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

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

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 twice, the derogation then expired on 31 December 2016.

(2) By letter dated 27 September 2016, Cape Verde submitted a request for a prolongation of that derogation, for the same annual volumes, for a period of two years from 1 January 2017 until 31 December 2018, 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, this new agreement 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.

(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 starting on 1 January 2017, 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 it occurs before 31 December 2018.

(7) 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[(5)] 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.

(9) The measures provided for in this Regulation should enter into force as soon 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. For the same reason, this Regulation should apply retroactively as from 1 January 2017.

(10) Implementing Regulation (EU) No 439/2011 expired on 31 December 2016 and was based on Article 89 of Regulation (EEC) No 2454/93 laying down the implementing provisions of the Community Customs Code, which has been repealed on 1 May 2016. It is appropriate prolonging the derogation through a new implementing act adopted in accordance with Article 64(6) of the Union Customs Code.

(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(b) and 45 of Commission Delegated Regulation (EU) 2015/2446[(6)], prepared or preserved mackerel fillets and prepared or preserved frigate tuna or frigate mackerel fillets of CN code 1604 15 11 and ex 1604 19 97 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 2017 until:

a 31 December 2018 or

b if the Economic Partnership Agreement between the Union and West Africa initialled on 30 March 2014 ('EPA') enters into force on or before 31 December 2018, 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 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 — Implementing Regulation (EU) 2017/968'.

(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 Form A have been issued pursuant to this Regulation and the serial numbers of those certificates.

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 as from 1 January 2017.

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

Done at Brussels, 8 June 2017.

For the Commission

The President

Jean-Claude JUNCKER