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EUROPEAN COMMISSION

Brussels, 20.4.2010  
COM(2010)161 final

2010/0089 (NLE)

Proposal for a

### **COUNCIL DECISION**

**on the position to be taken by the European Union within the Association Council created by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, on the amendment of Article 15 (7) of Protocol 4 to that Agreement concerning the definition of "originating products" and methods of administrative cooperation**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

Prohibition of duty drawback is provided for in Article 15 of Protocol 4 to the EC - Egypt Association Agreement. Its paragraph 7 provides for a transitional period in relation to the full implementation of prohibition of duty drawback by Egypt and gives this partner country the possibility to grant duty drawback to its exporters/economic operators during this period.

The transitional period expired on 31 December 2009. However, Article 15 (7) provides for the possibility to extend its application by “common accord”.

At the EC-Egypt Association Council on 27 April 2009, Egypt formulated its request to prolong the provision on duty drawback and review the applicable rates on customs charges.

According to Article 39 of Protocol 4, the provisions of that Protocol shall be amended by decision of the Association Council.

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

It includes, on the one hand, the modification on the validity of this provision on duty drawback and, on the other hand, the revision of the applicable customs charges to be retained.

In order to ensure clarity, long term economic predictability and legal certainty for economic operators, the parties to the Agreement have agreed to prolong the application of Article 15 (7) with effect as from 1 January 2010 for a period of three years.

Moreover, the applicable rates in Egypt should be adjusted on the basis of the current rates applied in the EU.

Pending the formal adoption of this decision, it was agreed, via an exchange of correspondence between the European Commission and the relevant Egyptian authorities that the content of this text would be applied as from 1 January 2010.

### **2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

Interested parties were consulted in the framework of the Pan-Euro-Med Working Group and Customs code committee Origin section.

There was no need for external expertise.

There is no need for an impact assessment insofar as the amendments proposed are merely technical and do not modify the substance of the current origin protocol.

**3. LEGAL ELEMENTS OF THE PROPOSAL**

In view of the nature of the changes to be made to Article 15 (7) of Protocol 4 and for legal certainty the entire paragraph shall be replaced.

The amended provision on duty drawback should apply retroactively from 1 January 2010.

The legal basis for the amendment of this provision is laid down in Article 207(4) first subparagraph, in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

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

Proposed instrument: Council decision.

**4. BUDGETARY IMPLICATION**

The proposal has no implication for the Union budget.

**5. ADDITIONAL INFORMATION**

A review, revision or sunset clause is not foreseen.

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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(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Protocol 4<sup>1</sup> to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, hereinafter "the Agreement", as amended by Decision No 1/2006 of the EU-Egypt Association Council of 17 February 2006<sup>2</sup> concerns the definition of the concept of "originating products" and methods of administrative cooperation.
- (2) Article 15 of Protocol 4 provides for a general prohibition of drawback of, or exemption from, customs duties on any non-originating materials used in the manufacture of originating products. However, paragraph 7 of that Article provides that a drawback or exemption may be applied until 31 December 2009 under certain conditions.
- (3) In order to ensure clarity, long term economic predictability and legal certainty for economic operators, the parties to the Agreement have agreed to prolong the application of Article 15 (7) with effect as from 1 January 2010 for a period of three years.
- (4) Moreover, the applicable rates in Egypt should be adjusted on the basis of the current rates applied in the EU.

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<sup>1</sup> OJ L 304, 30.9.2004, p. 39

<sup>2</sup> OJ L 73, 13.3.2006, p. 1

- (5) In accordance with Article 39 of Protocol 4, the Association Council established by the Agreement, should decide to amend the provisions of that Protocol.
- (6) The European Union should therefore take position in the Association Council as set out in the attached draft Decision,

HAS ADOPTED THIS DECISION:

#### Article 1

The position to be taken by the European Union within the Association Council created by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, with regard to the amendment of Article 15 (7) of Protocol 4 concerning the definition of the concept of "originating products" and methods of administrative cooperation for the purposes of extending the application of that provision on drawback or exemption from customs duties shall be based on the draft decision of the Association Council annexed to this Decision.

#### Article 2

The decision of the Association Council shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council*  
*The President*

Proposal for a

**DECISION  
No**

**OF THE EU-EGYPT ASSOCIATION COUNCIL**

**of**

**amending Article 15 (7) of Protocol 4 to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, concerning the definition of the concept of "originating products" and methods of administrative cooperation**

The Association Council,

Having regard to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, and in particular Article 39 of Protocol 4 thereto,

Whereas:

- (1) Article 15 (7) of Protocol 4 to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, hereinafter "the Agreement", permits under certain conditions a drawback of, or exemption from, customs duties or charges having an equivalent effect until 31 December 2009.
- (2) In order to ensure clarity, long term economic predictability and legal certainty for economic operators, the parties to the Agreement have agreed to prolong the application of Article 15 (7) with effect as from 1 January 2010 for a period of three years.
- (3) Moreover, the applicable rates in Egypt should be adjusted on the basis of the current rates applied in the EU.
- (4) Protocol 4 to the Agreement should therefore be amended accordingly.
- (5) As the application period of Article 15 (7) expires on 31 December 2009, this Decision should apply from 1 January 2010,

HAS DECIDED AS FOLLOWS:

#### Article 1

Article 15 (7) of Protocol 4 to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, concerning the definition of the concept of "originating products" and methods of administrative cooperation is replaced by the following:

"7. Notwithstanding paragraph 1, Egypt may, except for products falling within Chapters 1 to 24 of the Harmonized System, apply arrangements for drawback of, or exemption from, customs duties or charges having an equivalent effect, applicable to non-originating materials used in the manufacture of originating products, subject to the following provisions:

- (a) a 4 % rate of customs charge shall be retained in respect of products falling within Chapters 25 to 49 and 64 to 97 of the Harmonized System, or such lower rate as is in force in Egypt;
- (b) a 8 % rate of customs charge shall be retained in respect of products falling within Chapters 50 to 63 of the Harmonized System, or such lower rate as is in force in Egypt;

This paragraph shall apply until 31 December 2012 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 Association Council  
The President*