COMMISSION IMPLEMENTING REGULATION (EU) No 1044/2012

of 8 November 2012

on a derogation from Regulation (EEC) No 2454/93 as regards the rules of origin used for the purposes of the scheme of generalised tariff preferences to take account of the special situation of Guatemala regarding exports of certain fisheries products to the Union

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([1]), and in particular Article 247 thereof,

Having regard to 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]), and in particular Article 89(1)(b) thereof,

Whereas:

(1) By Council Regulation (EC) No 732/2008 ([3]) applying a scheme of generalised tariff preferences from 1 January 2009, the Union granted generalised tariff preferences to Guatemala.

(2) Regulation (EEC) No 2454/93 establishes the definition of the concept of originating products to be used for the purpose of the scheme of generalised tariff preferences ('GSP'). Article 89 of that Regulation provides for a derogation from that definition in favour of beneficiary countries benefiting from GSP.

(3) By letter dated 24 January 2012, Guatemala submitted a request for a derogation from the GSP rules of origin in accordance with Article 89 of Regulation (EEC) No 2454/93. By letters dated 28 March 2012, 21 June 2012 and 27 June 2012, Guatemala submitted additional information in support of this request.

(4) The request concerns a total annual quantity of 4 000 tonnes of cooked, frozen and vacuum-packed tuna fillets known as 'loins' (hereafter 'tuna loins') of CN code 1604 14 16 for a period from 1 April 2012 until 31 December 2013.

(5) The request demonstrates that, without the derogation, the ability of the Guatemalan fish processing industry to continue to export tuna loins eligible for preferential tariff treatment to the Union would be significantly affected.

(6) The derogation is therefore required in order to give Guatemala sufficient time to prepare its fish processing industry to comply with the rules for the acquisition of preferential origin of tuna loins. This sufficient time is needed in order to secure adequate flows of originating tuna to the country by the government and the processing industries of Guatemala.

(7) Given the existing supply flows and production patterns, the derogation should be granted in respect of yearly quantities of 1 975 tonnes for tuna loins of CN code ex 1604 14 16. In order to ensure that the temporary derogation be limited to the time needed for Guatemala to achieve compliance with the rules for the acquisition of preferential origin of tuna loins, the derogation should be granted from 1 January 2012 until 30 June 2013. The quota amount for 2013 should be defined on a pro-rata basis to the period of the derogation granted. Consequently, the quota amounts should be set out at 1 975 tonnes for 2012, and 987,5 tonnes for 2013.

(8) In order to ensure the continuity of exports of the processed fish eligible for preferential tariff treatment from Guatemala to the Union, the derogation should be granted with retroactive effect from 1 January 2012.

(9) For the sake of clarity and in order for tuna loins of CN code ex 1604 14 16 to benefit from the derogation, it is appropriate to set out explicitly that the only non-originating materials to be used for the manufacture of the said tuna loins should be tuna of HS heading 0302 or 0303.

(10) Regulation (EEC) No 2454/93 lays down rules relating to the management of tariff quotas. In order to ensure efficient management conducted in close cooperation between the authorities of Guatemala, the customs authorities of the Union and the Commission, those rules should apply *mutatis mutandis* to the quantities imported under the derogation granted by this Regulation.

(11) In order to allow efficient monitoring of the operation of the derogation, it is necessary to lay down the obligation for the authorities of Guatemala to communicate regularly to the Commission details of the certificates of origin Form A which have been issued.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Articles 72, 73 and 75 to 79 of Regulation (EEC) No 2454/93, cooked, frozen and vacuum-packed tuna fillets known as 'loins' of CN code ex 1604 14 16 produced in Guatemala from non-originating tuna of HS

([1]) OJ L 302, 19.10.1992, p. 1.
([2]) OJ L 253, 11.10.1993, p. 1.
([3]) OJ L 211, 6.8.2008, p. 1.

heading 0302 or 0303 shall be regarded as originating in Guatemala in accordance with the terms set out in Articles 2, 3 and 4 of this Regulation.

Article 2

The derogation provided for in Article 1 shall apply to products exported from Guatemala and declared for release for free circulation in the Union during the period from 1 January 2012 to 30 June 2013 and up to the quantities set out in the Annex to this Regulation.

Article 3

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

Article 4

The customs authorities of Guatemala shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1.

Box 4 of certificates of origin Form A issued by the competent authorities of Guatemala pursuant to this Regulation shall bear one of the following endorsements:

— 'Derogation — Commission Implementing Regulation (EU) No 1044/2012',

— 'Excepción — Reglamento de Ejecución (UE) nº 1044/2012 de la Comisión'.

The competent authorities of Guatemala shall forward to the Commission, by the end of the month following each civil quarter, a quarterly statement of the quantities in respect of which certificates of origin Form A have been issued pursuant to this Regulation and the serial numbers of those certificates.

Article 5

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 November 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX

Order No	CN code	Description of goods	Period	Quantities (in tonnes net weight)
09.1627	ex 1604 14 16	Cooked, frozen and vacuum-packed tuna fillets known as 'loins'	1.1.2012 to 31.12.2012 1.1.2013 to 30.6.2013	1 975 987,5