



2024/1288

7.5.2024

**COMMISSION IMPLEMENTING REGULATION (EU) 2024/1288**

**of 6 May 2024**

**granting Cabo Verde a temporary derogation from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved fillets of tuna and tuna loins (raw, cooked and frozen), 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 <sup>(1)</sup>, and in particular Article 64(6) and Article 66, point (b), thereof,

Whereas:

- (1) Cabo Verde is a country benefiting from the special incentive arrangement for sustainable development and good governance provided under Article 1(2), point (b), of Regulation (EU) No 978/2012 of the European Parliament and of the Council <sup>(2)</sup>, referred to as the Generalised System of Preferences (GSP+). The rules on preferential origin for the purposes of the GSP, other than procedural rules, are laid down in Commission Delegated Regulation (EU) 2015/2446 <sup>(3)</sup>.
- (2) By letter dated 14 July 2023, Cabo Verde submitted a request for a prolongation of the temporary derogations from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, which had been granted by Commission Implementing Regulations (EU) 2019/561 <sup>(4)</sup>, (EU) 2019/620 <sup>(5)</sup> and (EU) 2021/966 <sup>(6)</sup>. The request concerned an annual volume of 5 000 tonnes of prepared or preserved fillets of tuna and tuna loins (raw, cooked and frozen), 3 000 tonnes of prepared or preserved mackerel fillets and 1 000 tonnes of prepared or preserved frigate tuna or frigate mackerel fillets. Under the requested derogation, those products would be considered as originating in Cabo Verde even if they were produced from non-originating fish.
- (3) Cabo Verde supported its request for a prolongation of those derogations by relying on the arguments put forward in previous requests, which are still relevant, namely low quantities of tuna and mackerel caught in its territorial waters, scarce fishing opportunities outside its territorial waters and a limited duration of the fishing season, which reduces the opportunities to catch originating fish. Another important element is that Cabo Verde has developed its port

<sup>(1)</sup> OJ L 269, 10.10.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/952/oj>.

<sup>(2)</sup> 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, ELI: <http://data.europa.eu/eli/reg/2012/978/oj>).

<sup>(3)</sup> 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, ELI: [http://data.europa.eu/eli/reg\\_del/2015/2446/oj](http://data.europa.eu/eli/reg_del/2015/2446/oj)).

<sup>(4)</sup> Commission Implementing Regulation (EU) 2019/561 of 8 April 2019 granting Cape Verde a temporary derogation from the rules on preferential origin laid down in Commission Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved fillets of tuna (OJ L 98, 9.4.2019, p. 13, ELI: [http://data.europa.eu/eli/reg\\_impl/2019/561/oj](http://data.europa.eu/eli/reg_impl/2019/561/oj)).

<sup>(5)</sup> 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 Commission 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 108, 23.4.2019, p. 1, ELI: [http://data.europa.eu/eli/reg\\_impl/2019/620/oj](http://data.europa.eu/eli/reg_impl/2019/620/oj)).

<sup>(6)</sup> Commission Implementing Regulation (EU) 2021/966 of 11 June 2021 granting Cabo Verde a temporary derogation from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved tuna fillets, prepared or preserved mackerel fillets and prepared or preserved frigate tuna or frigate mackerel fillets (OJ L 214, 17.6.2021, p. 34, ELI: [http://data.europa.eu/eli/reg\\_impl/2021/966/oj](http://data.europa.eu/eli/reg_impl/2021/966/oj)).

infrastructure. As a result, larger quantities of fish can be handled and the fishing industry therefore has the opportunity to grow now. Unfortunately, Cabo Verde does not have industrial fleet that would be able to serve the its fishing industry, nor is it making sufficient investments in the fleet. The current limited catching capacities of originating fish would not allow the fishing industry to produce up to its maximum capacity. Lastly, the request emphasised the difficulties that Cabo Verde faces as a result of delays in the entry into force of the Economic Partnership Agreement between the European Union and West Africa. Cabo Verde develops an argumentation to emphasize its need for a derogation from the GSP rules on preferential origin in order to compensate for the fact that it is not yet possible to rely on the origin quotas or cumulation rules under the Economic Partnership Agreement which is not yet provisionnally applied.

