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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 June 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 308 final
Subject:	Proposal for a COUNCIL REGULATION amending Council Regulation (EU) 2020/1706 as regards inclusion of autonomous Union tariff quotas for certain fishery products

Delegations will find attached document COM(2021) 308 final.

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2021/0143 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) 2020/1706 as regards inclusion of autonomous Union tariff quotas for certain fishery products

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation (EU) 2020/1706 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2021-2023[1] was adopted on 13 November 2020.

The objective of the Regulation is to ensure the competitiveness of the Union processing industry and avoid jeopardising Union production of fishery products by ensuring that it has an adequate supply. To that end, the Regulation reduces or suspends import duties for a number of products within quotas of an appropriate volume. It also determines which processing operations ('qualifying operations') allow the use of the quotas.

On 31 January 2020, the United Kingdom left the European Union. The Regulation was based on the assumption that the EU and the UK would conclude a free-trade agreement to apply from the end of the transition period, so that trade flows between them could continue and no import duties would be in place. While the Trade and Cooperation Agreement[2] (TCA) provides for duty-free, quota-free access for fishery products, the British Overseas Countries and Territories (OCTs) are no longer associated with the EU and their exports of fishery products to the Union no longer enjoy tariff reductions.

The additional bilateral protocols with the Kingdom of Norway[3] and with Iceland[4], which provide for quotas for certain fish and fishery products, expired on 30 April 2021. As the negotiations for new quotas were not concluded by then, the EU industry may be faced with a shortage of duty-free products for processing.

It is therefore necessary to amend Council Regulation (EU) 2020/1706 to address the consequences of the removal of the British OCTs from the EU OCT trade regime and of the expiry of the additional protocols with Norway and Iceland.

• Consistency with existing policy provisions in the policy area

This initiative is in line with the EU's consistent policy over the past 20 years of securing an adequate supply of fishery products for its processing industry.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 31 of the Treaty on the Functioning of the European Union.

• Subsidiarity (for non-exclusive competence)

[1] OJ L 385, 17.11.2020, p. 3.
[2] OJ L 444, 31.12.2020, p. 14.
[3] OJ L 141, 28.5.2016, p. 22.
[4] OJ L 141, 28.5.2016, p. 18.

Common Customs Tariff duties fall under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

- **Proportionality**

The policy decision is proportionate, because only a limited quantity is authorised for each product, taking account of the quota utilisation rate, a level playing field between EU and non-EU producers, added value and other trade preferences.

- **Choice of instrument**

It is appropriate to use the same type of act as that being amended, i.e. a Council Regulation.

3. RESULTS OF STAKEHOLDER CONSULTATIONS

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

Not applicable.

- **Stakeholder consultations**

Before the adoption of Council Regulation (EU) 2020/1706, the Commission consulted EU producers, EU processors and Member States' authorities between January and March 2020 by means of a questionnaire. On 29 February 2020, it presented the process to the Market Advisory Council, where all stakeholders (industry and NGOs) are represented.

The Regulation is balanced and based on factual and objective analysis of available data and information. It guarantees sufficient competitive supply for the EU processing industry, while taking into account the interests of EU fish producers. However, after its adoption, some Member States and stakeholders called for new autonomous tariff quotas to address the loss of preferential treatment for fishery products originating in the British OCTs and the expiry of preferential treatment for products originating in Norway and Iceland.

This proposal is based on input received from stakeholders in the process of adopting the Regulation.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

No impact assessment has been carried out. The proposal is aimed at amending the current Regulation, which expires at the end of 2023. There is therefore no need for an impact assessment. However, the Commission consulted EU stakeholders before submitting the proposal 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. The proposal has a budgetary impact on the EU revenue in terms of loss of customs duties, which would have been collected on imported products. One proposed quota concerns a product which is currently subject to a 6% MFN duty (squid). Another proposed quota concerns a product which is subject to a 20% MFN duty (herring in brine). Two other proposed quotas concern products which benefit from a tariff suspension between 15 February to 15 June. The rest of the year frozen herring is subject to a 15% MFN duty and frozen mackerel is subject to 20% MFN duty. Two more quotas concern products which are subject to 15% MFN duty and one to 18% MFN duty.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Not applicable.

