COMMISSION IMPLEMENTING DECISION

of 23 April 2012

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 Swaziland with regard to peaches, pears and pineapples

(notified under document C(2012) 2511)

(2012/213/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 thereto,

Whereas:

(1) On 27 October 2011 Swaziland requested, in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007, a derogation from the rules of origin set out in that Annex for the year 2012. On 11 January 2012 Swaziland submitted additional information relating to its request. The request covers a total quantity of 800 tonnes of peach and/or pear in fruit jelly of CN codes ex 2007 99 97 and mixtures of peach and/or pear and/or pineapple in fruit juice of CN code ex 2008 97 98.

(2) According to the information received from Swaziland, it is unable to satisfy the rules on cumulation of origin laid down in Article 6 of Annex II to Regulation (EC) No 1528/2007. Because it has no production of peaches and pears, Swaziland sources non-originating diced peaches in juice not containing sugar of CN codes ex 2008 70 92 and 2008 70 98, and diced pears in juice not containing sugar of CN code ex 2008 40 90 in neighbouring South Africa for manufacture. However, in accordance with Article 6(7) of Annex II to Regulation (EC) No 1528/2007, the final products are excluded from cumulation with South Africa. A temporary derogation should therefore be granted. In order to allow Swaziland to make full use of the quantities granted, the temporary derogation should have retroactive effect from 1 January 2012.

(3) 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.

(4) It is therefore justified to grant a temporary derogation under Article 36(1)(b) of Annex II to Regulation (EC) No 1528/2007.

(5) Accordingly a derogation should be granted to Swaziland in respect of 800 tonnes of peach and/or pear in fruit jelly of CN codes ex 2007 99 97 and mixtures of peach and/or pear and/or pineapple in fruit juice of CN code ex 2008 97 98 for one year.

(6) 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 [2] lays down rules relating to the management of tariff quotas. In order to ensure efficient management carried out in close cooperation between the authorities of Swaziland, the customs authorities of the Member States and the Commission, those rules should apply to the quantities imported under the derogation granted by this Decision.

(7) In order to allow efficient monitoring of the operation of the derogation, the authorities of Swaziland should communicate regularly to the Commission details of the EUR.1 movement certificates issued.

(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

By way of derogation from Annex II to Regulation (EC) No 1528/2007 and in accordance with Article 36(1)(b) of that Annex, peach and/or pear in fruit jelly of CN codes ex 2007 99 97 and mixtures of peach and/or pear and/or pineapple in fruit juice of CN code ex 2008 97 98 in the manufacture of which non-originating diced peaches in juice not containing sugar of CN codes ex 2008 70 92 and ex 2008 70 98, and diced pears in juice not containing sugar of CN code ex 2008 40 90 are used, shall be regarded as originating in Swaziland in accordance with the terms set out in Articles 2 to 5 of this Decision.

[1] OJ L 348, 31.12.2007, p. 1.

[2] OJ L 253, 11.10.1993, p. 1.

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 Union from Swaziland during the period from 1 January 2012 to 31 December 2012.

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 Swaziland shall take the necessary measures to carry out quantitative checks on exports of the products referred to in Article 1.

All the EUR.1 movement certificates they issue in relation to the products referred to in Article 1 shall bear a reference to this Decision.

Before the end of the month following each quarter, the competent authorities of Swaziland 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 under this Decision shall contain the following:

'Derogation — Implementing Decision 2012/213/EU'.

Article 6

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

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 23 April 2012.

For the Commission
Algirdas ŠEMETA
Member of the Commission

ANNEX

Order No	CN code	Description of goods	Period	Quantities
09.1628	ex 2007 99 97	Peach and/or pear in fruit jelly	1.1.2012 to 31.12.2012	800 tonnes
	ex 2008 97 98	Mixture of peach and/or pear and/or pineapple in fruit juice		