Council Decision (EU) 2019/2143 of 11 November 2019 on the position to be taken on behalf of the European Union within the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of Annexes II and VIII to Protocol II of the Agreement

COUNCIL DECISION (EU) 2019/2143

of 11 November 2019

on the position to be taken on behalf of the European Union within the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of Annexes II and VIII to Protocol II of the Agreement

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 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) The Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part[(1)] (the 'Agreement'), signed on 30 July 2009, established a framework for an Economic Partnership Agreement. The Agreement has been provisionally applied by the Independent State of Papua New Guinea, the Republic of Fiji and the Independent State of Samoa since 20 December 2009, 28 July 2014 and 31 December 2018, respectively.

(2) Annex II to Protocol II of the Agreement is based on the 2007 version of the Harmonized System (HS) Nomenclature, annexed to the International Convention on the Harmonized Commodity Description and Coding System of the World Customs Organisation. Since 1 January 2007, a number of changes have been made to the HS Nomenclature. It is necessary to take account of those changes and align Annex II with the 2017 version of the HS Nomenclature. However, the status quo regarding the rules of origin should be maintained because changes made to the HS Nomenclature are not intended to affect the rule of origin applicable to a given product.

(3) Annex VIII to Protocol II of the Agreement lists the Overseas Countries and Territories (OCTs) of the Union. Following the change of status of Bermuda[(2)], Mayotte[(3)] and Saint-Barthélemy[(4)], and the entry into force of Council Decision 2013/755/EU[(5)] on the association of the overseas countries and territories with the European Union, the list of OCTs needs to be aligned with Annex II of the Treaty on the Functioning of the European Union (TFEU) in order to take into account those recent changes.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/2143. (See end of Document for details)*

(4) Annexes II and VIII to Protocol II of the Agreement should therefore be amended in order to align them with the 2017 version of the HS Nomenclature and the list of OCTs in Annex II of the TFEU, respectively.

(5) Pursuant to Article 41 of Protocol II of the Agreement, the Trade Committee established under the Agreement ('Trade Committee') may decide to amend the provisions of that Protocol.

(6) The Union should determine the position to be taken in the Trade Committee as regards such amendments,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union in the Trade Committee established under the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, as regards the amendment of Annexes II and VIII to Protocol II of the Agreement, shall be based on the draft decision of the Trade Committee attached to this Decision.

Article 2

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

Done at Brussels, 11 November 2019.

For the Council

The President

F. MOGHERINI

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/2143. (See end of Document for details)*

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DECISION No …/2019 OF THE TRADE COMMITTEE ESTABLISHED UNDER THE INTERIM PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN COMMUNITY, OF THE ONE PART, AND THE PACIFIC STATES, OF THE OTHER PART

of …

amending Annexes II and VIII to Protocol II of the Agreement

THE TRADE COMMITTEE,

Having regard to the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part[(6)] (the 'Agreement'), signed in London on 30 July 2009, and in particular Article 68(3) and Article 78, in conjunction with Article 41 of Protocol II thereof,

Whereas:

(1) The Agreement has been provisionally applied by the Independent State of Papua New Guinea, the Republic of Fiji and the Independent State of Samoa since 20 December 2009, 28 July 2014 and 31 December 2018 respectively.

(2) Annex II to Protocol II of the Agreement is based on the 2007 version of the Harmonized System (HS) Nomenclature annexed to the International Convention on the Harmonized Commodity Description and Coding System of the World Customs Organisation (WCO). The WCO has issued a new HS Nomenclature 2017, effective from 1 January 2017. It is necessary to update Annex II to Protocol II of the Agreement to align it with the 2017 version of the HS Nomenclature. However, the status quo regarding the rules of origin should be maintained because changes made to the HS Nomenclature are not intended to affect the rule of origin applicable to a given product.

(3) Annex VIII to Protocol II of the Agreement lists the Overseas Countries and Territories (OCTs) of the European Union. The status of some of the territories has recently changed: Saint Barthélemy (FR) and Bermuda (UK) became OCTs associated with the Union on 1 January 2012 and 1 January 2014 respectively, and Mayotte (FR) became an Outermost Region (OR) of the Union on 1 January 2014. It is necessary to update the list of OCTs in Annex VIII to Protocol II of the Agreement in order to align the list with the Treaty on the Functioning of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, is amended as follows:

(1) Annex II to Protocol II of the Agreement is replaced by the text set out in Annex I to this Decision.

(2) Annex VIII to Protocol II of the Agreement is replaced by the text set out in Annex II to this Decision.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/2143. (See end of Document for details)*

Article 2

This Decision shall enter into force on ….

Done at …,

For the Trade Committee

On behalf of the Union

On behalf of the Pacific States

ANNEX I

ANNEX II TO PROTOCOL II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

The products mentioned in this list may not all be covered by this Agreement. It is therefore necessary to consult the other parts of this Agreement.

HS heading No	**Description of product**	**Working or processing carried out on non-originating materials that confers originating status**	
(1)	**(2)**	**(3) or (4)**	
Chapter 01	Live animals	All the animals of Chapter 1 used must be wholly obtained	
Chapter 02	Meat and edible meat offal	Manufacture in which all the materials of Chapters 1 and 2 used must be wholly obtained	
ex Chapter 03	Fish and crustaceans, molluscs and other aquatic invertebrates; except for:	All the materials of Chapter 3 used must be wholly obtained	
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product	

0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product	
ex 0306	Crustaceans, whether in shell or not, dried, salted or in brine; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product	
ex 0307	Molluscs, whether in shell or not, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process; flours, meals and pellets of molluscs, fit for human consumption	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product	
ex 0308	Aquatic invertebrates other than crustaceans and molluscs, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs, whether or not cooked before or during the smoking	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product	