



PRESS RELEASE 07/03

EFTA Court rules on the origin of foreign fish processed in Iceland

(Case E-2/03 Ákærvaldið (The Public Prosecutor) against Ásgeir Logi Ásgeirsson, Axel Pétur Ásgeirsson and Helgi Már Reynisson)

In a judgment (advisory opinion) delivered today, the EFTA Court ruled that processing fish by way of defrosting, heading, filleting, boning, trimming, salting and packing does not constitute sufficient working under Protocol 4 to the EEA Agreement in order for fish imported to Iceland from outside the EEA to obtain EEA originating status.

The questions referred to the EFTA Court arose from criminal proceedings pending before the Reykjanes District Court. Two managing directors of an Icelandic fish processing company and the managing director of an Icelandic import/export company are accused of having exported cod unlawfully to EC countries.

According to the documents referred to the Court, the fish had been caught off the coasts of Alaska and Russia by foreign fishing vessels and was imported frozen to Iceland. The raw materials were processed in the manner described and subsequently exported to the EC. Allegedly, the documents delivered to the customs authority falsely declared that the products originated in Iceland. As a result, the products enjoyed tariff preferences when imported into the EC countries as if they had been of Icelandic origin.

Rules determining the origin of export products are laid down in Protocol 4 to the EEA Agreement as well as in Protocol 3 to the Free Trade Agreement between the European Economic Community and the Republic of Iceland in 1972. As to the difference between the EEA Agreement and the Free Trade Agreement, the EFTA Court held that whereas the latter belongs to the sphere of public international law, the conclusion of the EEA Agreement in 1992 led to a high degree of integration, with objectives that exceed those of a mere free trade agreement. The EEA Agreement is characterized by the creation of an internal market, the protection of the rights of individuals and economic operators and an institutional framework providing for effective surveillance and judicial review. As an institution established under the EEA Agreement, the EFTA Court has no jurisdiction over the application or interpretation of the Free Trade Agreement. It has, however, jurisdiction to interpret Article 7 of Protocol 9 to the EEA Agreement, which concerns trade in fish. The term "trade regime" in Article 7 and Appendix 3 to the Protocol does not extend to the rules of origin contained in the Free Trade Agreement. The rules of origin contained in Protocol 4 to the EEA Agreement therefore apply.

The full text of the judgment may be found on the Internet at: www.eftacourt.lu.

The EFTA Court is composed of Carl Baudenbacher (President), Per Tresselt and Thorgeir Örlygsson.

This press release is not an official document. Please note that the Court may not comment on the case.