

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2019/620

of 17 April 2019

granting Cape Verde a temporary derogation from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved mackerel fillets and prepared or preserved frigate tuna or frigate mackerel fillets

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Articles 64(6) and 66(b) thereof,

Whereas:

- (1) Cape Verde is a country benefiting from the generalised system of preferences referred to in Regulation (EU) No 978/2012 of the European Parliament and of the Council ⁽²⁾ as the GSP. By Commission Implementing Regulation (EU) No 439/2011 ⁽³⁾ Cape Verde was granted a derogation from Commission Regulation (EEC) No 2454/93 ⁽⁴⁾ in respect of the definition of the concept of originating products used for the purposes of the GSP. The derogation concerned annual volumes of 2 500 tonnes of prepared or preserved mackerel fillets and 875 tonnes of prepared or preserved frigate tuna or frigate mackerel fillets. Under the derogation and within those quantities, these products were considered as originating in Cape Verde even if, despite being produced in Cape Verde, they were produced from non-originating fish. Having been prolonged three times, the derogation expired on 31 December 2018 ⁽⁵⁾.
- (2) By letter dated 22 October 2018, Cape Verde submitted a request for a prolongation of that derogation, for the same annual volumes, for a period pending entry into force of the new Economic Partnership Agreement ('EPA') between the Union and West Africa initialled on 30 June 2014. By virtue of its cumulation rules, the EPA will allow the fish processing industry of Cape Verde to comply with the rules on preferential origin by using fish originating in the other West African States.
- (3) From 2008, the total annual quantities that were granted to Cape Verde under the derogation have contributed, to a significant extent, to improving the situation in the Cape Verdean fishery processing sector. Those quantities have also led, to a certain extent, to the revitalisation of Cape Verde's fleet of small fishing vessels, which is of vital importance to the country.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) No 439/2011 of 6 May 2011 on a derogation 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 tariff preferences to take account of the special situation of Cape Verde regarding exports of certain fisheries products to the European Union (OJ L 119, 7.5.2011, p. 1).

⁽⁴⁾ 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 (OJ L 253, 11.10.1993, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) 2017/968 of 8 June 2017 granting Cape Verde a temporary derogation from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved mackerel fillets and prepared or preserved frigate tuna or frigate mackerel fillets (OJ L 146, 9.6.2017, p. 13).

- (4) The arguments in the request demonstrate that, without the derogation, the ability of the Cape Verdean fish processing industry to continue exporting to the Union under the GSP would be significantly affected, which might deter further development of the Cape Verdean fleet of small vessels for pelagic fishing.
- (5) Additional time is needed to consolidate the results already obtained by Cape Verde in its efforts to revitalise its local fishing fleet. The derogation should give Cape Verde sufficient time to prepare itself to comply with the rules for the acquisition of preferential origin.
- (6) Having regard to the temporary nature of derogations granted in respect of the definition of the concept of originating products, the derogation should be granted for a period of two years, or pending entry into force of the EPA between the Union and West Africa, in respect of yearly quantities of 2 500 tonnes for prepared or preserved mackerel fillets and 875 tonnes for prepared or preserved frigate tuna or frigate mackerel fillets. The derogation should, however, end on the day immediately preceding the date of the entry into force of the EPA with West Africa, if that occurs before 31 December 2020.
- (7) The quantities set out in the Annex to this Regulation should be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447 ⁽⁶⁾, which govern the management of tariff quotas.
- (8) The derogation should be granted on the condition that the customs authorities of Cape Verde take the necessary steps to carry out quantitative checks on exports of the products subject to derogation, and that they forward to the Commission a 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. Should the Registered Exporter (REX) system, according to Article 79 of Implementing Regulation (EU) 2015/2447, enter into application in Cape Verde during the year 2019, the same rule should also be applicable to statements on origin made out by registered exporters.
- (9) The measures provided for in this Regulation should enter into force on the day after its publication in order to take into account the situation of Cape Verde and to allow this country to use the derogation without any further delay.
- (10) 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 41(b) and 45 of Commission Delegated Regulation (EU) 2015/2446 ⁽⁷⁾, prepared or preserved mackerel fillets and prepared or preserved frigate tuna or frigate mackerel fillets of CN code 1604 15 11, ex 1604 19 97 and 1604 20 90 produced in Cape Verde from non-originating fish shall be regarded as originating in Cape Verde in accordance with Articles 2, 3 and 4 of this Regulation.

Article 2

1. The derogation shall apply to products which have been both exported from Cape Verde and declared for release for free circulation in the Union during the period from 1 January 2019 until:
 - (a) 31 December 2020; or
 - (b) if the Economic Partnership Agreement between the Union and West Africa initialled on 30 June 2014 ('EPA') enters into force on or before 31 December 2020, then the day immediately preceding the date of entry into force of the EPA.
2. The derogation shall apply to products up to the annual quantity listed in the Annex.
3. Application of the derogation is subject to compliance with the conditions laid down in Article 43 of Delegated Regulation (EU) 2015/2446.

⁽⁶⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union customs Code (OJ L 343, 29.12.2015, p. 558).

⁽⁷⁾ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

Article 3

The quantities set out in the Annex to this Regulation shall be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447, which govern the management of tariff quotas.

Article 4

The derogation is granted on the following conditions:

1. The customs authorities of Cape Verde shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 1.
2. The following mention shall be entered in box 4 of certificate of origin Form A issued by the competent authorities of Cape Verde pursuant to this Regulation: 'Derogation — Commission Implementing Regulation (EU) xxx/2019'. In case of application of the Registered Exporter (REX) system to Cape Verde in 2019, that mention shall be entered on the statements on origin made out by the registered exporters.
3. Every quarter, the competent authorities of Cape Verde shall forward to the Commission a statement of the quantities in respect of which certificates of origin and/or statements on origin have been issued or made out pursuant to this Regulation and the serial numbers of those proofs.

Article 5

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

It shall apply from 1 January 2019.

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

Done at Brussels, 17 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Order No	CN code		Description of goods	Periods	Annual quantity (in tonnes net weight)
09.1647	1604 15 11 ex 1604 19 97		Prepared or preserved fillets of mackerel (<i>Scomber scombrus</i> , <i>Scomber japonicus</i> , <i>Scomber colias</i>)	1.1.2019 to the date determined in accordance with Article 2(1)	2 500 tonnes
09.1648	ex 1604 19 97 1604 20 90		Prepared or preserved fillets of frigate tuna or frigate mackerel (<i>Auxis thazard</i> , <i>Auxis rochei</i>)	1.1.2019 to the date determined in accordance with Article 2(1)	875 tonnes