Commission Implementing Regulation (EU) No 822/2014 of 28 July 2014 on a derogation from Regulation (EEC) No 2454/93 as regards the rules of origin under the scheme of generalised tariff preferences in respect of bicycles produced in Cambodia regarding the use under cumulation of bicycle parts originating in Malaysia

COMMISSION IMPLEMENTING REGULATION (EU) No 822/2014

of 28 July 2014

on a derogation from Regulation (EEC) No 2454/93 as regards the rules of origin under the scheme of generalised tariff preferences in respect of bicycles produced in Cambodia regarding the use under cumulation of bicycle parts originating in Malaysia

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 Regulation (EU) No 978/2012 of the European Parliament and of the Council[(3)] applying a scheme of generalised tariff preferences from 1 January 2014, the Union granted generalised tariff preferences to Cambodia.

(2) Commission Regulation (EEC) No 2454/93[(4)] establishes the definition of the concept of originating products to be used for the purpose of the scheme of generalised tariff preferences ('GSP'). That Regulation provides for the possibility to grant, in certain precisely defined circumstances, derogations from that definition in favour of GSP beneficiary countries. The regional cumulation provisions under Regulation (EEC) No 2454/93 were amended by Implementing Regulation (EU) No 530/2013, which clarified that regional cumulation can only apply in the same regional group to countries which, at the time of exportation to the Union, are beneficiaries of the GSP. These amendments by Implementing Regulation (EU) No 530/2013 apply from 1 January 2014.

(3) On 15 May 2013, Cambodia submitted a request for a transition period according to which the Cambodian bicycle industry would continue to be entitled, for the purpose of determining the origin of bicycles of HS heading 8712 Cambodia exports to the Union, to consider parts originating in Malaysia and Singapore as materials originating in Cambodia by virtue of regional cumulation under the GSP scheme as of 1 January 2014, the date the amended regional cumulation provisions apply.

(4) Cambodia has a growing bicycle industry, but the industry remains weak and has been relying heavily on the supply of parts originating in neighbouring countries that used

to be GSP beneficiary countries and belonged to the same regional cumulation group, in particular Singapore and Malaysia.

(5) By letter of 9 August 2013 the Commission requested Cambodia to submit further information. On 26 September 2013 Cambodia transmitted its answer to that request, as a result of which its application was considered as complete.

(6) As of 1 January 2014, Singapore is no longer a GSP eligible nor GSP beneficiary country and thus the possibility of cumulation with the other countries of the regional cumulation Group I ceases to exist. As of 1 January 2014, Malaysia is no longer a GSP beneficiary country but remains on the list of GSP eligible countries.

(7) As a consequence, from 1 January 2014, bicycle parts originating in Singapore and Malaysia cannot be considered as originating in Cambodia under regional cumulation, which prevents Cambodia from meeting the rule of origin applicable to least-developed countries for this product (HS heading 8712). Indeed, even though that rule allows for the use of up to 70 % of non-originating materials, the share of non-originating materials in certain bicycles assembled in Cambodia would exceed that limit.

(8) Cambodia has presented in its submission to the Commission plans for encouraging bicycle part manufacturers to invest in the country over the next three years with a view to adapting its industry towards a greater independence in its supplies and the building-up of a local industry supplying originating materials for the manufacture of bicycles. Meanwhile, according to Cambodia, in order for the industry to remain viable in the short term, Cambodian manufacturers still need to rely on using bicycle parts under the rules on regional cumulation, for the purposes of exports to the Union under the GSP scheme.

(9) Therefore, Cambodia requests a three-year derogation to give it sufficient time to prepare itself to comply with the rules for the acquisition of origin.

(10) In the light of the explanations given by Cambodia, to allow it to genuinely consolidate a bicycle parts industry it is considered that an unlimited derogation is not necessary for Cambodia. A limitation of the quantities of bicycles originating in and exported from Cambodia under this derogation should thus be provided for, in the form of a quota whose quantities should decrease over the three years during which that derogation will be applicable. The quantities have been established on the basis of the models of bicycles for which the country needs the derogation for meeting the abovementioned 70 % threshold and should be managed in accordance with Regulation (EEC) No 2454/93.

(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 Cambodia to communicate regularly to the Commission details of the certificates of origin Form A which have been issued within the framework of the derogation.

(12) The derogation should concern products of HS heading 8714 originating in Malaysia.

(13) 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 By way of derogation from point (i) of Article 86(2)(a) of Regulation (EEC) No 2454/93, Cambodia shall be entitled to use parts of bicycles of HS heading 8714 originating in Malaysia in accordance with the rules of origin in Part I, title IV, Chapter 2, Section 1 of Regulation (EEC) No 2454/93, under cumulation of origin for the production of bicycles of HS heading 8712.

2 The proofs of origin for these parts shall be drawn up in the same way as provided for in Part I, title IV, Chapter 2, Section 1A of Regulation (EEC) No 2454/93.

Article 2

The derogation provided for in Article 1 shall apply to bicycles of HS heading 8712 exported from Cambodia and declared for release for free circulation in the Union during the period from 29 July 2014 until 31 December 2016, up to the quantities listed in the Annex.

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

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

Derogation — Commission Implementing Regulation (EU) No 822/2014.

The competent authorities of Cambodia 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

The competent authorities of Cambodia shall undertake to take all the necessary measures to ensure compliance with Articles 1 and 4 of this Regulation and to put in place and maintain any administrative structures and systems to ensure the correct implementation of this derogation and administrative cooperation, both with Malaysian authorities and Member States, as specified in Part I, title IV, Chapter 2, Section 1A of Regulation (EEC) No 2454/93.

Article 6

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

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