

Brussels, 2 May 2012

Taxud.a.5(2012)635959

To the tariff quota managers in the Member States

Subject: **Entry into force of the extension of the Autonomous Trade Measures (ATMs) for the Western Balkans – Tariff quota 09.1515 (year 2011)**

References: Our previous communication Taxud.a.5(2012)103092 of 26.01.2012 and Taxud.a.5(2012)424614 of 30.03.2012.

Dear colleagues,

To follow up on our previous communications mentioned above, we would like to inform you that the Legal Service of the Commission has finalized its analysis regarding the retroactive application of Regulation (EU) No 1336/2011 of the European Parliament and of the Council amending Council Regulation (EC) No 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process ('Regulation (EU) No 1336/2011'). The Legal Service has come to the following conclusion:

- 1) The retroactive effect of Regulation (EU) No 1336/2011 could be considered as an exceptional circumstance that amounts to a "special circumstance" according to Article 113(1)(a) of the Customs Code Implementing Provisions ('CCIP').
- 2) Therefore, operators may ask the authorities of the Western Balkans for the retrospective issuance of EUR.1 certificates in accordance with Article 113 of the CCIP..
- 3) If the authorities of the Western Balkan countries continued to issue EUR.1 certificates between 1 January 2011 and 29 December 2011 or if any operator made out an invoice declaration for goods exported during this period in accordance with Article 116 CCIP, customs authorities of the Member States have to also accept retroactively these proofs of origin in the course of the procedure for remittal or reimbursement under Article 236 of the Community Customs Code.

Before proceeding with the quota allocations, the national Customs Administrations would be required to confirm that all pending drawing requests received so far meet the conditions mentioned above.

Best regards,

Patrick Wallez