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PROPOSAL

From:	Ms Ilze JUHANSONE, Secretary-General of the European Commission
date of receipt:	31 August 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 437 final
Subject:	Proposal for a COUNCIL REGULATION opening and providing for the administration of autonomous Union tariff quotas for imports of certain fishery products into the Canary Islands from 2021 to 2027

Delegations will find attached document COM(2020) 437 final.

Encl.: COM(2020) 437 final

EUROPEAN
COMMISSION

Brussels, 31.8.2020
COM(2020) 437 final

2020/0209 (CNS)

Proposal for a

COUNCIL REGULATION

opening and providing for the administration of autonomous Union tariff quotas for imports of certain fishery products into the Canary Islands from 2021 to 2027

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation 1412/2013[1] provides for autonomous tariff quotas (0% duty) for 30,000 tonnes of imports of fisheries products to the Canary Islands for the period 2014-2020. The measures are justified because the Canary Islands' exceptional geographical situation in relation to the sources of supply of fishery products, which are essential for domestic consumption, generates costs that are a severe burden for this sector.

This situation is not new. Before Spain joined the EU, the Canary Islands enjoyed a 'duty-free' regime for goods entering the region. After Spain became a member of the EU, fishery products imported to the Canary Islands benefited from specific regimes in the form of tariff suspensions until 2001. Since then, the Canary Islands have benefited from tariff quotas.

The current tariff quotas will expire on 31 December 2020. For the period after 2020, Regulation 1412/2013 requires that the Commission examines the impact of the measures and, on the basis of its findings, submit any relevant proposals for the period after 31 December 2020.

• Consistency with existing policy provisions in the policy area

The Canary Islands and other outermost regions benefit from various similar measures (autonomous tariff reductions). For example, Council Regulation (EU) No 1386/2011 of 19 December 2011 provides for similar measures for imports of industrial products to the Canary Islands.

Before Spain joined the EU, the Canary Islands enjoyed a 'duty-free' regime for goods entering the region. After Spain became an EU member, fishery products imported to the Canary Islands benefited from specific regimes in the form of tariff suspensions until 2001. Since then, the Canary Islands have benefited from tariff quotas. This Regulation is a continuation of those measures.

• Consistency with other Union policies

N/A

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 349 of the Treaty on the Functioning of the European Union (TFEU).

[1] See Annex 1: Council Regulation 1412/2013 opening and providing for the administration of autonomous Union tariff quotas for imports of certain fishery products into the Canary Islands from 2014 to 2020

- **Subsidiarity (for non-exclusive competence)**

The European Union has sole responsibility for Common Customs Tariff duties. The subsidiarity principle therefore does not apply to this proposal.

- **Proportionality**

The policy choice is proportionate because only a limited volume is authorised, in line with the utilisation rate.

- **Choice of the instrument**

N/A

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

All relevant stakeholders were consulted through the Market Advisory Council and the Outermost Regions Advisory Council. The latter asked the Commission to reassess the conclusions in view of the decrease in tourism in the Canary Islands due to the Covid pandemic. However, it is very difficult to assess the consequences for a seven-year period, and an elimination or decrease of the quotas could hinder a potential economic recovery during those 7 years. Therefore, the Commission proposes to extend the measures as planned.

- **Collection and use of expertise**

To examine the impacts of the measures, as required by the Regulation, the Commission requested the necessary information from the Spanish authorities. The Spanish authorities provided data on the products concerned that had been imported to the Canary Islands and included with that data an analysis of these products.

Other reports provide relevant information on the Canary Islands in areas that are of relevance when examining the impacts of the tariff quotas, namely the Commission's Outermost Regions Communication from 2017[2] and the report 'Realising the potential of the Outermost Regions for sustainable blue growth'[3].

Information was also gathered for specific topics, such as employment (ISTAC – Canary Islands Statistical Institute), tourism (official statistics on tourism in the Canary Islands) and consumption (Eurobarometer).

[2] COM(2017) 623 final: 'A stronger and renewed strategic partnership with the EU's outermost regions'

[3] https://ec.europa.eu/regional_policy/en/information/publications/reports/2017/realising-the-potential-of-the-outermost-regions-for-sustainable-blue-growth

- **Impact assessment**

No impact assessment has been performed. The proposal renews the current legal act that expires at the end of 2020. An impact assessment is not warranted, given the very limited scope of the measures and the fact that the proposal concerns the extension of such measures and that there are no significant changes as to their expected effects..

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The proposal does not have a budgetary impact for the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

N/A

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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 Parliament,

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

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

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 (EU) No 1412/2013[1] opened and provided for the administration of autonomous Union tariff quotas for imports of certain fishery products into the Canary Islands for the period 1 January 2014 to 31 December 2020.

(3) In July 2019, the Commission submitted to the Council an examination of the impact of the measures, providing options for the period after 31 December 2020.

(4) The examination showed that the utilisation rate of both quotas 09.2997 and 09.2651 was significant. Under quota 09.2651, CN code 0308 was not utilised.

[1] Council Regulation (EU) No 1412/2013 of 17 December 2013 opening and providing for the administration of autonomous Union tariff quotas for imports of certain fishery products into the Canary Islands from 2014 to 2020 (OJ L 353, 28.12.2013, p. 1.).

(5) Tariff quotas similar to those opened with Regulation (EU) No 1412/2013 for certain fishery products are justified because they would cover the needs of the Canary Islands' domestic market, while ensuring that flows of duty-free imports into the Union remain predictable and clearly identifiable.

(6) Therefore, with the aim of giving a long-term perspective to economic operators to reach a level of activity which stabilises the economic and social environment of the Canary Islands, it is appropriate to extend, for an additional period, the autonomous tariff quota regime of the Common Customs Tariff duties for certain goods as detailed in the Annex to this Regulation.

(7) 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.

(8) 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.

(9) 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 [2]. The final decision on whether the suspension should be maintained or withdrawn definitely should, however, be made by the Council in accordance with Article 349 of the Treaty within the time period, for which the suspension is temporarily withdrawn by the Commission.

(10) The measures provided for in this regulation should ensure continuity after Regulation (EC) No 1412/2013 expires. Therefore, it is appropriate to apply the measures provided for in this Regulation from 1 January 2021 until 31 December 2027

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January 2021 to 31 December 2027, 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 quantities 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.

[2] 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 powers (OJ L 55, 28.2.2011, p. 13.).

Article 2

The tariff quotas referred to in Article 1 shall be managed in accordance with Articles 49 to 54 of Commission Implementing Regulation (EU) 2015/2447 [3].

Article 3

By 30 June 2026, 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, taking into account the findings of the report, submit any relevant proposals for the period after 2027.

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).

   The payment of the 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 Canary Islands shall be conditional upon the provision of such guarantee.

2. Within the maximum 12 month period referred to in paragraph 1, the Council, in accordance with Article 349 of the Treaty shall adopt a final decision as to whether to maintain or to definitively withdraw the suspension. If the suspension is definitively withdrawn, the amounts of duties secured by guarantees shall be collected definitively.

3. If no definitive decision has been adopted within the maximum 12 month period in accordance with paragraph 2, the securing guarantees shall be released.

Article 5

1. The Commission shall be assisted by the Customs Code Committee, established by Article 285 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[4]. 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.

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[3] Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

[4] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1.).

Article 6

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

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 2021 to 31 December 2027.

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

Done at Brussels,

For the Council
The President