

COMMISSION IMPLEMENTING DECISION (EU) 2015/1204**of 22 July 2015****on a temporary derogation 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 Kenya with regard to tuna loins**

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(1)(a) of Annex II thereof,

Whereas:

- (1) On 19 December 2011 the Commission adopted Implementing Decision 2011/861/EU ⁽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 Kenya with regard to tuna loins. By Commission Implementing Decision 2013/716/EU ⁽³⁾ an extension of that temporary derogation was granted until 30 September 2014.
- (2) On 26 February 2015 Kenya requested a new derogation for the period from 1 January 2015 until 31 December 2015 for 2 000 tonnes of tuna loins. On 13 March 2015 Kenya submitted additional information relating to its request.
- (3) According to the information provided by Kenya catches of raw originating tuna remain unusually low even compared to the normal seasonal variations and have led to a decrease in production of tuna loins. Kenya has pointed out the risk involved due to piracy during the supply of raw tuna. This abnormal situation makes it temporarily impossible for Kenya to comply with the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007.
- (4) Kenya will benefit from an automatic derogation from the rules of origin for tuna loins of HS heading 1604 pursuant to Article 40(7) of the Origin Protocol attached to the EAC-EU Economic Partnership Agreement when that Agreement enters into force or is provisionally applied.
- (5) In accordance with Article 4(2) of Regulation (EC) No 1528/2007 the rules of origin set out in Annex II to that Regulation and the derogations from them are to be superseded by the rules of the EAC-EU Economic Partnership Agreement, the entry into force or provisional application of which is expected to take place in 2016. Given that the overall situation, including the state of ratification of the EAC-EU Economic Partnership Agreement, will be reassessed in 2016, the derogation should apply until 31 December 2015.
- (6) Taking into account the imports concerned, a temporary derogation from the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007 would not cause serious injury to an established Union industry, provided that certain conditions relating to quantities, surveillance and duration are respected.

⁽¹⁾ OJ L 348, 31.12.2007, p. 1.

⁽²⁾ Commission Implementing Decision 2011/861/EU of 19 December 2011 on a temporary derogation from rules of origin laid down in Annex II to Council Regulation (EC) No 1528/2007 to take account of the special situation of Kenya with regard to tuna loins (OJ L 338, 21.12.2011, p. 61).

⁽³⁾ Commission Implementing Decision 2013/716/EU of 4 December 2013 amending Implementing Decision 2011/861/EU on a temporary derogation from rules of origin laid down in Annex II to Council Regulation (EC) No 1528/2007 to take account of the special situation of Kenya with regard to tuna loins (OJ L 326, 6.12.2013, p. 45).

- (7) Accordingly, a derogation should be granted to Kenya in respect of 2 000 tonnes of tuna loins for a period of one year.
- (8) Commission Regulation (EEC) No 2454/93 ⁽¹⁾ lays down rules for the management of tariff quotas. Those rules should be applied to the management of the quantity in respect of which the derogation is granted by this decision.
- (9) In order to allow efficient monitoring of the operation of the derogation, the authorities of Kenya should regularly communicate details of the EUR.1 movement certificates issued, to the Commission.
- (10) To ensure a regular supply of tuna loins from Kenya to the Union and an optimal utilisation of the derogation quota, and to limit possible trade disruption after the expiry of the previous derogation, a new derogation should be granted with retroactive effect from 1 January 2015.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS DECISION:

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, tuna loins of HS heading 1604 manufactured from non-originating tuna of HS Heading 0303 shall be regarded as originating in Kenya in accordance with the terms set out in this Decision.

Article 2

The derogation provided for in Article 1 shall apply to the goods and the quantities set out in the Annex which are declared for release for free circulation in the Union from Kenya during the period from 1 January 2015 to 31 December 2015.

Article 3

The quantities set out in the Annex to this Decision shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 4

The customs authorities of Kenya shall take the necessary measures to carry out quantitative checks on exports of the goods referred to in Article 1.

Before the end of the month following each quarter, the competent authorities of Kenya shall forward to the Commission a quarterly statement of the quantities in respect of which EUR.1 movement certificates have been issued pursuant to this Decision and the serial numbers of those certificates.

Article 5

Box 7 of EUR.1 movement certificates issued for goods falling under this Decision shall contain the following:

‘Derogation — Commission Implementing Decision 2015/.../EU’.

⁽¹⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

Article 6

This Decision shall enter into force on the day of its publication.

It shall apply from 1 January 2015 until 31 December 2015.

Done at Brussels, 22 July 2015.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Order No	CN code	Description of goods	Period	Quantities
09.1667	1604 14 36	Tuna loins	1.1.2015 to 31.12.2015	2 000 tonnes