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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.9.2009
COM(2009) 476 final

Proposal for a

COUNCIL REGULATION

opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2010 to 2012

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EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal/General context

Council Regulation (EC) No 824/2007 of 10 July 2007 (OJ L 184) laying down autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009 expired on 31.12.2009. The current proposal will introduce a similar regime from 2010 to 2012 in order to guarantee the appropriate supply conditions for the community industry for the period 2010 to 2012.

It is in the interest of the EU to increase the volume of certain existing autonomous tariff quotas, since processing industries in some Member States are facing serious difficulties in securing for themselves sufficient Community supplies of certain fishery products. Also, due to changed supply needs, the proposal contains a new product, one quota has not been prolonged and, for other products, the volumen of the quota has been reduced.

- Existing provisions in the area of the proposal

Council Regulation (EC) No 824/2007 of 10 July 2007 opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009.

- Consistency with the other policies and objectives of the Union

In line with agricultural, fisheries, trade, development and external relations policies. It will not be at the expenses of developing countries enjoying a preferential trading agreement with the EU, i.e. GSP and EPAs regime.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

Consultation of Member States through the Management Committee for Fisheries Products and through the Advisory Committee on Fisheries and Aquaculture. Informal consultative contacts with the EU industry (EU Fish Producers Association, Federation of National Organisations of Importers and Exporters of Fish)

Summary of responses and how they have been taken into account

The proposed measures are supported by a large majority of Member States.

- Collection and use of expertise

Scientific/expertise domains concerned

Experts representing the Member States in the Management Committee for Fishery Products.

Methodology used

Open consultation

Main organisations/experts consulted

Experts designated by each of the MS

Consultations of the Management Committee for Fishery Products, the Advisory Committee for Fisheries (ACFA) Working Group III Markets and Trade, meeting with Community stakeholders (EU Fish Producers Association (AIPCE) and the Federation of National Organisations of Importers and Exporters of Fish (CEP)) during the first semester of 2009.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

Means used to make the expert advice publicly available

Publication of the Proposal

- Impact assessment

Not applicable

3) LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

Proposal for a Council Regulation opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2010 to 2012

- Legal basis

Art 26 of the EC Treaty

- Subsidiarity principle

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

It is necessary to adopt measures to alleviate serious supply shortages of the processing industry for the next triennial period beginning in 2010.

This set of measures is in line with the principles set out to simplify the procedures for the operators engaged in foreign trade and in accordance with the Commission communication concerning autonomous tariff suspensions and quotas (98/C 128/02).

- Choice of instruments

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

By virtue of Article 26 of the EC Treaty, autonomous tariff suspensions and quotas are approved by the Council acting on a qualified majority on the basis of a Commission proposal. A regulation is required to ensure direct applicability and uniformity throughout the Community.

4) BUDGETARY IMPLICATION

Taking the most recent complete statistics (2008) as a basis, the impact on the loss of revenue resulting from this Regulation may be estimated at € 75 million for the first year of the triennial period beginning in 2010.

The stated amount has been calculated on the basis of MFN duty rates and full utilisation of quotas. It marks, therefore, the maximum level of loss of revenue since the Community grants more favourable trade preferences to different groups of third countries (GSP, GSP+, FTA) and, on average, the quota utilisation in the first two years of the expiring regulation was 78% and 75% respectively.

Therefore the actual loss of revenue tends to result in a lower amount (roughly € 25 million) since MFN duties do not apply across the board

5) ADDITIONAL INFORMATION

European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Proposal for a

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opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2010 to 2012

(Text with EEA-relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) Community supplies of certain fishery products currently depend on imports from third countries. In the last 10 years the EU self-sufficiency rate for fishery products has decreased from 57% to 36%. It is in the Community's interest to suspend in part or in whole the customs duties for those products, within Community tariff quotas of an appropriate volume. In order not to jeopardise the Community production of fishery products and to ensure the adequate supply to the EU processing industry, such tariff quotas should be opened in accordance with the sensitivity of the product in question on the Community market. It is therefore appropriate to open such tariff quotas for the period 2010 to 2012, applying reduction or eliminations of customs duties.

(2) On 10 July 2007 Regulation (EC) N° 824/2007 opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009[2] was adopted by the Council. This regulation replaces Regulation (EC) N° 824/2007 in order to guarantee the appropriate supply conditions for the community industry for the period 2010 to 2012.

(3) Equal and uninterrupted access to those tariff quotas should be ensured for all Community importers and the rates laid down for the quotas should be applied without interruption to all imports of the products concerned into all Member States until the tariff quotas have been used up.

