COMMISSION DECISION

of 16 September 2010

amending Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC as regards extension of 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 tuna and tuna loins

(notified under document C(2010) 6259)

(2010/560/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 Commission Decision 2008/603/EC [2] was adopted granting 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 Mauritius with regard to preserved tuna and tuna loins. On 15 June 2009 Commission Decision 2009/471/EC [3] was adopted granting an extension of that temporary derogation. On 21 December 2009 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 in 2009 remains unchanged for 2010 a new derogation should be granted with effect from 1 January 2010.

(2) On 14 August 2008 Commission Decision 2008/691/EC [4] was adopted granting 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 Seychelles with regard to preserved tuna. By Decision 2009/471/EC an extension of that temporary derogation was granted. On 25 January 2010 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. Given that the abnormal situation in 2009 remains unchanged for 2010 a new derogation should be granted with effect from 1 January 2010.

(3) On 18 September 2008 Commission Decision 2008/751/EC [5] was adopted granting 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 Madagascar with regard to preserved tuna and tuna loins. By Decision 2009/471/EC an extension of that temporary derogation was granted. On 22 May 2010 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. On 8 June 2010 Madagascar provided additional information. According to the information provided by Madagascar sourcing of raw originating tuna remains difficult due to their unavailability. Given that the abnormal situation in 2009 remains unchanged for 2010 a new derogation should be granted with effect from 1 January 2010.

(4) Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC applied until 31 December 2009 because 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 Partnership Agreement) did not enter into force or was not provisionally applied before that date.

(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 to them are to be superseded by the rules of the ESA-EU Interim Partnership Agreement of which the entry into force or the provisional application is foreseen to take place in 2010.

(6) 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. Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC should therefore be prolonged with effect from 1 January 2010.

(7) Mauritius, Seychelles and Madagascar will benefit from an automatic derogation from the rules of origin for tuna of HS heading 1604 pursuant to the relevant provisions of the Origin Protocol attached to the ESA-EU Interim Partnership Agreement signed by them, when this Agreement enters into force or is provisionally applied. It would be inappropriate to grant by this Decision derogations in

[1] OJ L 348, 31.12.2007, p. 1.
[2] OJ L 194, 23.7.2008, p. 9.
[3] OJ L 155, 18.6.2009, p. 46.
[4] OJ L 225, 23.8.2008, p. 17.
[5] OJ L 255, 23.9.2008, p. 31.

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 Partnership Agreement. The ESA signatories to the Agreement have therefore signed a unilateral political declaration concerning the derogations for tuna granted in 2010 whereby these countries renounce to the global annual quantity of the automatic derogation for 2010 in case that the Agreement will either be provisionally applied or enter into force during this year. Consequently the quota amounts for 2010 should be set at the same level as for 2009.

(8) Decisions 2008/603/EC, 2008/691/EC and 2008/751/EC should therefore be amended accordingly.

(9) 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 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 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, and 1 January 2010 until 31 December 2010.'

2. In Article 6, the second paragraph is replaced by the following:

   'It shall apply until 31 December 2010.'

3. 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 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 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 and 1 January 2010 until 31 December 2010.'

2. In Article 6, the second paragraph is replaced by the following:

   'It shall apply until 31 December 2010.'

3. 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 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 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 and 1 January 2010 until 31 December 2010.'

2. In Article 6, the second paragraph is replaced by the following:

   'It shall apply until 31 December 2010.'

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

Article 4

This Decision shall apply from 1 January 2010.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 16 September 2010.

For the Commission

Algirdas ŠEMETA

Member of the Commission

ANNEX I

'ANNEX

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

(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
09.1666	1604 14 11,	Preserved tuna (1)	1.1.2008 to 31.12.2008	3 000 tonnes
	1604 14 18,		1.1.2009 to 31.12.2009	3 000 tonnes
	1604 20 70		1.1.2010 to 31.12.2010	3 000 tonnes

(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
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 tonnes
			1.1.2009 to 31.12.2009	2 000 tonnes
			1.1.2010 to 31.12.2010	2 000 tonnes
09.1646	1604 14 16	Tuna loins	1.1.2008 to 31.12.2008	500 tonnes
			1.1.2009 to 31.12.2009	500 tonnes
			1.1.2010 to 31.12.2010	500 tonnes

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