies be extended.

In accordance with Article 39 of Protocol No 4, the provisions of the Protocol may be amended by decision of the Association Council.

The text of the decision will amend the existing provision laid down in Article 15(7).

The parties have agreed to extend by three years the application period of Article 15(7), with effect from 1 January 2013 in order to provide clarity, long-term economic predictability and legal certainty for economic operators.

Pending formal adoption of the present decision, it was agreed, in the Pan-Euro-Med working group, that this decision will apply from 1 January 2013.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The parties concerned have been consulted in the Pan-Euro-Med working group and the Customs Code Committee's Origin Section.

No recourse to external expertise has been necessary.

It has not been necessary to conduct an impact assessment, since the proposed amendments are technical in nature and do not affect the substance of the protocol on rules of origin currently in effect.

3. LEGAL ELEMENTS OF THE PROPOSAL

The amended provision on drawback of duties should apply retroactively from 1 January 2013.

The legal basis for the amendment of this provision is the first subparagraph of Article 207(4), in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

The proposal falls under the exclusive competence of the Union. The principle of subsidiarity does not therefore apply.

Proposed instrument: Council decision

[1] OJ L 106, 18.4.2012, p. 28.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Protocol No 4 to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part[1], hereafter "the Agreement", as amended by Decision No 1/2012 of the EU-Tunisia Association Council of 20 February 2012[2], concerns the definition of the concept of "originating products" and methods of administrative cooperation.

(2) Article 15 of Protocol No 4 contains a general prohibition of drawback of, or exemption from, customs duties for non-originating materials used in the manufacture of originating products. However, Paragraph 7 of this article stipulates that a drawback or partial exemption can be applied until 31 December 2012 subject to certain conditions.

(3) In order to provide clarity, long-term economic predictability and legal certainty for economic operators, the parties have agreed to extend by three years the application period of Article 15(7), with effect from 1 January 2013.

(4) In accordance with Article 39 of Protocol No 4, the Association Council established by the Agreement should decide to amend the Protocol accordingly.

(5) The European Union should therefore adopt the position set out in the attached draft decision within the Association Council,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted by the European Union within the Association Council established by the Euro-Mediterranean Agreement establishing an association between the European

[1] OJ L 97, 30.3.1998, p. 2.

[2] OJ L 106, 18.4.2012, p. 28.

Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, as regards the amendment of Article 15(7) of Protocol No 4 to that Agreement, concerning the definition of the concept of "originating products" and methods of administrative cooperation, with a view to extending the application period of that provision, is set out in the attached draft decision of the Association Council.

Article 2

The decision of the Association Council shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

ANNEX

Draft

DECISION No […] OF THE EU-TUNISIA ASSOCIATION COUNCIL

of […]

amending Article 15(7) of Protocol No 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, concerning the definition of the concept of "originating products" and methods of administrative cooperation

THE ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, and in particular Article 39 of Protocol No 4 thereto,

Whereas:

(1) Article 15(7) of Protocol No 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part[1], hereafter "the Agreement", as amended by Decision No 1/2012 of the EU-Tunisia Association Council of 20 February 2012[2] , allows drawback or partial exemption from customs duties or taxes with equivalent effect, subject to certain conditions, until 31 December 2012.

(2) To provide clarity, long-term economic predictability and legal certainty for economic operators, the Parties to the Agreement have agreed to extend the application period of Article 15(7) of Protocol No 4 to the Agreement by three years, with effect from 1 January 2013.

(3) Protocol No 4 to the Agreement should therefore be amended accordingly.

(4) Since Article 15(7) of Protocol No 4 to the Agreement no longer applies as of 31 December 2012, this Decision should apply from 1 January 2013,

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The last subparagraph of Article 15(7) of Protocol No 4 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, concerning the definition of the concept of "originating products" and methods of administrative cooperation is replaced by the following text:

The provisions of this paragraph shall apply until 31 December 2015 and may be reviewed by common accord."

[1] OJ L 97, 30.3.1998, p. 2.

[2] OJ L 106, 18.4.2012, p. 28.

Article 2

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

It shall apply from 1 January 2013.

Done at Brussels,

For the Association Council
The President
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