

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 1093/2011

of 28 October 2011

on the application of derogations from the rules of origin laid down in the Protocol on the definition of originating products attached to the Free Trade Agreement between the European Union and its Member States and Korea

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2011/265/EU of 16 September 2010 on the signing and provisional application of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea⁽¹⁾, of the other part, and in particular Article 7 thereof,

Whereas:

(1) By Decision 2011/265/EU, the Council authorised the signature of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part⁽²⁾ ('the Agreement') on behalf of the European Union. Decision 2011/265/EU confirmed the provisional application of the Agreement, subject to its conclusion at a later stage, as provided for in Article 15.10.5 of the Agreement. The date from which the Agreement applies on a provisional basis was set at 1 July 2011.

(2) For a number of specific products, Annex II(a) to the Protocol attached to the Agreement concerning the definition of 'originating products' and methods of administrative cooperation⁽³⁾ ('the Protocol') provides for derogations from the rules of origin set out in Annex II to the Protocol. However, the derogations are limited by annual quotas. It is therefore necessary to lay down the conditions for the application of those derogations.

(3) In accordance with Annex II(a) to the Protocol, the proof of origin for surimi preparations (CN code 1604 20 05) should be accompanied by documentary evidence that the surimi preparation contains at least 40 per cent fish by weight and that the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

(4) In accordance with Annex II(a) to the Protocol, the proof of origin for dyed woven fabrics of CN codes 5408 22

and 5408 32 should be accompanied by documentary evidence that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product.

(5) Since the quotas set out in Annex II(a) to the Protocol are to be managed by the Commission on a first-come, first-served basis, they should be managed in accordance with 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⁽⁴⁾.

(6) Since the Agreement takes effect on 1 July 2011, this Regulation should apply from the same date.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The rules of origin set out in Annex II(a) to the Protocol concerning the definition of 'originating products' and methods of administrative cooperation attached to the Free Trade Agreement between the European Union and its Member States and the Republic of Korea ('the Protocol') shall apply for the products set out in the Annex to this Regulation.

2. The rules of origin referred to in paragraph 1 shall apply by derogation from the rules of origin set out in Annex II to the Protocol, subject to the quotas set out in the Annex.

Article 2

The rules of origin provided for in this Regulation shall apply under the following conditions:

(a) a declaration signed by the approved exporter certifying that the products concerned satisfy the conditions of the derogation shall be provided upon the release of the products for free circulation within the Union;

⁽¹⁾ OJ L 127, 14.5.2011, p. 1.

⁽²⁾ OJ L 127, 14.5.2011, p. 6.

⁽³⁾ OJ L 127, 14.5.2011, p. 1344.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1.

- (b) the declaration referred to in point (a) shall contain the following statement in English: 'Derogation — Annex II(a) of the Protocol concerning the definition of originating products and methods of administrative cooperation'.

Article 3

1. Where a proof of origin is provided for surimi preparations of CN code 1604 20 05, it shall be accompanied by documentary evidence that the surimi preparation contains at least 40 per cent fish by weight and that the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

2. Where necessary, the meaning of 'primary ingredient' as referred to in paragraph 1 shall be interpreted by the Customs Committee in accordance with Article 28 of the Protocol.

Article 4

1. The documentary evidence referred to in Article 3 shall consist of at least a signed statement in English by the approved exporter that:

- (a) the surimi preparation contains at least 40 per cent fish by weight;
- (b) the Alaska Pollack (*Theragra chalcogramma*) species has been used as the primary ingredient of the surimi base.

2. The statement referred to in paragraph 1 shall also include the following:

- (a) the amount used of the Alaska Pollack (*Theragra chalcogramma*) species as a percentage of the fish used for producing the surimi;

- (b) the country of origin of the Alaska Pollack.

Article 5

Where a proof of origin is provided for dyed woven fabrics of CN codes 5408 22 and 5408 32, it shall be accompanied by documentary evidence that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product.

Article 6

The documentary evidence referred to in Article 5 shall consist of at least a signed statement in English by the approved exporter that the undyed fabric used does not exceed 50 per cent of the ex-works price of the product. The statement shall also include the following:

- (a) the price in euro of the non-originating undyed fabrics used to make the dyed woven fabrics (CN codes 5408 22 and 5408 32);
- (b) the ex-works price in euro of the dyed woven fabrics (CN codes 5408 22 and 5408 32).

Article 7

The quotas listed in the Annex to this Regulation shall be managed by the Commission in accordance with the provisions of Articles 308a to 308c of Regulation (EEC) No 2454/93.

Article 8

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

It shall apply from 1 July 2011.

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

Done at Brussels, 28 October 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation.

Order No	CN code	TARIC subdivision	Description of products	Quota period	Quota volume (in tonnes net weight unless otherwise specified)
09.2450	1604 20 05		Preparations of surimi	1.7.2011-30.6.2012	2 000
				1.7.2012-30.6.2013	2 500
				From 1.7.2013 onwards:	
				1.7-30.6	3 500
09.2451	1905 90 45		Biscuits	1.7-30.6	270
09.2452	2402 20		Cigarettes containing tobacco	1.7-30.6	250
09.2453	5204		Cotton sewing thread, whether or not put up for retail sale	1.7-30.6	86
09.2454	5205		Cotton yarn (other than sewing thread), containing 85 % or more by weight of cotton, not put up for retail sale	1.7-30.6	2 310
09.2455	5206		Cotton yarn (other than sewing thread), containing less than 85 % by weight of cotton, not put up for retail sale	1.7-30.6	377
09.2456	5207		Cotton yarn (other than sewing thread), put for retail sale	1.7-30.6	92
09.2457	5408		Woven fabrics of artificial filament yarn, including woven fabrics obtained from materials of heading 5405	1.7-30.6	17 805 290 m ²
09.2458	5508		Sewing thread of man-made staple fibres, whether or not put up for retail sale	1.7-30.6	286
09.2459	5509		Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	1.7-30.6	3 437
09.2460	5510		Yarn (other than sewing thread) of artificial staple fibres, not put up for retail sale	1.7-30.6	1 718
09.2461	5511		Yarn (other than sewing thread) of man-made staple fibres, put up for retail sale	1.7-30.6	203