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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.3.2008
COM(2008) 129 final

2008/0054 (CNS)

Proposal for a

COUNCIL REGULATION

**opening and providing for the administration of autonomous Community tariff quotas
on imports of certain fishery products into the Canary Islands**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Article 5 of Council Regulation (EC) No 704/2002 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.

- **General context**

Since 1991, the European Union has suspended, partially or in full the Common Custom Tariff duties on imports of certain fishery products into the Canary Islands. 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 can be remedied, inter alia, by temporarily suspending customs duties on imports of the products in question from third countries within Community tariff quotas of an appropriate volume.

- **Existing provisions in the area of the proposal**

The basis for support, Regulation (EC) No 704/2002, expired by 31 December 2006.

- **Consistency with the other policies and objectives of the Union**

The proposal for the opening and provision of duty free tariff quotas are in line with Article 299(2) of the EC Treaty providing for specific measures to assist the outermost regions. It also corresponds to the Commission's commitment given in its Communication on a stronger partnership for the outermost regions of 26 May 2004 (COM(2004) 343final) to consider the reduction, even elimination, of common customs tariff duties in order to allow the supply of non-agricultural raw materials to promote production in the outermost regions.

The proposed duty free tariff quotas are to be seen, in terms of support to the Canary Islands' fish industry, as complementing other measures taken on the basis of Article 299(2) of the EC Treaty, 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).

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation of stakeholders of the fisheries sector in the Canary Islands took place in the framework of the reports established by the Spanish authorities on the implementation of the measures referred in Article 3 of Council Regulation (EC) 704/2002. Further consultations took place with the Spanish authorities during

the first half of 2007 with a view to clarify the contents of the aforementioned reports.

The Spanish authorities formally requested the extension of the aforementioned measures for the period 2007-2013.

- **Collection and use of expertise**

See above.

- **Impact assessment**

An impact assessment was not considered as the proposal is no major policy initiative but the continuation of existing measures.

When assessing the request from the Spanish authorities for the continuation of the measures, the services considered the effects on the Canary Islands fisheries sector of the proposed tariff quotas, in combination with the measures adopted by the Council in May 2007 in support of the fisheries sector in the outermost regions, in particular the scheme to compensate for the additional costs incurred in the marketing of certain fishery products from the Canary Islands (Council Regulation (EC) 791/2007 of 21 May 2007).

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

It is proposed to open two duty free tariff quotas on imports of certain fishery products into the Canary Islands for the period 2007-2013.

- **Legal basis**

Article 299(2) of the EC Treaty

- **Subsidiarity principle**

Changes to the Common Customs Tariff are a matter of exclusive Community competence.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The quota volumes are set to a level more in line with actual imports into the Canary Islands.

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.

Other means would not be adequate for the following reason(s): The proposal is for suspension of measures fixed in a regulation.

4. BUDGETARY IMPLICATION

Proposal has no financial impact on expenditure but has a financial impact on revenue. The loss of own resources (Common Custom Tariff duties) is estimated at MEUR 7.9 net per year.

5. ADDITIONAL INFORMATION

- **Review/revision/sunset clause**

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 Community tariff quotas on imports of certain fishery products into the Canary Islands

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 299(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Whereas:

- (1) In October and November 2000 the Spanish authorities asked to maintain the Common Customs Tariff (CCT) measures for the Canary Islands first introduced by Council Regulation (EEC) No 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands⁵, which expired on 31 December 2001, for another period of 10 years and submitted some documentation justifying their request. However, the time to evaluate the documentation was insufficient to reach a definitive conclusion as to whether maintaining the measures for the requested period was still justified. The application of the tariff measures was therefore prolonged for one year by Council Regulations (EC) No 1105/2001 of 30 May 2001.
- (2) Council Regulation (EC) No 704/2002⁶ of 25 March 2002 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 2002 to 31 December 2006.
- (3) Council Regulation (EC) No 791/2007⁷ of 21 May 2007 introduced a new scheme to compensate for the additional costs incurred in the marketing of certain fishery

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ L 171, 29.6.1991, p. 1

⁶ OJ L 111, 6.4.2002; p.1

⁷ OJ L 176 , 6.7.2007 p. 1

products from the outermost regions the Azores, Madeira, the Canary Islands, French Guiana and Réunion. The purpose of the scheme is to facilitate the economic and social development of the region and enable it to benefit from the advantages of the single market of which it is an integral part despite the objective factors leaving it geographically and economically isolated.

