Council Decision (EU) 2019/2208 of 9 December 2019 on the position to be taken on behalf of the European Union within the EPA Committee established under the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part, as regards the adoption of Protocol No. 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation

COUNCIL DECISION (EU) 2019/2208

of 9 December 2019

on the position to be taken on behalf of the European Union within the EPA Committee established under the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part, as regards the adoption of Protocol No. 1 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 Article 207(3) and (4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Stepping Stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part ('the Agreement') was signed on behalf of the Union on 28 July 2016 pursuant to Council Decision (EU) 2016/1850[(1)] and has been applied on a provisional basis since 15 December 2016.

(2) Pursuant to Article 14 of the Agreement, the Parties are to establish a common and reciprocal regime governing rules of origin. This new regime is to be annexed to the Agreement by decision of the EPA Committee.

(3) The EPA Committee, at its annual meeting in 2019, is to adopt a decision as regards Protocol No. 1 to the Agreement concerning the definition of the concept of 'originating products' and the methods of administrative cooperation.

(4) Protocol No. 1 takes into account the most recent developments to provide more flexible and simpler rules of origin aiming at facilitating trade for economic operators and optimising the utilisation rate of the preferential treatment provided for in the Agreement.

(5) It is appropriate to establish the position to be taken on behalf of the Union at the next meeting of the EPA Committee, as that decision will be binding on the Union.

(6) The position of the Union within the EPA Committee should therefore be based on the attached draft Decision,

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/2208. (See end of Document for details)*

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 2019 annual meeting of the EPA Committee set up by the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part, as regards the adoption of a decision of the EPA Committee on Protocol No. 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation, shall be based on the draft decision of the EPA Committee attached to this Decision.

Article 2

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

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/2208. (See end of Document for details)*

DRAFT

DECISION No …/2019 OF THE EPA COMMITTEE

established by the stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other,

of … 2019

on the adoption of Protocol No. 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation

Article 1

The text of Protocol No. 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation, in the Annex to this Decision is hereby adopted.

Article 2

This Decision shall enter force on the date of its signature.

ANNEX

Protocol No. 1 concerning the definition of the concept of 'originating products' and the methods of administrative cooperation

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purpose of this Protocol:

(a) "manufacture" means any kind of working or processing including assembly or specific operations;

(b) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(c) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(d) "goods" means both materials and products;

(e) "customs value" means the value as determined in accordance with the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994 (WTO Agreement on customs valuation);

(f) "ex#works price" means the price paid for the product ex works to the manufacturer in the European Union or Ghana in whose undertaking the last working or processing is

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/2208. (See end of Document for details)*

carried out, provided the price includes the value of all the materials used, minus any internal taxes paid which are, or may be, repaid when the product obtained is exported;

(g) "value of materials" means the customs value at the time of importation of the non#originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the European Union or Ghana;

(h) "value of originating materials" means the value of such materials as defined in (g) applied *mutatis mutandis*;

(i) "added value" means the ex#works price minus the customs value of third country materials imported into the European Union, the ACP States which have at least provisionally applied an economic partnership agreement (EPA), or the Overseas Countries and Territories; if the customs value is not known or cannot be ascertained, the first ascertainable price paid for the materials in the European Union or Ghana is taken into account;

(j) "chapters" and "headings" mean the chapters and the headings (four#digit codes) used in the nomenclature which makes up the Harmonized Commodity Description and Coding System, (hereinafter referred to as "the Harmonized System" or "HS");

(k) "classified" refers to the classification of a product or material under a particular heading;

(l) "consignment" means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(m) "territories" means territories, including territorial waters;

(n) "OCTs" means the Overseas Countries and Territories as defined in Annex VIII to this Protocol;

(o) "Committee", the Special Committee on Customs and Trade Facilitation as referred to in Article 34 of this Agreement.

TITLE II

DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

Article 2

General conditions

1 For the purposes of this Agreement the following products shall be considered as originating in the European Union:

a products wholly obtained in the European Union within the meaning of Article 3 of this Protocol;

b products obtained in the European Union incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the European Union within the meaning of Article 4 of this Protocol.

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/2208. (See end of Document for details)*

2 For the purposes of this Agreement the following products shall be considered as originating in Ghana:

a products wholly obtained in Ghana within the meaning of Article 3 of this Protocol;

b products obtained in Ghana incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in Ghana within the meaning of Article 4 of this Protocol.

Article 3

Wholly obtained products

1 The following shall be considered as wholly obtained in Ghana or the European Union:

a live animals born and raised there;

b mineral products extracted from its soil or from its seabed or ocean floor;

c vegetable products harvested there;

d products from live animals raised there;

e (i) products obtained by hunting or fishing conducted there;

(ii) products of aquaculture, including mariculture, where the animals are raised there from eggs, spawning, larvae or fry;

f products of sea fishing and other products taken from the sea outside the territorial waters of the European Union or of Ghana by their vessels;

g products made aboard their factory ships exclusively from products referred to in point (f);

h used articles fit only for the recovery of raw materials;

i waste and scrap resulting from manufacturing operations conducted there;

j products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;

k goods produced exclusively from the products specified in points (a) to (j).

2 The terms “their vessels” and “their factory ships” in points (f) and (g) of paragraph 1 of this Article shall apply only to vessels and factory ships:

a which are registered or recorded in a Member State of the European Union or Ghana; and

b which fly the flag of a Member State of the European Union or Ghana; and

c which meet one of the following conditions:

(i) they are at least 50 % owned by nationals of the Member States of the European Union and/ or of Ghana; or

(ii) they are owned by companies:

— which have their head office and their main place of business in a Member State of the European Union or Ghana, and

— which are at least 50 % owned by one or more Member States of the European Union and/ or Ghana or by public entities or nationals of one or more of these States.

3 Notwithstanding the provisions of paragraph 2 of this Article, upon request of Ghana, vessels chartered or leased by Ghana shall be treated as “their vessels” to undertake fisheries activities in its exclusive economic zone provided that an offer has been made beforehand to the economic operators of the European Union and that the implementing arrangements established