Commission Regulation (EC) No 815/2008 of 14 August 2008 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 preferences to take account of the special situation of Cape Verde regarding exports of certain fisheries products to the Community

COMMISSION REGULATION (EC) No 815/2008

of 14 August 2008

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 76 thereof,

Whereas:

(1) By Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences[(3)], the Community granted generalised tariff preferences to Cape Verde.

(2) Regulation (EEC) No 2454/93 establishes the definition of the concept of originating products to be used for the purposes of the scheme of generalised tariff preferences (GSP). Article 76 of that Regulation provides for derogations from that definition in favour of least-developed beneficiary countries benefiting from the GSP which submit an appropriate request to that effect to the Community.

(3) From 1 March 2005 Cape Verde benefited from Decision No 2/2005 of the ACP-EC Customs Cooperation Committee of 1 March 2005 derogating from the concept of 'originating products' to take account of the special situation of the ACP States regarding the production of preserved tuna and of tuna loins (HS heading ex 1604)[(4)].

(4) However, these arrangements ceased to apply after 31 December 2007 and Cape Verde has not yet concluded an Economic Partnership Agreement with the Community. Consequently, the only preferential trade arrangement available to Cape Verde since 1 January 2008 is the GSP.

(5) By letter dated 27 November 2007 Cape Verde submitted a request for a derogation from GSP rules of origin in accordance with Article 76 of Regulation (EEC) No 2454/93.

Changes to legislation: *Commission Regulation (EC) No 815/2008 is up to date with all changes known to be in force on or before 08 April 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

By letter dated 27 February 2008, it submitted complementary information in support of this request.

(6) The derogation request concerns a total annual quantity of 1 561 tonnes of three species of prepared or preserved fish, two of which were not covered by the derogation granted by Decision No 2/2005: frigate tuna or frigate mackerel, mackerel and tuna.

(7) The derogation request has been considered by the Commission and has been found to be complete and duly substantiated.

(8) The derogation is required in order to ensure continuity of supply throughout the year and thus secure a substantial investment by a firm having already shown its commitment to supporting the development of the activity concerned in Cape Verde.

(9) This investment would not only have a direct impact on the Cape Verde fishing industry with regard to the species for which the derogation is requested, but also a substantial indirect, beneficial effect on the revitalisation of Cape Verde's fishing fleet generally. With more Cape Verde vessels being operational, the ability to supply originating fish would gradually increase.

(10) The derogation should be sufficiently long to ensure the investment and general predictability for operators, but it may not in any event go beyond 31 December 2010, when Cape Verde will no longer benefit from the special arrangement for least developed countries within GSP. After that the viability of the Cape Verde canning industry should be ensured within the framework of an Economic Partnership Agreement.

(11) Regulation (EEC) No 2454/93 lays down rules relating to the management of tariff quotas. In order to ensure efficient management carried out in close cooperation between the authorities of Cape Verde, the customs authorities of the Community and the Commission, those rules should apply *mutatis mutandis* to the quantities imported under the derogation granted by this Regulation.

(12) In order to allow more efficient monitoring of the operation of the derogation, the authorities of Cape Verde should communicate regularly to the Commission details of certificates of origin issued.

(13) In their request, the authorities of Cape Verde indicated that the firm concerned would probably not have the production capacity to use the whole amount of the quotas requested in the first year of operation after the investment was made. Consequently, while the requested quantities should be granted in full for the years 2009 and 2010, the quotas should be reduced pro rata for the period in which the derogation will apply in the year 2008.

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

HAS ADOPTED THIS REGULATION:

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Article 1

By way of derogation from Articles 67 to 97 of Regulation (EEC) No 2454/93, prepared or preserved mackerel, frigate tuna and frigate mackerel and tuna of CN codes ex 1604 15, ex 1604 19 and ex 1604 14 produced in Cape Verde from non-originating fish shall be regarded as originating in Cape Verde in accordance with the arrangements set out in Articles 2, 3 and 4.

Article 2

The derogation provided for in Article 1 shall apply to products transported directly from Cape Verde and imported into the Community during the period from 1 September 2008 until 31 December 2010, up to the annual quantities listed in the Annex against each product.

Article 3

The quantities set out in the Annex shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 4

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 certificates of origin form A issued by the competent authorities of Cape Verde pursuant to this Regulation: ‘Derogation — Regulation (EC) No 815/2008’.

3 The competent authorities of Cape Verde shall forward to the Commission every quarter 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 seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 September 2008.

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

Done at Brussels, 14 August 2008.

For the Commission

László KOVÁCS

Member of the Commission