- (4) The derogation provided for in Article 64(6) of Regulation (EU) No 952/2013 (the 'Union Customs Code'), is of temporary nature and subject to improved compliance with the rules concerning the origin of the products concerned and with the requirement regarding the administrative cooperation. In order to be able to manage such a derogation from the rules on preferential origin, the requesting country should comply with requirements with respect to the information on the use of the derogation and the management of the quantities for which the derogation is granted
- (5) However, the monitoring actions performed by the Commission over the past few years regarding Cabo Verde's compliance with the rules on preferential origin, related procedures and the administrative cooperation with the Union have revealed certain shortcomings, in particular with the requirement regarding its administrative cooperation with the customs authorities of the Member States in the verification of proofs of origin in the fishing sector.
- (6) It is the duty of the European Commission to take care that granting temporary derogations will nevertheless lead Cabo Verde to fulfil the conditions for complying with the verification of proofs of origin and remedy the shortcomings in the administrative cooperation. A derogation is not the most justified instrument to provide a long-term solution to the structural problems of Cabo Verde's fishing industry.
- (7) Due to its recurrent economic difficulties and the absence of alternative solutions, Cabo Verde should nevertheless be granted, on strict conditions, a temporary derogation from the requirement under the rules on preferential origin that the products are considered as originating in the beneficiary country only where incorporating materials are wholly obtained in that country. According to the volumes fully used during the previous derogation of 2020-2023, the derogation should be granted for an annual volume of 3 000 tonnes of prepared or preserved fillets of tuna and tuna loins (raw, cooked and frozen), 2 700 tonnes of prepared or preserved mackerel fillets and 600 tonnes of prepared or preserved frigate tuna or frigate mackerel fillets. The duration of the derogation should be limited to a period of two years, which would enable Cabo Verde to endeavour to complete necessary structural adjustments in the fishery sector to comply with the rules of origin for the products concerned. However, the derogation should be granted on the condition that the customs authorities of Cabo Verde take the necessary steps to carry out quantitative checks on exports of the products subject to derogation and that they communicate to the Commission a statement of the quantities in respect of which statements on origin have been issued pursuant to this Regulation and the serial numbers of those statements.
- (8) Moreover, Cabo Verde should benefit from a derogation from the rules of origin for tuna and mackerel on the condition that it reports regularly to the competent services of the Commission on the measures it has taken to ensure compliance with the rules of origin for the products concerned and with the related procedures and that it provides administrative cooperation as required for the implementation of the preferential arrangements under the GSP referred to in Article 1(2) of Regulation (EU) No 978/2012 (GSP Regulation). Those reports should be submitted following a precise time schedule. Any delays in meeting the set deadline should lead to the suspension of the derogation to be notified to the competent authorities of Cabo Verde following a reminder and an invitation to submit the reports within ten working days. The elements to be included in those reports should be listed in an Annex to this Regulation. Application of the derogation is subject to the compliance with the conditions laid down in Article 43 of Delegated Regulation (EU) 2015/2446.

- (9) The quantities set out in the Annexes to this Regulation should be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447 <sup>(7)</sup> which govern the management of tariff quotas.
- (10) The measures provided for in this Regulation should enter into force on the day following that of its publication and be applied retroactively as from 1 January 2024, in order to take into account the difficult situation of Cabo Verde and to allow that country to apply the derogation since that date.
- (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*

By way of derogation from Articles 41, point (b), and Article 45 of Delegated Regulation (EU) 2015/2446, products referred to in Annexes I and II produced in Cabo Verde from non-originating fish shall be regarded as originating in Cabo Verde in accordance with Articles 2, 3 and 4 of this Regulation.

#### *Article 2*

1. The derogation shall apply to products which have been exported from Cabo Verde and declared for release for free circulation in the Union during the period from 1 January 2024 until 31 December 2025.
2. The derogation shall apply to products up to the annual quantity listed in Annex I (tuna) and Annex II (mackerel and frigate mackerel) to this Regulation.
3. Application of the derogation is subject to the compliance with the conditions laid down in Article 43 of Delegated Regulation (EU) 2015/2446.

#### *Article 3*

The quantities set out in Annexes I and II to this Regulation shall be managed in accordance with Articles 49 to 54 of 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 Cabo 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 on the statements on origin made out by the registered exporters: 'Derogation – Commission Implementing Regulation (EU) 2024/1288'.

<sup>(7)</sup> 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, ELI: [http://data.europa.eu/eli/reg\\_impl/2015/2447/oj](http://data.europa.eu/eli/reg_impl/2015/2447/oj)).

- (3) The competent authorities of Cabo Verde shall communicate to the Commission a statement of the quantities in respect of which statements on origin have been made out pursuant to Article 92 of Implementing Regulation (EU) 2015/2447 and the copies of those proofs. Those reports shall be communicated to the Commission for three periods, namely 6 months, 12 months and 20 months after the entry into force of this Regulation and within two months after the end of each period.

Therefore, the first report shall be communicated between 1 July and 1 September 2024. The second report shall be communicated between 1 January and 1 March 2025. The third report shall be communicated between 1 August and 1 October 2025. The remaining period of 1 August–31 December 2025 shall be subject to an additional report to be sent within two months after the end of the application period set out in Article 2(1).

- (4) The competent authorities of Cabo Verde shall communicate to the Commission, at the same time as the reports referred to in paragraph 3, a report containing detailed information on the measures taken by them in order to:
- (a) ensure compliance with the rules concerning the origin of the products concerned for the purposes of GSP and with the related procedures,
  - (b) provide administrative cooperation as required for the implementation of the preferential arrangement under the GSP regulation.

The required information to be reported by the competent authorities of Cabo Verde is listed in Annex III.

