Council Decision (EU) 2019/1319 of 25 June 2019 on the position to be taken on behalf of the European Union within the EPA Committee established under the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part, as regards the amendment of certain provisions of Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation

COUNCIL DECISION (EU) 2019/1319

of 25 June 2019

on the position to be taken on behalf of the European Union **within the EPA Committee established under the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part, as regards the amendment of certain provisions of Protocol 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, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part[(1)] ('the Agreement') was concluded by the Union by Council Decision 2012/196/EC[(2)] and has been provisionally applied since 14 May 2012.

(2) Pursuant to Articles 13 and 68 of the Agreement and Article 44 of Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation to the Agreement ('the Protocol'), the EPA Committee may adopt amendments to the Protocol.

(3) The EPA Committee, during its eighth session/meeting, is to adopt a decision amending certain provisions of the Protocol.

(4) The Protocol requires the amendment of certain provisions in order to update the rules of origin to 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.

(5) Amendments to products (headings and descriptions) mentioned in Annex II to the Protocol are necessary to align to the updates made by the World Customs Organisation

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/1319. (See end of Document for details)*

(WCO) on the HS Nomenclature 2012 and 2017 edition and maintain consistency of products descriptions and HS classification with the harmonised system.

(6) Annex IX to the Protocol lists the overseas countries and territories of the Union. Within the meaning of the Protocol, 'overseas countries and territories' mean the countries and territories referred to in Annex II to the Treaty on the Functioning of the European Union. The list should be updated to take account of the recent change of status of some of the overseas countries and territories.

(7) It is appropriate to establish the position to be taken on the Union's behalf in the EPA Committee, as the envisaged decision will be binding on the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the EPA Committee established by the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part, at its eighth session, 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.

Done at Luxembourg, 25 June 2019.

For the Council

The President

A. ANTON

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/1319. (See end of Document for details)*

ANNEX

PROTOCOL 1**CONCERNING THE DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'AND METHODS OF ADMINISTRATIVE COOPERATION**

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes 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 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) 'ex-works price' means the price paid for the product ex works to the manufacturer in the Community or in the ESA States in whose undertaking the last working or processing is 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 Community or in the ESA States;

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

(i) 'value added' shall be taken to be the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries or territories referred to in Articles 3 and 4 with which cumulation is applicable, or where the customs value is not known or cannot be ascertained, the first ascertainable price paid for the materials in the Community or in one of the ESA States;

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

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/1319. (See end of Document for details)*

(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' includes territorial waters;

(n) 'OCTs' means the Overseas Countries and Territories as defined in Annex IX;

(o) 'other ACP States' means all the ACP States in exception of the ESA States.

TITLE II

DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'

Article 2

General requirements

1 For the purpose of the ESA–EU Economic Partnership Agreement, hereinafter referred to as 'the Agreement' the following products shall be considered as originating in the Community:

(a) products wholly obtained in the Community within the meaning of Article 6 of this Protocol;

(b) products obtained in the Community incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Community within the meaning of Article 7.

2 For the purpose of the Agreement, the following products shall be considered as originating in an ESA State:

(a) products wholly obtained in an ESA State within the meaning of Article 6 of this Protocol;

(b) products obtained in an ESA State incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in that ESA State within the meaning of Article 7.

Article 3

Cumulation in the Community

1 Without prejudice to the provisions of Article 2(1), products shall be considered as originating in the Community if they are obtained there, incorporating materials originating in an ESA State, in the other ACP States or in the OCTs, provided the working or processing carried out in the Community goes beyond the operations

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2019/1319. (See end of Document for details)*

referred to in Article 8. It shall not be necessary for such materials to have undergone sufficient working or processing.

2 Where the working or processing carried out in the Community does not go beyond the operations referred to in Article 8, the product obtained shall be considered as originating in the Community only where the value added there is greater than the value of the materials used originating in any one of the other countries or territories referred to in paragraph 1. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of originating materials used in the manufacture in the Community.

3 Products originating in one of the countries or territories referred to in paragraphs 1 and 2, which do not undergo any working or processing in the Community, retain their origin if exported into one of these countries or territories.

4 For the purpose of implementing Article 2(1)(b), working or processing carried out in an ESA State, in the other ACP States or in the OCTs shall be considered as having been carried out in the Community when the products obtained undergo subsequent working or processing in the Community. Where pursuant to this provision the originating products are obtained in two or more of the countries or territories concerned, they shall be considered as originating in the Community only if the working or processing goes beyond the operations referred to in Article 8.

5 Where the working or processing carried out in the Community does not go beyond the operations referred to in Article 8, the product obtained shall be considered as originating in the Community only where the value added there is greater than the value of the materials used in any one of the other countries or territories referred to in paragraph 4. If this is not so, the product obtained shall be considered as originating in the country or territory which accounts for the highest value of materials used in the manufacture.

6 The cumulation provided in this Article may only be applied provided that:

(a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative cooperation which ensures a correct implementation of this Article;

(b) materials and products have acquired originating status by the application of the same rules of origin as provided in this Protocol; and

(c) the Community will provide the ESA States, through the European Commission, with details of agreements on administrative cooperation with the other countries or territories referred to in this Article. The European Commission shall publish in the *Official Journal of the European Union* (C series) and the ESA States shall publish according to their own procedures the date on which the cumulation provided for in this Article may be applied with those countries or territories listed in this Article which have fulfilled the necessary requirements.

7 The cumulation provided for in this Article may only be applied after 1 October 2015 for the products listed in Annex X and after 1 January 2010 for rice of tariff heading 1 006 respectively.