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2017/0059 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin with regard to the amendment of Appendix II to that Convention

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Regional Convention on pan-Euro-Mediterranean preferential rules of origin¹ (hereafter 'the Convention') lays down provisions on the origin of goods traded under relevant Agreements concluded between the Contracting Parties.

Article 1 of Appendix II to the Convention provides that the Contracting Parties may apply in their bilateral trade special provisions derogating from the general provisions laid down in Appendix I. These special provisions are laid down in the Annexes to Appendix II.

The Joint Committee of the Central European Free Trade Agreement (CEFTA), involving the Republic of Moldova and the participants in the European Union's Stabilisation and Association Process (hereafter 'CEFTA Parties') introduced by its Decision 3/2015 of 26 November 2015² a possibility of duty drawback and of full cumulation in the trade between the CEFTA parties. All CEFTA parties are Contracting Parties to the Convention.

The Decision 3/2015 of the Joint Committee of CEFTA contains provisions derogating from the provisions of Appendix I to the Convention and requires therefore an amendment of Appendix II to the Convention. Firstly, it derogates from Article 14 of Appendix I, which states the principle of a prohibition of duty drawback. Secondly, it derogates from Article 3 of Appendix I concerning cumulation since full cumulation is not covered by this provision.

The other provisions of Decision 3/2015 ensure the smooth implementation of these derogating provisions.

It is also ensured that these derogating provisions have no effect on trade with other Contracting Parties of the Convention. Article 1 of Decision 3/2015 stipulates that products that acquired origin in a CEFTA party by application of these derogations shall be excluded from cumulation under the general provisions of the Convention.

Article 4(3) of the Convention stipulates that amendments to the Convention and to the Appendixes shall be adopted by decision of the Joint Committee of the Convention. In accordance with Article 3(2) the Joint Committee shall act by unanimity.

- **Consistency with existing policy provisions in the policy area**

It is to be noted that similar derogations are already applicable in the trade between certain Contracting Parties.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the Council Decision is Article 207 in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides that when a decision having legal effect needs to be taken in a body set up by an international

¹ OJ L 54, 26.2.2013, p. 4.

² http://cefta.int/wp-content/uploads/2016/05/Decision-No_3_2015_Amending-Decison-No-3-2013-1.pdf

agreement, the Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision establishing the position to be adopted on the European Union's behalf.

The decision to be taken by the Joint Committee of the Convention falls under this provision.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the exclusive competence of the Union.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The Contracting Parties to the Convention and the Member States were informed of the request at the meeting of the Joint Committee of the Convention of 28 September 2016.

- **Collection and use of expertise**

No need for recourse to external expertise.

- **Impact assessment**

The derogations on which the EU needs to take a position in the Joint Committee of the Convention only concern preferential trade between CEFTA parties. There is therefore no need to conduct an impact assessment.

4. BUDGETARY IMPLICATIONS

Not applicable.

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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 Article 207 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Regional Convention on pan-Euro-Mediterranean preferential rules of origin³ (the "Convention"), which sets out the rules regarding the origin of goods traded in the context of free trade agreements between countries of the pan-Euro Mediterranean area, as well as with countries who are party to the Union's Stabilisation and Association Process, entered into force on 1 January 2012.
- (2) Article 1 of Appendix II to the Convention provides that the Contracting Parties may apply, in their bilateral trade, special provisions derogating from the general provisions laid down in Appendix I to that Convention. Those special provisions are laid down in the Annexes to Appendix II.
- (3) The Joint Committee set up under the Central European Free Trade Agreement (CEFTA) to which the Republic of Moldova and the participants in the Union's Stabilisation and Association Process (hereafter 'CEFTA Parties') are Parties, adopted Decision 3/2015 on 26 November 2015, laying down special provisions derogating from the provisions laid down in Appendix I to the Convention.
- (4) Decision 3/2015 aims at facilitating trade amongst CEFTA parties by easing the conditions for cumulation laid down in Article 3 of Appendix I to the Convention concerning cumulation of origin and by suppressing the prohibition of drawback of, or exemption from, customs duties laid down in Article 14 of Appendix I to the Convention. These derogation provisions only apply for the purposes of determining the origin of goods in trade between the CEFTA parties.
- (5) Those special provisions derogating from those provision laid down in appendix I should be laid down in a new annex on trade covered by the Central European Free Trade Agreement (CEFTA) involving the Republic of Moldova and the participants in the European Union's Stabilisation and Association Process which is to be included to Appendix II. Appendix II to the Convention should be amended accordingly.
- (6) The position of the Union within the Joint Committee of the Convention should therefore be based on the attached draft Decision,

³ OJ L 54, 26.2.2013, p. 4.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the Joint Committee of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin, as regards the amendment of Appendix II to the Convention, shall be based on the draft Decision of the Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union in the Joint Committee without a further decision of the Council.

Article 2

After its adoption, the Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels,

For the Council
The President