(4) To ensure the efficiency of a common management of the tariff quotas, Member States should be permitted to draw from the quota amount the necessary quantities corresponding to their actual imports. Since that method of management requires close cooperation between the Member States and the Commission, the latter should in

[1] OJ C , , p. .
[2] OJ L 184, 14.7.2007, p.1.

particular be able to monitor the rate at which the quotas are used up and should inform the Member States accordingly.

(5) 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[3] provides for a system of tariff quota management which follows the chronological order of the dates of acceptance of the declarations of release for free circulation. The tariff quotas opened by this Regulation should be managed by the Commission and the Member States in accordance with that system.

(6) In the interest of clarity it is necessary to repeal Regulation (EC) N° 824/2007 with effect from 1 January 2010.

(7) Given the urgency of the matter, it is important to grant an exception to the six-week period mentioned in paragraph 1(3) of the Protocol on the role of national parliaments in the European Union annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import duties on the products listed in the Annex shall be suspended, within tariff quotas, at the rates, for the periods and up to the amounts indicated therein.

2. Imports of the products listed in the Annex shall be covered by the quotas referred to in paragraph 1 only if the declared customs value is at least equal to the reference price fixed, or to be fixed, in accordance with Article 29 of Council Regulation (EC) No 104/2000[4].

Article 2

The tariff quotas referred to in Article 1 shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

The Commission and customs authorities of Member States shall cooperate closely to ensure the proper management and control of the application of this regulation.

Article 4

Regulation (EC) N° 824/2007 is repealed.

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[3] OJ L 253, 11.10.1993, p.1.

[4] OJ L 17, 21.1.2000, p.22.

Article 5

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

It shall apply from 1 January 2010 to 31 December 2012.

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

Done at Brussels,

For the Council
The President

ANNEX

Order No	CN code	TARIC code	Description	Annual amount of quota (tons)	Quota duty	Quota period
09.2759	ex 0302 50 10 ex 0302 50 90 ex 0303 52 10 ex 0303 52 30 ex 0303 52 90	20 10 10 10 10	Cod (*Gadus morhua*, *Gadus ogac*, *Gadus macrocephalus*), excluding livers and roes, fresh, chilled or frozen, for processing (1) (2)	80 000	0%	1.1.2010-31.12.2012
09.2765	ex 0305 62 00 ex 0305 69 10	20 25 29 10	Cod (*Gadus morhua*, *Gadus ogac*, *Gadus macrocephalus*) and fish of the species Boreogadus saida, salted or in brine, but not dried or smoked, for processing (1) (2)	5 000	0%	1.1.2010-31.12.2012
09.2761	ex 0304 29 91 ex 0304 29 99 ex 0304 99 99	10 41 81 60 81	Blue grenadier (*Macruronus* spp.), frozen fillets and other meat, for processing (1) (2)	20 000	0%	1.1.2010-31.12.2012
09.2760	ex 0303 78 11 ex 0303 78 12 ex 0303 78 13 ex 0303 78 19 ex 0303 78 90 ex 0303 79 93	10 10 10 11 81 10 10	Hake (*Merluccius* spp. excluding *Merluccius merluccius*, *Urophycis* spp.), and Pink cusk-eel (*Genypterus blacodes)*, frozen, for processing (1) (2)	15 000	0%	1.1.2010-31.12.2012
09.2770	ex 0305 63 00	10	Anchovies (*Engraulis anchoita*), salted or in brine, but not dried or smoked, for processing (1) (2)	5 000	0%	1.1.2010-31.12.2012
09.2788	ex 0302 40 00 ex 0303 51 00 ex 0304 19 97 ex 0304 99 23	10 10 10 10	Herrings (*Clupea harengus, Clupea pallasii*), of a weight exceeding 100 g per piece or flaps of a weight exceeding 80 g per piece, excluding livers and roes, for processing (1) (2)	20 000	0%	1.10.2010-31.12.2010 1.10.2011-31.12.2011 1.10.2012-31.12.2012
09.2792	ex 1604 12 99	10	Herrings, spiced and/or vinegar-cured, in brine, preserved in barrels of at least 70 kg net drained weight, for processing (1) (2)	10 000	6%	1.1.2010-31.12.2012
09.2790	ex 1604 14 16	20 30 40 95	Filets known as ‘loins’ of tunas and skipjack, for processing (1) (2)	15 000	6%	1.1.2010-31.12.2012
09.2774	ex 0304 29 58	10	Hake (*Merluccius productus*), frozen fillets for processing (1) (2)	12 000	4%	1.1.2010-31.12.2012