#### Article 5

If the competent authorities fail to fulfil their reporting obligations laid down in Article 4(3) and (4), within the time-limits set therein, the Commission shall send a reminder to the competent authorities of Cabo Verde, requesting them to submit the required information within 10 working days. If the competent authorities do not respond to that request within the set deadline, the Commission may suspend the derogation provided for in this Regulation. Any such suspension shall not prolong the time period provided for in this Regulation and its Annex I and Annex II. That suspension shall be notified to the competent authorities of Cabo Verde and published in the *Official Journal of the European Union*, C series.

#### Article 6

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 2024.

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

Done at Brussels, 6 May 2024.

For the Commission  
The President  
Ursula VON DER LEYEN

## ANNEX I

Order No	CN code	TARIC code	Description of goods	Periods	Annual quantity (in tonnes net weight)	
09.1602	1604 14 21 00	10	Prepared or preserved fillets and loins of skipjack ( <i>Katsuwonus pelamis</i> )	1.1.2024 to 31.12.2024	3 000	
	1604 14 26 90			1.1.2025 to 31.12.2025		
	1604 14 28 00		Prepared or preserved fillets and loins of yellowfin tuna ( <i>Thunnus albacares</i> )		3 000	
	1604 20 70 50					
	1604 20 70 55					
	1604 14 31 90					
	1604 14 36 90					
	1604 14 38 00					
	1604 20 70 99					
	0304 87 00 90					Prepared or preserved fillets and loins of bigeye tuna ( <i>Thunnus obesus</i> )
	1604 14 41 20					
	1604 14 46 29					Prepared white tuna ( <i>Thunnus alalunga</i> )
	1604 14 48 20					
	1604 20 70 45					
	0304 87 00 20					
	1604 14 41 30					
1604 14 48 30						

## ANNEX II

Order No	CN code	Taric code	Description of goods	Periods	Annual quantity (in tonnes net weight)
09.1647	1604 15 11 00	10	Prepared or preserved fillets of mackerel ( <i>Scomber scombrus</i> , <i>Scomber japonicus</i> , <i>Scomber colias</i> )	1.1.2024 to 31.12.2024	2 700
	ex 1604 19 97			1.1.2025 to 31.12.2025	2 700
09.1648	ex 1604 19 97	10	Prepared or preserved fillets of frigate tuna or frigate mackerel ( <i>Auxis thazard</i> , <i>Auxis rochei</i> )	1.1.2024 to 31.12.2024	600
	1604 20 90 00			1.1.2025 to 31.12.2025	600

## ANNEX III

**Measures to be reported by the competent authorities of Cabo Verde pursuant to Article 4(4)**

The report referred to in Article 4(4) shall contain a detailed description of the measures taken by the competent authorities of Cabo Verde to ensure that:

- (a) verifications of the originating status of products at the request of the customs authorities of the Member States are carried out for each and every request within the deadlines laid down in Articles 108 and 109 of Implementing Regulation (EU) 2015/2447;
- (b) verifications of the originating status of products of sea fishing and other products taken from the sea as referred to in Article 44(1), point (h), of Delegated Regulation (EU) 2015/2446 include a check on the place of catch and, where taken from outside the territorial sea as referred to in Article 44(1), point (h) of that Regulation, a check on the vessel ownership conditions;
- (c) controls as referred to in Article 108(1), point (b), of Implementing Regulation (EU) 2015/2447 are carried out on exporters at intervals determined on the basis of appropriate risk analysis criteria in accordance with Article 108(2) of that Regulation;
- (d) exporters and government officials in Cabo Verde are properly informed about the rules on preferential origin for the purposes of the GSP and the related procedures through adequate instructions, trainings, seminars and/or web-based information.

The report shall, as regards the measures referred to in point (a), for each origin verification request received from the customs authorities of the Member States contain the following information:

- the reference and date of the origin verification request;
- the Member State having sent the request ('the requesting Member State');
- the date the request was received by the competent authorities of Cabo Verde;
- the products concerned (HS code and description of the products);
- the date the reply was sent to the requesting Member State;
- the reasons for any delay in replying to the request, as appropriate;
- the assessment of the request by the competent authorities of Cabo Verde (i.e. whether the origin declared in the statement on origin was confirmed or not).

The report shall, as regards the measures referred to in point (c), contain the following information:

- the number of controls performed;
- the risk analysis criteria used by the competent authorities to assess the risks and to determine the intervals between regular controls on exporters;
- the methodology followed during the controls;
- whether the competent authorities have required exporters to provide copies or a list of the statements on origin they have made out, in accordance with Article 108(2) of Implementing Regulation (EU) 2015/2447, with a view to carry out regular controls on exporters, in accordance with Article 108(1), point (b) of that Regulation;

- whether the controls have shown that exporters in Cabo Verde have a good understanding of the applicable procedures and rules on preferential origin for the purposes of the GSP;
- whether corrective measures were taken and/or penalties were applied in cases where the exporter made out an incorrect statement on origin.

The report shall, as regards the measures referred to in point (d), include the instructions, documents and training materials used to inform exporters and government officials in Cabo Verde on the rules on preferential origin for the purposes of the GSP and the related procedures.

The report as referred to in Article 4(4) shall update the information provided in the preceding reports.

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