

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 4 April 2012

amending Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC as regards the temporary derogations from the rules of origin laid down in Annex II to Council Regulation (EC) No 1528/2007 to take account of the special situation of Mauritius, Seychelles and Madagascar with regard to preserved tuna and tuna loins

(notified under document C(2012) 2321)

(2012/190/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements⁽¹⁾, and in particular Article 36(4) of Annex II thereof,

Whereas:

- (1) On 17 July 2008 the Commission adopted Decision 2008/603/EC⁽²⁾ granting a temporary derogation from the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007 to take account of the special situation of Mauritius with regard to preserved tuna and tuna loins. By Commission Implementing Decision 2011/377/EU⁽³⁾ extension of that temporary derogation was granted until 31 December 2011. On 6 October 2011 Mauritius requested in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007 a new derogation from the rules of origin set out in that Annex. According to the information received from Mauritius the catches of raw tuna remain unusually low even compared to the normal seasonal variations. Given that the abnormal situation since 2008 remains unchanged and because of the problem of piracy in the Indian Ocean a new derogation should be granted with effect from 1 January 2012.
- (2) On 14 August 2008 the Commission adopted Decision 2008/691/EC⁽⁴⁾ granting a temporary derogation from the rules of origin laid down in Annex II to Regulation

(EC) No 1528/2007 to take account of the special situation of Seychelles with regard to preserved tuna. By Implementing Decision 2011/377/EU extension of that temporary derogation was granted until 31 December 2011. On 17 November 2011 Seychelles requested in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007 a new derogation from the rules of origin set out in that Annex. According to the information provided by Seychelles the catches of raw tuna remain very low even compared to the normal seasonal variations. Furthermore, the threat of piracy results in a reduced number of fishing days in lucrative but high risk areas. Given that the abnormal situation since 2008 remains unchanged, a new derogation should be granted with effect from 1 January 2012.

- (3) On 18 September 2008 the Commission adopted Decision 2008/751/EC⁽⁵⁾ granting a temporary derogation from the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007 to take account of the special situation of Madagascar with regard to preserved tuna and tuna loins. By Implementing Decision 2011/377/EU extension of that temporary derogation was granted until 31 December 2011. On 25 October 2011 Madagascar requested in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007 a new derogation from the rules of origin set out in that Annex. According to this information sourcing of raw originating tuna remains difficult due to the problem of piracy in the Indian Ocean. Given that the abnormal situation since 2008 remains unchanged, a new derogation should be granted with effect from 1 January 2012.
- (4) Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC applied until 31 December 2011. It is necessary to ensure continuity of importations from the ACP countries to the Union as well as a smooth transition to the Interim 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 (ESA-EU Interim Economic Partnership

⁽¹⁾ OJ L 348, 31.12.2007, p. 1.

⁽²⁾ OJ L 194, 23.7.2008, p. 9.

⁽³⁾ OJ L 168, 28.6.2011, p. 12.

⁽⁴⁾ OJ L 225, 23.8.2008, p. 17.

⁽⁵⁾ OJ L 255, 23.9.2008, p. 31.

Agreement). Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC should therefore be extended from 1 January 2012 to 31 December 2012.

- (5) It would be inappropriate to grant derogations in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007 which exceed the annual quota granted to the ESA region under the ESA-EU Interim Economic Partnership Agreement. Consequently the quota amounts for 2012 should be set at 3 000 tonnes of preserved tuna and 600 tonnes of tuna loins for Mauritius, 3 000 tonnes of preserved tuna and 600 tonnes of tuna loins for Seychelles and 2 000 tonnes of preserved tuna and 500 tonnes of tuna loins for Madagascar.
- (6) In the interest of clarity, it is appropriate to set out explicitly that the only non-originating materials to be used for the manufacture of preserved tuna and tuna loins of CN code 1604 14 16 should be tuna of HS Headings 0302 or 0303, in order for the preserved tuna and tuna loins to benefit from the derogation.
- (7) Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC should therefore be amended accordingly.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2008/603/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

By way of derogation from Annex II to Regulation (EC) No 1528/2007 and in accordance with Article 36(1)(a) of that Annex, preserved tuna and tuna loins of HS Heading 1604 manufactured from non-originating tuna of HS Headings 0302 or 0303 shall be regarded as originating in Mauritius in accordance with the terms set out in Articles 2 to 5 of this Decision.;

2. Article 2 is replaced by the following:

'Article 2

The derogation provided for in Article 1 shall apply to the products and the quantities set out in the Annex which are declared for release for free circulation into the Community from Mauritius during the periods of 1 January 2008 until 31 December 2008, 1 January 2009 until 31 December 2009, 1 January 2010 until 31 December 2010, 1 January 2011 until 31 December 2011 and 1 January 2012 until 31 December 2012.;

3. Article 6 is replaced by the following:

'Article 6

This Decision shall apply from 1 January 2008 until 31 December 2012.;

4. the Annex is replaced by the text set out in Annex I to this Decision.

