



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

prohibiting imports of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone and repealing Regulation (EC) No 1036/2001

(presented by the Commission)

EXPLANATORY MEMORANDUM

The International Commission for the Conservation of Atlantic Tunas (ICCAT) is responsible for the conservation of tuna stocks in the Atlantic Ocean and adjacent seas. It enforces the proper management of tuna stocks by imposing trade sanctions on any party that proves to be in breach of its measures. As a contracting party to ICCAT, the Community has to ensure that the organisation's recommendations concerning trade sanctions are transposed into Community law.

On 22 May 2001 the Council adopted Regulation (EC) No 1036/2001 transposing into Community law the ICCAT recommendation on the prohibition of imports of Atlantic bigeye tuna originating in Belize, Cambodia, Equatorial Guinea, Honduras and Saint Vincent and the Grenadines. ICCAT has since adopted further recommendations concerning the importation of Atlantic bigeye tuna from these five countries and others. Community law should therefore be adapted to take account of the latest recommendations, which are set out below.

At its November 2002 general meeting ICCAT adopted a recommendation lifting, as of 3 June 2003, the prohibition on imports by contracting parties of Atlantic bigeye tuna in any form from Honduras following the country's decision to cooperate with ICCAT and join the organisation.

At the same meeting ICCAT adopted two recommendations prohibiting, as of 3 June 2003, the import by its contracting parties of Atlantic bigeye tuna in any form from Bolivia and Sierra Leone. These recommendations were upheld when ICCAT met in November 2003.

At that meeting ICCAT recommended the lifting, as of 1 January 2004, of the prohibition on the import by its contracting parties of Atlantic bigeye tuna in any form from Belize and Saint Vincent and the Grenadines.

At the same meeting ICCAT also adopted a recommendation prohibiting the import by its contracting parties of Atlantic bigeye tuna in any form from Georgia.

The import prohibitions applying to Cambodia and Equatorial Guinea were upheld at ICCAT's 2002 and 2003 meetings.

The European Community has been a contracting party to ICCAT since 14 November 1997, and, under the common commercial policy, these import prohibitions have to be implemented at Community level. As with the adoption of Council Regulation (EC) No 1036/2001, the Community considers these measures to be fully compatible both with its WTO obligations under Article XX(g) of GATT-1994, which allows for trade measures to protect exhaustible resources, and, as regards Equatorial Guinea and Sierra Leone, with Article 2(2) of Annex V to the ACP-EC Partnership Agreement signed in Cotonou.

In view of the various ICCAT recommendations, it is proposed that Council Regulation (EC) No 1036/2001 be repealed and replaced by the proposed Regulation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Fishery resources, which are an exhaustible natural resource, must be protected in the interests of biological balances and global food security.
- (2) In 1998 the International Commission for the Conservation of Atlantic Tunas (ICCAT), to which the European Community is a contracting party, adopted resolution 98-18 concerning unreported and unregulated catches of tuna by large-scale longline vessels in the Convention area.
- (3) The stocks concerned cannot be managed effectively by the ICCAT contracting parties, whose fishermen are obliged to reduce their catches of tuna, unless all non-contracting parties fishing Atlantic bigeye tuna cooperate with ICCAT and comply with its conservation and management measures.
- (4) ICCAT has identified Belize, Bolivia, Cambodia, Equatorial Guinea, Georgia, Honduras, Saint Vincent and the Grenadines and Sierra Leone as countries whose vessels fish Atlantic bigeye tuna in a manner which diminishes the effectiveness of the organisation's tuna conservation measures, substantiating its findings with data concerning catches, trade and the activities of vessels.
- (5) Imports of Atlantic bigeye tuna originating in Belize, Cambodia, Equatorial Guinea, Honduras and Saint Vincent and the Grenadines are currently prohibited by Regulation (EC) No 1036/2001.¹
- (6) ICCAT has taken note of the strengthening of cooperation with Honduras for the conservation of Atlantic bigeye tuna. At its 2002 annual meeting it recommended the lifting of the prohibition of imports of Atlantic bigeye tuna in any form imposed by the contracting parties on Honduras.

¹ OJ L 145, 31.5.2001, p. 10.

- (7) ICCAT has taken note of the progress of cooperation with Belize and Saint Vincent and the Grenadines for the conservation of Atlantic bigeye tuna. At its 2003 annual meeting it lifted, as of 1 January 2004, the prohibition of imports of Atlantic bigeye tuna in any form imposed by the contracting parties on Belize and Saint Vincent and the Grenadines.
- (8) ICCAT's attempts to encourage Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone to comply with measures for the conservation and management of Atlantic bigeye tuna have been to no avail.
- (9) ICCAT has recommended its contracting parties to take appropriate steps to prohibit imports of Atlantic bigeye tuna products in any form from Bolivia, Georgia and Sierra Leone and to continue prohibiting such imports from Cambodia and Equatorial Guinea. These measures will be lifted as soon as it is established that the countries in question have brought their fishing practices into line with ICCAT's measures. These measures should therefore be implemented by the Community, which has sole competence in this matter. However, in view of the notification periods required by ICCAT, the ban on imports from Georgia should not enter into force until 1 July 2004.
- (10) For the sake of transparency, Regulation (EC) No 1036/2001 should be repealed and replaced by this Regulation.
- (11) These measures are compatible with the Community's obligations under other international agreements,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, “importation” means the customs procedures referred to in Article 4(15)(a), (15)(b) and (16)(a) to (16)(f) of Council Regulation (EEC) No 2913/92.²

Article 2

- 1. The importation into the Community of Atlantic bigeye tuna (*Thunnus obesus*) originating in Bolivia, Cambodia, Equatorial Guinea and Sierra Leone and falling within CN codes ex 0301 99 90, 0302 34 00, 0303 44 00, ex 0304 10 38, ex 0304 10 98, ex 0304 20 45, ex 0304 90 97, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.
- 2. The importation of any processed product derived from the Atlantic bigeye tuna referred to in paragraph 1 and falling within codes ex 1604 14 11, ex 1604 14 16 and ex 1604 14 18 and ex 1604 20 70 is prohibited.
- 3. The importation into the Community of Atlantic bigeye tuna (*Thunnus obesus*) originating in Georgia and falling within CN codes ex 0301 99 90, 0302 34 00, 0303 44 00, ex 0304 10 38, ex 0304 10 98, ex 0304 20 45, ex 0304 90 97, ex 0305 20 00, ex 0305 30 90, ex 0305 49 80, ex 0305 59 80 and ex 0305 69 80 is prohibited.

² OJ L 302, 19.10.1992, p. 1.

4. The importation of any processed product derived from the Atlantic bigeye tuna referred to in paragraph 3 and falling within codes ex 1604 14 11, ex 1604 14 16 and ex 1604 14 18 and ex 1604 20 70 is prohibited.

Article 3

This Regulation shall not apply to quantities of the products referred to in Article 2 and originating in Bolivia, Georgia and Sierra Leone which can be shown to the satisfaction of the competent national authorities to have been under way to Community territory on the date of its entry into force and which are released for free circulation no later than 14 days after that date.

Article 4

Regulation (EC) No 1036/2001 is repealed.

Article 5

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

Article 2(3) and (4) shall apply from 1 July 2004.

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

Done at Brussels,

For the Council
The President