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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 September 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 625 final
Subject:	Proposal for a COUNCIL REGULATION opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2019-2020

Delegations will find attached document COM(2018) 625 final.

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Proposal for a

COUNCIL REGULATION

opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2019-2020

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The EU relies on imports to supply certain fishery products. Indeed, in the last 21 years it has become increasingly dependent on imports to meet demand of fishery products. At present, the EU's fisheries and aquaculture production covers only 46 % of its needs. The autonomous trade measures for fishery and aquaculture products are designed mainly to enable the EU fish processing industry to import non-EU countries' raw materials for further processing at reduced rates or duty-free. To guarantee a level playing field for EU producers, the sensitivity of individual fishery products on the EU market should also be taken into consideration.

• Consistency with existing policy provisions in the policy area

This initiative is in line with and pursues the EU's policy over the past 18 years of securing an adequate supply of fishery products for its processing industry.

• Consistency with other Union policies

Not applicable

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for this proposal is Article 31 of the Treaty on the Functioning of the European Union.

• 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 for each product only a limited quantity is authorised, bearing in mind the utilisation rate, the need for a level playing field between EU and non-EU producers, value added and other trade preferences.

The proposal complies with the proportionality principle because the customs union is a common policy and should therefore be implemented through a Regulation adopted by the Council.

• Choice of the instrument

Not applicable.

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

• Ex-post evaluations/fitness checks of existing legislation

Not applicable.

- **Stakeholder consultations**

Consultations with EU producers, EU processors and national competent authorities from the Member States were carried out from January to March 2018 via a questionnaire from the Commission. The Commission also presented the process on 24 January to the Market Advisory Council, where all stakeholders (industry and NGOs) are represented. None of the stakeholders opposed maintaining autonomous tariff quotas (ATQs) for fishery products.

As usual, EU producers proposed a minimalist approach (lower quantities and fewer products), while the EU processing industry proposed a maximalist approach (higher quantities and more products). The nine Member States which expressed their views followed the advice of their respective industries. The Commission proposal is balanced, based on a factual and objective analysis of data and information collected. It guarantees sufficient competitive supply for the EU processing industry, while taking into account the interests of EU fish producers.

- **Collection and use of expertise**

An external consultant (EUMOFA) was commissioned to evaluate the value added of each product subject to the ATQs. This work builds on an in-depth study from 2015, which confirmed the relevance, consistency and efficiency of the ATQs. Eurostat and QUOTA data were used for each of the proposed quotas.

- **Impact assessment**

No impact assessment has been performed. The proposal takes up the current legal act that expires at the end of 2018. There is therefore no need for an impact assessment. However, a thorough consultation has taken place with EU stakeholders before the proposal moves to the Council working party for debate, ahead of its adoption by the Council.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

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**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

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

Not applicable.

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COUNCIL REGULATION

opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2019-2020

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Union supplies of certain fishery products currently depend on imports from third countries. In the last 21 years, the Union has become more dependent on imports to meet its consumption of fishery products. In order not to jeopardise the Union production of fishery products and to ensure an adequate supply to the Union processing industry, import duties should be suspended or reduced for a number of fishery products within tariff quotas of an appropriate volume. In this respect, the sensitivity of individual fishery products on the Union market should be taken into consideration, in order to guarantee a level playing field for the Union producers.

(2) Regulation (EU) 2015/2265 of December 2015 and amended by Council Regulation (EU) 2016/1184 of 18 July 2016[1], opened and provided for the management of autonomous Union tariff quotas for certain fishery products for the period 2016-2018. Given that the period of application of this Regulation expires on 31 December 2018, a new Regulation providing for tariff quotas should be adopted for the period 2019-2020.

(3) All Union importers should benefit from equal and uninterrupted access to the tariff quotas provided for in this Regulation and the rates laid down for the tariff quotas should be applied without interruption to all imports of the fishery products concerned into all Member States until the tariff quotas have been used up.

(4) Autonomous Union tariff quotas are set having regard to the needs for the period 2019-2020 of the industry in all Union Member States, including the United Kingdom. The Regulation should, however, provide for the possibility of adapting the available preferential access to the Union market for products covered by the tariff quotas provided for in this Regulation should the transitional arrangements foreseen as part of the withdrawal agreement under negotiation between the European Union and the

[1] Council Regulation (EU) 2015/2265 of 7 December 2015 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2016-2018 (OJ L 322, 8.12.2015, p.4) and Council Regulation (EU) 2016/1184 of 18 July 2016 amending Regulation (EU) 2015/2265 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2016 to 2018 (OJ L 196, 21.7.2016, p. 1).

United Kingdom pursuant to Article 50 of the Treaty on European Union fail to enter into force.

(5) Commission Implementing Regulation (EU) 2015/2447[2] provides for a system of tariff-quota management which follows the chronological order of the dates of acceptance of the declarations for 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) It is important to ensure transparency, predictability and legal certainty for all stakeholders. Since the tariff quotas are intended to ensure adequate supply to the Union processing industry, minimum treatment or operation should be required for quota entitlement.

(7) To make common management of the tariff quotas effective, Member States should be permitted to draw from the tariff 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 Commission should be able to monitor the rate at which the tariff quotas are used up and should inform the Member States accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

Article 3

The tariff quotas shall be subject to end-use customs supervision in accordance with Article 254 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[3].

Article 4

1. The suspension or reduction of import duties shall apply only to products intended for human consumption.

2. The tariff quotas shall not be available for those products whose processing is carried out at retail or catering level.

3. The tariff quotas shall not be available for products intended solely for one or more of the following operations:

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[2] 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).

[3] 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).

- cleaning, gutting, tailing, heading;
- cutting;
- repacking of frozen IQF (individually quick frozen) fillets;
- sampling, sorting;
- labelling;
- packing;
- chilling;
- freezing;
- deep freezing;
- glazing;
- thawing;
- separation.

4. Notwithstanding paragraph 3, the tariff quotas shall be available for products intended for one or more of the following operations:
   - dicing;
   - cutting into rings, cutting into strips, for materials under CN codes 0307 43 91, 0307 43 92, 0307 43 99;
   - filleting;
   - production of flaps;
   - cutting of frozen blocks;
   - splitting of frozen interleaved fillet blocks;
   - slicing for materials under CN codes ex 0303 66 11, 0303 66 12, 0303 66 13, 0303 66 19, 0303 89 70, 0303 89 90
   - subjecting products under CN codes 0306 16 99 (TARIC subdivisions 20 and 30), 0306 17 92 (TARIC subdivision 20), 0306 17 99 (TARIC subdivision 10), 0306 35 90 (TARIC subdivisions 12, 14, 92 and 93), 0306 36 90 (TARIC subdivisions 20 and 30), 1605 21 90 (TARIC subdivisions 45, 55 and 62) and 1605 29 00 (TARIC subdivisions 50, 55 and 60) to processing treatment by packaging gases as defined in Annex I to Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

Article 5

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

Article 6

1. The Commission shall be empowered to adopt delegated acts to reduce the overall quotas set out in Annex to this Regulation. The reduction shall reflect the share of the

quota used by the United Kingdom's during the years preceding its withdrawal from the Union.

2. The Commission may make use of the powers referred to in paragraph 1 only in the absence of an agreement between the Union and the United Kingdom on the latter's orderly withdrawal from the Union.

3. The delegated acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 7(2).

Article 7

1. The Commission shall be assisted by a Committee. 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 8

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 2019 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