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Proposal for a

COUNCIL REGULATION

**opening and providing for the administration of autonomous tariff quotas of the Union
on imports of certain fishery products into the Canary Islands from 2014 to 2020**

EXPLANATORY MEMORANDUM

CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

Article 2 of Council Regulation (EC) No 645/2008 of 8 July 2008 opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands. The government of the Kingdom of Spain has made a request for the prolongation of the measures under the aforementioned regulation.

The exceptional geographical situation of the Canary Islands in relation to the sources of supply of fishery products which are essential for domestic consumption entails costs that are a severe burden for this sector. The negative effects of this natural handicap can be remedied by temporarily suspending customs duties on imports of the products in question from third countries. The proposed reductions in import duties, in combination with other measures specific for the outermost regions, will help the Canary Islands to overcome the structural difficulties they face.

General context

The Canary Islands are one of the outermost regions of the European Union, for which special measures may be foreseen, pursuant to Article 349 of the Treaty on the Functioning of the European Union, in order to overcome the economic disadvantages these regions suffer due to their geographical situation.

Since 1991 the European Union has suspended, partially or in full, the Common Customs Tariff duties on imports of certain fishery products into the Canary Islands. The following regulations were adopted in the past to suspend duties on imports of fish products into the Canary Islands:

- a) Council Regulation (EEC) 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands.
- b) Council Regulation (EEC) 3621/92 of 14 December 1992 temporarily suspending the autonomous Common Customs Tariff duties on imports of certain fishery products into the Canary Islands;
- c) Council Regulation (EC) 704/2002 of 25 March 2002 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products and opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands, and
- d) Council Regulation (EC) 645/2008 of 08 July 2008 opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands.

Existing provisions on autonomous tariff reductions

Council Regulation (EC) No 645/2008 of 8 July 2008 opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands expires on 31 December 2013.

Similar tariff reductions (suspensions) apply on imports of certain industrial products into the Canary Islands. They are implemented with Council Regulation (EU)

No 1386/2011 of 19 December 2011 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products.

Regulation (EU) No 228/2013 of the European Parliament and of the Council, of 13 March 2013, laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 of 30 January 2006, i.e. the so called "POSEI" Regulation, includes specific supply arrangements aimed at mitigating the additional costs for the supply of essential products for human consumption, for processing and as agricultural inputs. As part of this supply arrangements imports of certain agricultural products from third countries are exempted from duties. This regulation applies to all the regions mentioned in Article 349 Treaty on the Functioning of the European Union, including the Canary Islands.

Consistency with the other policies and objectives of the Union

The proposed duty free tariff quotas are to be seen, in terms of support to the Canary Islands' fish industry, as complementing other measures, in particular the scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the outermost regions (Council Regulation (EC) 791/2007 of 21 May 2007).

This proposal is also in line with Union policies, in particular the Common Fisheries Policy.

CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

Article 2 of Council Regulation (EC) 645/2008 specified that the Spanish authorities had to submit two implementation reports (in May 2010 and in May 2012) and required the Commission to assess the impact of the measures following the receipt of these reports.

The Spanish authorities fulfilled the above mentioned reporting obligations and submitted two reports: one in July 2010 and another in June 2012. The Commission requested additional information necessary to carry out the examination of the impacts of the measures, as required by the Regulation. The information requested was provided by the Spanish authorities, allowing the Commission to complete the examination of the measures.

Collection and use of expertise

The evaluation report¹ on the compensation regime implemented with Council Regulation (EC) 791/2007 was also used in the assessment. This evaluation report provides relevant information on the Canary Islands on areas that are of relevance when examining the impacts of the tariff quotas (e.g. population, structure of the fisheries sector, production, processing and marketing of fish.) This report also addressed the possible interactions between the tariff quotas for fish products and the compensation regime as applied in the Canary Islands with Council Regulation (EC) 791/2007.

The 2009 evaluation report² of the POSEI programmes and specific measures in favour of the smaller Aegean islands was also used. This report, besides presenting factual information about the Canary Islands' economy, provided an analysis of the interaction between measures

¹ "Evaluation des mesures prévues dans les régions ultrapériphériques sous le reg (ce) N° 791/2007- Rapport final" - Juillet 2012 – MARE contract MARE/2010/11. Under publication.

² "Evaluation des mesures mises en oeuvre en faveur des régions ultrapériphériques (POSEI) et des petites îles de la mer Egée dans le cadre de la politique agricole commune" Contrat N°30-CE – 0233430/0094. Available at: http://ec.europa.eu/agriculture/eval/reports/posei/index_fr.htm

allowing for duty free imports of certain agricultural products and EU financial support of local agriculture.