09.2762	ex 0306 11 10 ex 0306 11 90	10 10	Rock lobster and other sea crawfish (*Palinurus* spp., *Panulirus* spp., *Jasus* spp.), frozen, for processing (1) (2) (3)	750	6%	1.1.2010-31.12.2012
09.2794	ex 1605 20 10 ex 1605 20 99	50 45	Shrimps and prawns of the species Pandalus borealis; cooked and peeled, for processing (1) (2) (4)	20 000	0%	1.1.2010-31.12.2012
09.2785	ex 0307 49 59 ex 0307 99 11	10 10	Tubes of squid (*Ommastrephes* spp. — excluding *Ommastrephes sagittatus* —, *Nototodarus* spp., *Sepioteuthis* spp.) and *Illex* spp., frozen, with skin and fins, for processing (1) (2)	45 000	0%	1.1.2010-31.12.2012
09.2786	ex 0307 49 59 ex 0307 99 11	20 20	Squid (*Ommastrephes* spp. — excluding *Ommastrephes sagittatus* —, *Nototodarus* spp., *Sepioteuthis* spp.) and *Illex* spp., frozen whole or tentacles and fins, for processing (1) (2)	1 500	0%	1.1.2010-31.12.2012
09.2772	ex 0304 99 10	10	Surimi, frozen, for processing (1) (2)	45 000	0%	1.1.2010-31.12.2012
09.2776	ex 0304 29 21 ex 0304 29 29 ex 0304 99 31 ex 0304 99 33	10 20 10 10	Cod,(*Gadus morhua*, *Gadus macrocephalus*), frozen fillets and meat, for processing (1) (2)	20 000	0%	1.1.2010-31.12.2012
09.2778	ex 0304 29 99 ex 0304 99 99	65 65	Sole, frozen fillets and other fish meat (*Limanda aspera*, *Lepidopsetta bilineata*, *Pleuronectes quadrituberculatus*), for processing (1) (2)	10 000	0%	1.1.2010-31.12.2012
09.2777	ex 0303 79 55	40	Alaska pollack (Theragra chalcogramma), frozen, for processing (1) (2)	10 000	0%	1.1.2010-31.12.2012

(1) Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93).

(2) This quota is available for products intended to undergo any operation, unless it is solely for one or more of the following operations:

cleaning, gutting, tailing, heading,
cutting (excluding dicing, filleting, production of flaps or cutting of frozen blocks or splitting of frozen interleaved fillet blocks),
sampling, sorting,
labelling,
packing,
chilling,
freezing,
deep freezing,
thawing,
separation.

The quota is not available for products intended, in addition, to undergo treatment (or operations) which gives quota entitlement, where such treatment (or operations) is (are) carried out at retail or catering level. The reduction of customs duties shall apply only to fish intended for human consumption.

(3) Products under CN codes 0306 11 10 10 and 0306 11 90 10 will, however, qualify for the quota if they undergo one or both of the following operations:

dividing the frozen product,
subjecting the frozen product to heat treatment to enable the removal of internal waste material.

(4) Products under CN codes 1605 20 10 50 and 1605 20 99 45 will, however, qualify for the quota if they undergo the following operation:

— subjecting the shrimps and prawns to processing treatment by packaging gases as defined in European Parliament and Council Directive 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners (OJ L 61, 18.3.1995, p. 1. Directive as last amended by Directive 2006/52/EC (OJ L 204, 26.7.2006, p. 10)).

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2010 to 2012.

2. BUDGET LINES:

Chapter and Article: Title 1, Chapter 2, Article 0.

Amount budgeted for the year 2010: € 14.079.700 (preliminary draft budget)

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

☒ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million to one decimal place)

Budget line	Revenue[5]	Year 2007
Article 1.2.0	Impact on own resources	- 56.2/year

4. ANTI-FRAUD MEASURES

Checks on the end-use of some of the products covered by this Council Regulation will be carried out in accordance with Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of the Community Customs Code.

5. OTHER REMARKS

Due to the fact that the predecessor autonomous tariff quota regime expires on 31 December 2009, the current proposal is to provide continuity and introduce a similar regime with due regard to the prevailing supply needs and overall circumstances.

5 Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% of collection costs.

This proposal contains the adjustments which must be made to the annex to the expiring Regulation in order to take account of requests for inclusion of new products, increases and amendments of product descriptions of autonomous tariff quotas which have been presented and accepted.

Estimated cost of this operation

The main impact of the Regulation is the loss of revenue for the Community. Taking the most recent complete statistics (2008) as a basis, the impact on the loss of revenue resulting from this Regulation may be estimated at € 75 million for the first year of the triennial period beginning in 2010. The impact of the previous Regulation was calculated at € 69 million per year.

The stated amount has been calculated on the basis of MFN duty rates and full utilisation of quotas. It marks, therefore, the maximum level of loss of revenue since the Community grants more favourable trade preferences to different groups of third countries (GSP, GSP+, FTA) and, on average, the quota utilisation in the first two years of the expiring regulation was 78% and 75% respectively.