Article 2

Decision 2008/691/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

By way of derogation from Annex II to Regulation (EC) No 1528/2007 and in accordance with Article 36(1)(a) of that Annex, preserved tuna and tuna loins of HS Heading 1604 manufactured from non-originating tuna of HS Headings 0302 or 0303 shall be regarded as originating in Seychelles in accordance with the terms set out in Articles 2 to 5 of this Decision.;

2. Article 2 is replaced by the following:

'Article 2

The derogation provided for in Article 1 shall apply to the products and the quantities set out in the Annex which are declared for release for free circulation into the Community from Seychelles during the periods of 1 January 2008 until 31 December 2008, 1 January 2009 until 31 December 2009, 1 January 2010 until 31 December 2010, 1 January 2011 until 31 December 2011 and 1 January 2012 until 31 December 2012.;

3. Article 6 is replaced by the following:

'Article 6

This Decision shall apply from 1 January 2008 until 31 December 2012.;

4. the Annex is replaced by the text set out in Annex II to this Decision.

Article 3

Decision 2008/751/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

By way of derogation from Annex II to Regulation (EC) No 1528/2007 and in accordance with its Article 36(1)(a), preserved tuna and tuna loins of HS Heading 1604 manufactured from non-originating tuna of HS Headings 0302 or 0303 shall be regarded as originating in Madagascar in accordance with the terms set out in Articles 2 to 5 of this Decision.;

2. Article 2 is replaced by the following:

‘Article 2

The derogation provided for in Article 1 shall apply to the products and the quantities set out in the Annex which are declared for release for free circulation into the Community from Madagascar during the periods of 1 January 2008 until 31 December 2008, 1 January 2009 until 31 December 2009, 1 January 2010 until 31 December 2010, 1 January 2011 until 31 December 2011 and 1 January 2012 until 31 December 2012.;

3. Article 6 is replaced by the following:

‘Article 6

This Decision shall apply from 1 January 2008 until 31 December 2012.;

4. the Annex is replaced by the text set out in Annex III to this Decision.

Article 4

This Decision shall apply from 1 January 2012.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 4 April 2012.

For the Commission

Algirdas ŠEMETA

Member of the Commission

ANNEX I

'ANNEX

Order No	CN code	Description of goods	Periods	Quantities (tonnes)
09.1668	ex 1604 14 11, ex 1604 14 18, ex 1604 20 70	Preserved tuna ⁽¹⁾	1.1.2008 to 31.12.2008	3 000
			1.1.2009 to 31.12.2009	3 000
			1.1.2010 to 31.12.2010	3 000
			1.1.2011 to 31.12.2011	3 000
			1.1.2012 to 31.12.2012	3 000
09.1669	1604 14 16	Tuna loins	1.1.2008 to 31.12.2008	600
			1.1.2009 to 31.12.2009	600
			1.1.2010 to 31.12.2010	600
			1.1.2011 to 31.12.2011	600
			1.1.2012 to 31.12.2012	600

⁽¹⁾ In any form of packaging whereby the product is considered as preserved within the meaning of HS heading ex 1604.'

ANNEX II

'ANNEX

Order No	CN code	Description of goods	Periods	Quantity (tonnes)
09.1666	ex 1604 14 11, ex 1604 14 18, ex 1604 20 70	Preserved tuna ⁽¹⁾	1.1.2008 to 31.12.2008	3 000
			1.1.2009 to 31.12.2009	3 000
			1.1.2010 to 31.12.2010	3 000
			1.1.2011 to 31.12.2011	3 000
			1.1.2012 to 31.12.2012	3 000
09.1630	1604 14 16	Tuna loins	1.1.2011 to 31.12.2011	600
			1.1.2012 to 31.12.2012	600

⁽¹⁾ In any form of packaging whereby the product is considered as preserved within the meaning of HS heading ex 1604.'

ANNEX III

'ANNEX

Order No	CN code	Description of goods	Periods	Quantities (tonnes)
09.1645	ex 1604 14 11, ex 1604 14 18, ex 1604 20 70	Preserved tuna ⁽¹⁾	1.1.2008 to 31.12.2008	2 000
			1.1.2009 to 31.12.2009	2 000
			1.1.2010 to 31.12.2010	2 000
			1.1.2011 to 31.12.2011	2 000
			1.1.2012 to 31.12.2012	2 000
09.1646	1604 14 16	Tuna loins	1.1.2008 to 31.12.2008	500
			1.1.2009 to 31.12.2009	500
			1.1.2010 to 31.12.2010	500
			1.1.2011 to 31.12.2011	500
			1.1.2012 to 31.12.2012	500

⁽¹⁾ In any form of packaging whereby the product is considered as preserved within the meaning of HS heading ex 1604.'