Impact assessment

Owing to the very limited scope of the measures and the fact that the proposal concerns the continuation of measures that have been applied in the past there is no added value to carry out an impact assessment.

The examination of the reports by the Spanish authorities provided the necessary basis for the preparation of the Commission proposal.

LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

To extend the existing autonomous tariff quotas for another 7 year period, i.e. from 2014 to 2020. This 7 year period synchronises the measures with other actions of the Union in favour of the Canary Islands, in particular those proposed in the context of the Commission's proposal for a European Maritime and Fisheries Fund³.

Legal basis

Article 349 of the Treaty on the Functioning of the European Union.

Subsidiarity principle

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

Proportionality principle

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

The proposed tariff quotas would cover the needs of the Canary Islands' domestic market, while ensuring that flows of reduced-duty imports into the Union remain predictable and clearly identifiable.

The suspension of duties only applies to certain fishery products, for a limited volume and for a limited period. The effects of the measures are also circumscribed as the products are intended solely for the Canary island's market.

The administrative burden for both Member States' national and regional authorities and the Commission services is kept to a minimum, especially with regard to the reports to be submitted on the implementation of the measures.

Choice of instruments

Proposed instruments: Regulation.

The Treaty does not allow any other means for the implementation of such measures.

³ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Maritime and Fisheries Fund [repealing Council Regulation (EC) No 1198/2006 and Council Regulation (EC) No 861/2006 and Council Regulation No XXX/2011 on integrated maritime policy. COM(2011) 804 final of 02.12.2011

BUDGETARY IMPLICATION

The proposal has implications for the Union budget since the duty suspensions will lead to loss in revenue of the Union's own resources.

ADDITIONAL INFORMATION

The proposal includes a review clause.

The proposal includes a sunset clause.

Proposal for a

COUNCIL REGULATION

opening and providing for the administration of autonomous tariff quotas of the Union on imports of certain fishery products into the Canary Islands from 2014 to 2020

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament⁴,

Having regard to the opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The exceptional geographical situation of the Canary Islands in relation to the sources of supply of certain fishery products which are essential for domestic consumption entails additional costs for this sector. This natural handicap, as recognised in Article 349 of the Treaty, resulting from insularity, remoteness and outermost location can be remedied, inter alia, by temporarily suspending customs duties on imports of the products in question from third countries within Union autonomous tariff quotas of an appropriate volume.
- (2) Council Regulation (EC) No 645/2008⁷ opened and provided for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands for the period 1 January 2007 to 31 December 2013.
- (3) In September 2012 Spain requested the extension of Union tariff quotas on imports of certain fishery products into the Canary Islands in accordance with Article 349 of the Treaty.
- (4) The Spanish authorities submitted in July 2010 and June 2012 reports on implementation of the measures referred in Article 3 of Regulation (EC) No 645/2008. The Commission has examined the impact of the measures on the basis of the aforementioned reports.
- (5) The reports submitted by the Spanish authorities included information on the utilisation rate of the tariff quotas for the period 2007-2011. This information showed

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C , , p. .

⁷ OJ L 180, 9.7.2008, p. 1.

that, on average, over the aforementioned period, the tariff quota with order number 09.2997 was almost fully utilised and that the tariff quota with order number 09.2651 was not exhausted.

- (6) Since the tariff quota with order number 09.2997 was almost fully utilised and the non-exhaustion of the tariff quota with order number 09.2651 could be linked to temporary and exogenous factors, it is appropriate to set the quantity of the quotas at the same level.
- (7) The sharp decline in local demand for products covered by tariff quota 09.2651, due to the difficult economic conditions in the Canary Islands following the economic and financial crises, might explain the underutilisation of this quota.
- (8) Tariff quotas similar to those opened with Council Regulation (EC) No 645/2008 for certain fishery products are warranted because they would cover the needs of the Canary Islands' domestic market, while ensuring that flows of reduced-duty imports into the Union remain predictable and clearly identifiable.
- (9) Therefore, with the aim of giving a long term perspective to economic operators to reach a level of activities which stabilises the economic and social environment on the islands, it is appropriate to extend, for an additional period, the autonomous tariff quota of the Common Customs Tariff duties for certain goods as detailed in the Annex of Regulation (EC) No 645/2008.
- (10) In order to avoid undermining the integrity and the coherence of the internal market, measures should be taken to ensure that fishery products for which suspension is granted are intended solely for the Canary Islands' domestic market.
- (11) Measures should be taken to ensure that the Commission is kept regularly informed of the volume of imports in question so that, if necessary, it can take steps to prevent any speculative movement or deflection of trade.
- (12) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission allowing the Commission to temporarily withdraw the suspension in case of a deflection of trade. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁸.
- (13) The provisions to be adopted should ensure continuity with the measures set out in Regulation (EC) No 645/2008,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January 2014 to 31 December 2020, the Common Customs Tariff duties applicable to imports into the Canary Islands of the fishery products listed in the Annex shall be suspended in full for the quantity indicated in the Annex.
2. The suspension referred to in paragraph 1 shall be granted exclusively for products intended for the Canary Islands' domestic market. It shall only apply to fishery products which are unloaded from ship or aircraft before the customs declaration for