Therefore the actual loss of revenue tends to result in a lower amount (roughly € 25 million) since MFN duties do not apply across the board. It is estimated that imports of fishery products to the EU are levied an average duty of less than 3% *ad valorem* vis-à-vis the average MFN duty for fishery products of 10,9%.

Suspensions granted by the common market organisation, however, have been considered in the calculation of the loss of revenue.

FISH IMPORT QUOTA PROPOSAL 1.1.2010 - 31.12.2012
ESTIMATION OF THEORETICAL LOSS OF REVENUE (based on 2008 import data)

Taric code	Proposal 2010 - 2012	MFN duty (%) (valid on 16.06.2009)	Quota duty (%)	EU27 Import from EXTRA-EU in 2008			Theoretical loss of revenue (in €)
				Quantity (tons)	Value (000 €)	Unit Value (€ / ton)	
0302 50 10 20	80.000	3 (1)	0	54	248		
0302 50 90 10		3 (1)		37	195		
0303 52 10 10		3 (1)		28.542	94.722		
0303 52 30 10		3 (1)		0	0		
0303 52 90 10		3 (1)		34.625	108.714		
				63.258	***203.880***	***3.223***	***7.735.197***
0305 62 00 20	5.000	13	0	1.034	5.307		
0305 62 00 25		13					
0303 62 00 29		13					
0305 69 10 10		13					
				1.034	***5.307***	***5.133***	***3.336.753***
0304 29 91 10	20.000	3,5 (2)	0	6.034	17.021		
0304 29 99 41		11,4		8.004	16.924		
0304 29 99 81		11,4		135	285		
0304 99 99 60		3,5 (2)		2.048	2.076		
0304 99 99 81		7,5		395	479		
		(estimated average: 7,45%)					
				16.616	***36.786***	***2.214***	***3.298.771***
0303 78 11 10	15.000	15	0	3.087	9.276		
0303 78 12 10		15		3.384	6.571		
0303 78 13 10		15		3.568	14.092		
0303 78 19 11		15		0	0		
0303 78 19 81		15		34	50		
0303 78 90 10		15		0	0		
0303 79 93 10		7,5		681	2.113		
				10.753	***32.103***	***2.985***	***6.717.143***
0305 63 00 10	5.000	10	0	3.289	5.193		
				3.289	***5.193***	***1.579***	***2.596.370***
0302 40 00 10	20.000	0/15	0	25.426	10.597		
0303 51 00 10		0/15		1.297	1.590		
0304 19 97 10		0/15		0	0		
0304 99 23 10		0/15		3.235	2.906		
		(estimated average: 7,5%)					
				29.958	***15.094***	***504***	***755.749***
1604 12 99 10	10.000	20	6	14.738	18.166		
				14.738	***18.166***	***1.233***	***1.725.558***
1604 14 16 20	15.000	24	6	49	151		
1604 14 16 30		24		506	1.965		
1604 14 16 95		24		17.535	67.301		
				18.090	***69.418***	***3.837***	***10.360.788***
0304 29 58 10	12.000	6,1	4	9.575	20.199		
				9.575	***20.199***	***2.110***	***531.633***
0306 11 10 10	750	12,5	6	0	0		
0306 11 90 10		12,5		183	2.954		
				183	***2.954***	***16.133***	***786.496***
1605 20 10 50	20.000	20	0	2.801	13.776		
1605 20 99 45		20		13.793	64.980		
				16.594	***78.756***	***4.746***	***18.984.211***
0307 49 59 10	45.000	8	0	1.700	1.713		
0307 99 11 10		8		34.564	30.890		
				36.264	***32.602***	***899***	***3.236.469***

0307 49 59 20	1.500	8	0	1.509	1.104		
0307 99 11 20		8		478	308		
				1.987	***1.412***	***711***	***85.268***
0304 99 10 10	45.000	3,5 (3)	0	36.162	84.399	2.334	3.675.959
				36.162	***84.399***	***2.334***	***3.675.959***
0304 29 21 10	20.000	7,5		9.265	37.075		
0304 29 29 20		7,5		13.403	69.626		
0304 99 31 10		7,5		1.910	3.918		
0304 99 33 10		7,5		1.689	4.207		
				26.267	***114.826***	***4.372***	***6.557.254***
0304 29 99 65	10.000	11,4	0	0	0		
0304 99 99 65		7,5		5.368	16.321		
				5.368	***16.321***	***3.040***	***2.280.298***
0303 79 55 (00)	10.000	15	0	6.013	9.402		
				6.013	***9.402***	***1.564***	***2.345.295***
	334.250			**296.149**	**746.818**	**2.522**	**75.009.212**

from 12% to 3% if for processing (Reg. 104/2000)
from 7,5% to 3% if for processing (Reg. 104/2000)
from 14,2% to 3% if for processing (Reg. 104/2000)
5.06.2009 & DG TAXUD's TARIC-database
Financial Statement