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 Delegated Regulation (EU) 2015/2446, in respect of prepared or preserved fillets of tuna

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. 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 ([3]).

(2) By letter dated 22 October 2018, Cape Verde submitted a request for a prolongation of the temporary derogation from the rules on preferential origin laid down in Delegated Regulation (EU) 2015/2446, which had been granted by Commission Implementing Regulation (EU) 2017/967 ([4]). The request was for an annual volume of 5 000 tonnes of prepared or preserved tuna 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. Under the derogation requested these products would be considered as originating in Cape Verde even if, despite being produced in Cape Verde, they were produced from non-originating fish.

(3) In its request for a derogation, Cape Verde explained that the quantities of tuna that its fleet currently captures in its own waters is small and, in the absence of a derogation, the fleet available for fishing beyond its territorial waters is limited. Moreover, the tuna-fishing season is confined to four months of the year. This reduces the opportunities to catch originating tuna. Another important element is that Cape Verde has recently developed its port infrastructure. As a result, larger quantities of tuna can now be handled and the tuna-fishing industry therefore has the opportunity to grow now. Lastly, the request emphasised the difficulties that Cape Verde faces as a result of delays in the entry into force of the EPA between the Union and West Africa. It also emphasised Cape Verde's need for a derogation from the rules on preferential origin in order to compensate for the fact that it is not yet possible to rely on the cumulation rules under the EPA, given that the legal situation of this Agreement has not evolved.

(4) The arguments in the request demonstrate that, without the derogation, the ability of the Cape Verdean fish processing industry to export the products in question to the Union under the GSP would be significantly affected. This might deter further development of the Cape Verdean fleet for small pelagic fishing and hinder future compliance by Cape Verde with the rules of origin applicable to these products.

(5) Cape Verde should therefore be granted a temporary derogation from the requirement under the rules on preferential origin that products incorporating materials which have not been wholly obtained in the beneficiary country must have undergone sufficient working or processing in order to be considered as originating in that country. The derogation should be for an annual volume of 5 000 tonnes of prepared or preserved tuna. The duration of the derogation should be limited to a period of one year in order to assess the capacity and efforts of Cape Verde to prepare itself to comply with the rules of origin for the products concerned. If, however, the EPA enters into force before the end of that one-year period, the derogation should expire on the day immediately preceding the date on which the EPA enters into force.

([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 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).
([4]) Commission Implementing Regulation (EU) 2017/967 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 fillets of tuna (OJ L 146, 9.6.2017, p. 10).

(6) 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 ([1]) which govern the management of tariff quotas.

(7) 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.

(8) The measures provided for in this Regulation should enter into force as soon as possible 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.

(9) 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 Delegated Regulation (EU) 2015/2446, prepared or preserved tuna of CN code 1604 14, 1604 20 and 0304 87 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 2019 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 2019, 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.

Article 3

The quantities set out in the Annex 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 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) 2019/561'. 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.

([1]) 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).

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, 8 April 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Order No	CN code	TARIC code	Description of goods	Periods	Annual quantity (in tonnes net weight)
09.1602	1604 14 21 00 1604 14 26 90 1604 14 28 00 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 1604 14 41 20 1604 14 46 29 1604 14 48 20 1604 20 70 45 0304 87 00 20 1604 14 41 30 1604 14 48 30	10	Prepared or preserved fillets and loins of skipjack (*Katsuwonus pelamis*) Prepared or preserved fillets and loins of yellowfin tuna (*Thunnus albacares*) Prepared or preserved fillets and loins of bigeye tuna (*Thunnus obesus*) Prepared white tuna (*Thunnus alalunga*)	1.1.2019 to the date determined in accordance with Article 2(1)	5 000 tonnes