- (4) 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 299(2) 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 Community tariff quotas of an appropriate volume.
- (5) The Commission in its Communication of 26 May 2004 entitled "A stronger partnership for the outermost regions" (COM(2004)0343) stated its willingness to consider the reduction, even elimination, of common customs tariff duties in order to allow the supply of non-agricultural raw materials to promote production in the outermost regions and, in duly justified circumstances, to consider applications for the temporary suspension of tariff duties in those same sectors. In the case of fisheries products, any such measure would be approved only for products intended for the local market.
- (6) The Spanish authorities submitted on 29 July 2004 and 19 July 2006 reports on implementation of the measures referred in Article 3 of Council Regulation (EC) No 704/2002 and requested the extension of those measures for the period 2007-2013. The Commission has examined, on the basis of the aforementioned reports, the impact of the measures adopted on imports of certain fishery products into the Canary Islands.
- (7) The reports provided by the Spanish authorities indicated that the quotas opened by Council Regulation (EC) No 704/2002 were not exhausted.
- (8) Tariff quotas similar to those opened with Council Regulation (EC) No 704/2002 of 25 March 2002 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 Community remain predictable and clearly identifiable.
- (9) Since the quotas opened by Council Regulation (EC) No 704/2002 were not exhausted, it is appropriate to set the quantity of the quotas at a lower level.
- (10) In order to avoid directly affecting the working of the internal market, measures should be taken to ensure that fishery products for which suspension is requested are intended solely for the Canary Islands' domestic market.
- (11) 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 Code⁸ codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations.

⁸ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

- (12) Measures must 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.
- (13) In order to ensure continuity with the measures set out in Regulation (EEC) No 704/2002, it is necessary to apply the measures provided in this Regulation from 1 January 2007.
- (14) Moreover, in order to ensure coherence with the scheme introduced by Council Regulation (EC) No 791/2007 the tariff quotas should be opened for the period 2007-2013,

HAS ADOPTED THIS REGULATION:

Article 1

- 1. From 1 January 2007 to 31 December 2013 the Common Customs Tariff duties applicable to imports into the Canary Islands of the fishery products listed in the Annex to this Regulation shall be suspended in full for the quantity indicated in that 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 release into free circulation is submitted to the customs authorities in the Canary Islands.

Article 2

- 1. By 31 May 2010, the competent Spanish authorities shall submit a report to the Commission on the implementation of the measures provided for in Article 1. The Commission shall examine the impact of those measures and, on the basis of that report, propose to the Council, if necessary, any relevant amendments to the quantities to be imported.
- 2. By 31 May 2012, the competent Spanish authorities shall submit a report to the Commission on the implementation, after 2010, of the measures referred to in Article 1. The Commission shall re-examine the impact of those measures and, on the basis of its findings, submit to the Council any relevant proposals for the period after 2013.

Article 3

- 1. Where the Commission has reason to believe that the suspension provided for by this Regulation has led to a deflection of trade for a specific product it may, after receipt of the opinion of the Customs Code Committee, provisionally repeal the suspension for a period not longer than 12 months. The payment of the import duties on products for which the suspension has been provisionally repealed shall be ensured by a

security. The release of those products for free circulation in the Canary Islands shall be conditional upon the provision of such a security.

2. Within the 12-month period referred to in paragraph 1 the Council may, on a proposal from the Commission, decide to definitively repeal the suspension. In that case the amounts of duties covered by securities shall be definitively collected.
3. If no definitive decision has been adopted within the 12-month period in accordance with paragraph 2, the securities shall be released.

Article 4

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 2007 until 31 December 2013.

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 fillets and other fish meat of heading No 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; 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; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, 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 (EC) opening and providing for the administration of autonomous Community 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 concerned:

3. LEGAL BASIS:

Article 299 of the Treaty.

4. 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 ⁹	Year 2007
Article 120	<i>Impact on own resources (Common Customs Tariff)</i>	- 7.9/year

5. 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).

⁹ 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

6. OTHER REMARKS

Estimated cost of this operation

Method of calculating total cost of operation

Taking most recent complete statistics (2006) as a basis, the yearly loss of revenue resulting from this Regulation may therefore be estimated at 10.5 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 Community 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	2,784	11 (average duty)	0	4,592,891
09.2651	15,000 t	3,826	10.3 (average duty)	0	5,910,927
Total					10,503,818

Total loss of revenue compared to the absence of the tariff quotas is estimated at: € 10,503,818.