Commission Implementing Regulation (EU) No 1338/2014 of 16 December 2014 amending Implementing Regulation (EU) No 439/2011 as regards a prolongation of 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

COMMISSION IMPLEMENTING REGULATION (EU) No 1338/2014

of 16 December 2014

amending Implementing Regulation (EU) No 439/2011 as regards a prolongation of 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

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(1)], and in particular Article 247 thereof,

Having regard to 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[(2)], and in particular Article 89(1)(b) thereof,

Whereas:

(1) By Commission Regulation (EC) No 815/2008[(3)] Cape Verde was granted a derogation from the rules of origin laid down in Regulation (EEC) No 2454/93. By Implementing Regulation (EU) No 439/2011[(4)] the Commission granted Cape Verde a new derogation from those rules of origin. The latest derogation expires on 31 December 2014.

(2) By letter dated 4 June 2014, Cape Verde submitted a request for a prolongation of that derogation for an indefinite period of time from 1 January 2015 until either the expiry of the Protocol (to be published) between the European Union and the Republic of Cape Verde setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force, or the application date for the rules of origin under a future Economic Partnership Agreement between the Union and the Economic Community of West African States, whichever occurs later. The request concerns an annual volume of 2 500 tonnes for prepared or preserved mackerel fillets and 875 tonnes for prepared or preserved frigate tuna or frigate mackerel fillets.

(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 also led, to a certain extent,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1338/2014. (See end of Document for details)*

to the revitalisation of Cape Verde's artisanal fleet, which is of vital importance for the country. However, fully revitalising the Cape Verdean fleet to the degree envisaged requires that Cape Verde's fish processing industries continue to be provided with enough originating raw materials.

(4) The request demonstrates that, without the derogation, the ability of the Cape Verdean fish processing industry to continue exporting to the Union would be significantly affected, which might deter further development of the Cape Verdean fleet for small 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,, it is not possible to grant the derogation for an indefinite period as requested by Cape Verde. Instead, the derogation should be granted for a period of two years, 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, to allow Cape Verde to achieve compliance with the rules.

(7) Implementing Regulation (EU) No 439/2011 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 439/2011 is amended as follows:

(1) Article 2 is replaced by the following:

Article 2

The derogation provided for in Article 1 shall apply to products exported from Cape Verde and declared for release for free circulation in the Union, during the periods from 1 January 2011 until 31 December 2011, 1 January 2012 until 31 December 2012, 1 January 2013 until 31 December 2013, 1 January 2014 until 31 December 2014, 1 January 2015 until 31 December 2015 and 1 January 2016 until 31 December 2016, up to the quantities listed in the Annex, where the conditions specified in Article 74 of Regulation (EEC) No 2454/93 are satisfied.;

(2) the Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

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

2 It shall apply from 1 January 2015.

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

Done at Brussels, 16 December 2014.

For the Commission

The President

Jean-Claude JUNCKER