⁸ OJ L 55, 28.2.2011, p. 13.

release into free circulation is submitted to the customs authorities in the Canary Islands.

Article 2

The tariff quotas referred to in Article 1 shall be managed in accordance with Articles 308a, 308b and 308c (1) of 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 Code⁹.

Article 3

By 30 June 2019, the Commission shall examine the impact of the measures provided for in Article 1 and, on the basis of its findings, submit any relevant proposals for the period after 2020.

Article 4

1. Where the Commission has reasons to believe that the suspensions laid down in this Regulation have led to a deflection of trade for a specific product it may adopt implementing acts, temporarily withdrawing the suspension for a period not longer than 12 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5(2).

Import duties for products for which the suspension has been temporarily withdrawn shall be secured by a guarantee, and the release of the products concerned for free circulation in the Community of the Canary Islands shall be conditional upon the provision of such guarantee.

2. Within the 12 month period referred to in paragraph 1, the Council, on a proposal from the Commission and after consulting the European Parliament should adopt a definitive decision as to whether maintain or withdraw the suspension. If the suspension is withdrawn, the amounts of duties secured by guarantees shall be collected definitively.
3. If no definitive decision has been adopted within the 12 month period in accordance with paragraph 2 the securities shall be released.

Article 5

1. The Commission shall be assisted by the Customs Code Committee, established by Article 247a (1) of Regulation (EEC) No 2913/92¹⁰. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 6

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

⁹ OJ L 253, 11.10.1993, p. 1

¹⁰ OJ L 302, 19.10.1992, p. 1.

Article 7

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 2014 to 31 December 2020.

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	Description	Amount of quota (in tons)	Quota duty (%)
09.2997	0303	Fish, frozen, excluding fish fillets and other fish meat of heading 0304	15 000	0
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen		
09.2651	0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked crustaceans whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	15 000	0
	0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked molluscs whether in shell or not, whether or not cooked before or during the smoking process; flours, meals and pellets of molluscs, fit for human consumption		
	0308	Aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs whether or not cooked before or during the smoking process; flours, meals and pellets of aquatic invertebrates other than crustaceans and molluscs, fit for human consumption		

**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 administration of autonomous Union tariff quotas on imports of certain fishery products into the Canary Islands.

2. BUDGET LINES:

Chapter and Article: Chap. 12 art. 120

Amount budgeted for the year 2013: €18,631,800,000

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	period, starting dd/mm/aaaa	[Year 2014-2020]
Article 120	<i>Impact on own resources</i>	01/01/2014 - 31/12/2020	-9.1/year

4. ANTI-FRAUD MEASURES

Provisions on the management of tariff quotas include the measures necessary for preventing fraud and irregularities (application of the controls provided for in the Community Customs Code and its implementing provisions)

5. OTHER REMARKS

Estimated cost of this operation

Method of calculating total cost of operation

Taking most recent complete statistics (2012) as a basis, the yearly loss of revenue resulting from this Regulation may therefore be estimated at 12.1 MEUR (see table hereunder). The amount stated has, in general, been calculated on the basis of MFN duty rates and marks a maximum level due to the fact that the Union applies lower duties to imports from a number of countries. Therefore the actual loss of revenue tends to result in lower amounts since MFN duties do not apply constantly.

Order No	Quota volume (tonnes)	Estimated price (€/tonne)	MFN duty (%)	Quota duty (%)	Duties foregone per year (€)

09.2997	15,000 t	3,076	11 (average duty)	0	5,076,052
09.2651	15,000 t	4,547	10.3 (average duty)	0	7,025,452
Total					12,101,503

Total loss of revenue compared to the absence of the tariff quotas is estimated at: €12,101,503.

The loss of revenue in Traditional Own Resources shall be compensated by Member States contributions based on the GNI.