Commission Regulation (EC) No 1245/2008 of 12 December 2008 amending Regulation (EC) No 1615/2000 derogating from Regulation (EEC) No 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences to take account of the special situation of Nepal regarding certain exports of textiles to the Community

COMMISSION REGULATION (EC) No 1245/2008

of 12 December 2008

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 76 thereof,

Whereas:

(1) By Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences[(3)], the Community granted generalised tariff preferences to Nepal. Regulation (EC) No 980/2005 is due to lapse on 31 December 2008 but will be replaced as of 1 January 2009 by Council Regulation (EC) No 732/2008[(4)], which confirms the granting by the Community of the said tariff preferences to Nepal.

(2) Regulation (EEC) No 2454/93 establishes the definition of the concept of originating products to be used for the purposes of the scheme of generalised tariff preferences. Regulation (EEC) No 2454/93 also provides for a derogation from that definition in favour of least-developed beneficiary countries benefiting from the generalised system of preferences (GSP) which submit an appropriate request to that effect to the Community.

(3) Nepal has benefited from such a derogation for certain textile products under Commission Regulation (EC) No 1615/2000[(5)], which has been prolonged several times, and is due to expire on 31 December 2008.

(4) By letters dated 9 July and 3 October 2008 Nepal submitted a request for prolongation of the derogation in accordance with Article 76 of Regulation (EEC) No 2454/93.

(5) When the validity of Regulation (EC) No 1615/2000 was last extended, by virtue of Commission Regulation (EC) No 1808/2006[(6)], it was expected that new, simpler and

more development-friendly GSP rules of origin would be applicable before expiry of the derogation. However new GSP rules of origin have not yet been adopted and it is now expected that such rules of origin will not be in place before the end of 2009.

(6) The request demonstrates that the application of the rules of origin on sufficient working or processing and regional cumulation would affect significantly the ability of the Nepalese garment industry to continue its exports to the Community and deter investment. This would lead to further business closures and unemployment in that country. Furthermore, it seems that application of the GSP rules of origin currently applicable for even a short period would be liable to have the effect described.

(7) The period of prolongation of the derogation should cover the time necessary to adopt and implement new GSP rules of origin. Since the conclusion of longer-term contracts benefiting from the derogation is of particular importance to the stability and growth of Nepalese industry, the prolongation granted should be sufficiently long to permit the economic operators to conclude such contracts.

(8) As a consequence of the application of the future new rules of origin, the Nepalese products which are currently eligible for preferential tariff treatment only through application of the derogation should in future be able to qualify through application of the new rules of origin. The derogation will at that moment become superfluous. In order to ensure clarity for operators, it will therefore be necessary to repeal Regulation (EC) No 1615/2000 with effect from the date on which the new rules of origin apply.

(9) The derogation should therefore be prolonged until the date of application of the new rules of origin to be laid down in Regulation (EEC) No 2454/93, but in any event it should cease to apply on 31 December 2010.

(10) Regulation (EC) No 1615/2000 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EC) No 1615/2000 is replaced by the following text:

Article 2

The derogation provided for in Article 1 shall apply to products transported directly from Nepal and imported into the Community up to the annual quantities listed in the Annex against each product during the period from 15 July 2000 until the date of application of an amendment to Regulation (EEC) No 2454/93 in respect of the definition of the concept of originating products used for the purposes of the scheme of generalised preferences, but in any event that derogation shall cease to apply on 31 December 2010.

Article 2

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

It shall apply from 1 January 2009.