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2013/0348 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union within the Joint Committee established by the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, on the amendment of Article 15(7) of Protocol No 3 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 3 annexed to the EC-PLO Association Agreement, as amended by Decision No 1/2009 of the EU-PLO Joint Committee of 24 June 2009¹. Paragraph 7 of that Article provides for a transitional period prior to the full application of the prohibition of drawback of duties by the West Bank and the Gaza Strip and allows this partner to grant duty drawback to its exporters or economic operators during this period.

The transitional period expired on 31 December 2009. However, Article 15(7) provides for the possibility of re-examining this provision by common accord.

Further to a request from the PLO, in 2010 the Commission proposed extending the application period of this provision until 31 December 2012². However, the EU-PLO Joint Committee never adopted that decision. On 6 December 2012 the PLO requested in writing a further four-year extension of the application period of this provision.

In accordance with Article 39 of Protocol No 3, the provisions of the Protocol may be amended by decision of the Joint Committee.

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

The parties have agreed to extend by six years the application period of Article 15(7) with effect from 1 January 2010 in order to provide clarity, long-term economic predictability and legal certainty for economic operators, to ensure consistency with similar requests from other Mediterranean countries and to establish the period covered by the Commission proposal following the PLO's initial request.

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 2010.

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 2010.

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.

¹ OJ L 298, 13.11.2009, p.1.

² COM(2010) 166, 21.4.2010.

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

Proposed instrument: Council decision

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on the position to be taken by the European Union within the Joint Committee established by the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, on the amendment of Article 15(7) of Protocol No 3 to that Agreement concerning the definition of the concept of "originating products" and methods of administrative cooperation

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 3 to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part¹, ("the Agreement"), as amended by Decision No 1/2009 of the EU-PLO Joint Committee of 24 June 2009², concerns the definition of the concept of "originating products" and methods of administrative cooperation.
- (2) Article 15 of Protocol No 3 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 2009 subject to certain conditions.
- (3) Further to a request from the PLO, in 2010 the Commission proposed extending the application period of Article 15 of Protocol No 3 to the Agreement until 31 December 2012³. However, the EU-PLO Joint Committee never adopted that decision.
- (4) The parties have agreed to extend by six years the application period of Article 15(7) with effect from 1 January 2010 in order to provide clarity, long-term economic predictability and legal certainty for economic operators and to establish the period covered by the Commission proposal.
- (5) In accordance with Article 39 of Protocol No 3, the Joint Committee established by the Agreement should decide to amend the Protocol accordingly.

¹ OJ L 187, 16.7.1997, p. 3.

² OJ L 298, 13.11.2009, p.1.

³ COM(2010) 166, 21.4.2010.

- (6) The European Union should therefore adopt the position set out in the attached draft decision within the Joint Committee,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted by the European Union within the Joint Committee established by the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, as regards the amendment of Article 15(7) of Protocol No 3 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 Joint Committee.

Article 2

The decision of the Joint Committee 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 EC-PLO JOINT COMMITTEE

of [...]

amending Article 15 (7) of Protocol No 3 to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, concerning the definition of the concept of "originating products" and methods of administrative cooperation

THE JOINT COMMITTEE,

Having regard to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, and in particular Article 39 of Protocol No 3 thereto,

Whereas:

- (1) Article 15(7) of Protocol No 3 to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part¹, ("the Agreement"), as amended by Decision No 1/2009 of the EU-PLO Joint Committee of 24 June 2009², allows drawback of, or partial exemption from, customs duties or charges with equivalent effect, subject to certain conditions, until 31 December 2009.
- (2) Further to a request from the PLO, in 2010 the Commission proposed extending the application period of Article 15 of Protocol No 3 to the Agreement until 31 December 2012³. However, the EU-PLO Joint Committee never adopted that decision.
- (3) The parties to the Agreement have agreed to extend by six years the application period of Article 15(7) of Protocol No 3 to the Agreement with effect from 1 January 2010 in order to provide clarity, long-term economic predictability and legal certainty for economic operators and to establish the period covered by the Commission proposal.
- (4) Protocol No 3 to the Agreement should therefore be amended accordingly.
- (5) Since Article 15(7) of Protocol No 3 to the Agreement no longer applies as of 31 December 2009, this Decision should apply from 1 January 2010,

¹ OJ L 187, 16.7.1997, p. 3.

² OJ L 298, 13.11.2009, p.1.

³ COM(2010) 166, 21.4.2010.

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The final subparagraph of Article 15(7) of Protocol No 3 to the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, 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."

Article 2

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

It shall apply from 1 January 2010.

Done at [...]

For the Joint Committee
The President
[...]