• Detailed explanation of the specific provisions of the proposal

It is proposed to amend the Regulation by introducing new annual duty-free quotas as follows:

Patagonian squid (*Loligo gahi*) (CN code ex 0307 43 35) — 75 000 tonnes

As the British OCTs are no longer covered by the EU Overseas Association Decision and no longer benefit from duty-free, quota-free access to the EU, imports of Patagonian squid from the Falkland Islands have been subject to the 6% *erga omnes* duty since 1 January 2021;

Herrings preserved in brine (ex 1604 12 91 and ex 1604 12 99) — 15 000 tonnes (net drained weight)

Quota 09.0750 expired on 30 April 2021;

Herrings (*Clupea harengus, Clupea pallasii*), frozen, excluding fish fillets and other fish meat of heading 0304 and excluding livers and roes, for processing (ex 0303 51 00) — 10 000 tonnes

Quotas 09.0710 and 09.0812 expired on 30 April 2021;

Mackerel of the species *Scomber scombrus* and *Scomber japonicus*, frozen, whole, excluding livers and roes (ex 0303 54 10) — 15 000 tonnes

Quota 09.0712 expired on 30 April 2021;

Various species of frozen fish (0303 55 30, ex 0303 55 90, 0303 56 00, 0303 69 90, 0303 82 00, 0303 89 55, 0303 89 90) — 3 300 tonnes

Quota 09.0713 expired on 30 April 2021;

Fillets and flaps of herring (*Clupea harengus, Clupea pallasii*), frozen (0304 86 00 and ex 0304 99 23) — 25 000 tonnes

Quota 09.0714 expired on 30 April 2021;

Fillets of redfish (*Sebastes* spp.), fresh or chilled (0304 49 50) — 1 300 tonnes

Quota 09.0811 expired on 30 April 2021.

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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 31 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2020/1706 opens and provides for the management of autonomous Union tariff quotas for certain fishery products for the period 2021-2023[1]. Appropriate volumes have been decided for each tariff quota to ensure an adequate supply to the Union industry for this period.

(2) Union supplies of certain fishery products currently depend on imports from third countries. In the last decades, 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 for Patagonian squid, herring preserved in brine, frozen herrings, frozen mackerel, frozen fillets and flaps of herrings, fillets of redfish and various species of frozen fish within tariff quotas of an appropriate volume.

(3) The Trade and Cooperation Agreement[2] (the TCA) between the Union and the United Kingdom provisionally applies since 1 January 2021. The TCA provides for a duty free quota free access of originating fishery products. However, the British overseas countries and territories (OCTs) are no longer associated with the Union and no longer enjoy tariff reductions for exports of fishery products to the Union.

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[1] Council Regulation (EU) 2020/1706 of 13 November 2020 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2021-2023 (OJ L 385, 17.11.2020, p. 3).

[2] Trade and Cooperation Agreement between the European Union and the European Atomic and Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 444, 31.12.2020, p. 14).

(4) Moreover, the additional bilateral protocols with Iceland[1] and with Norway[2] providing for quotas for certain fish and fisheries products expired on 30 April 2021. As negotiations for new quotas will not be concluded before the expiry of the additional bilateral protocols, this may create a shortage of duty free fisheries materials for processing in the Union.

(5) It is therefore necessary to amend Regulation (EU) 2020/1706 to remedy the consequences of the withdrawal of the United Kingdom from the Union as regards the loss of preferential status of OCTs and to remedy the consequences of the expiry of additional bilateral protocols with Norway and with Iceland.

(6) The Regulation should therefore apply retroactively from 1 January 2021.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2020/1706 is amended as follows:

(1) Article 4(4), point (b), is replaced by the following:

‘(b) cutting into rings and cutting into strips for materials under CN codes 0307 43 35, 0307 43 91, 0307 43 92 and 0307 43 99;’;

(2) the Annex is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2021.

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

Done at Brussels,

For the Council
The President

[1] Additional Protocol to the Agreement between the European Economic Community and the Republic of Iceland (OJ L 141, 28.5.2016, p. 18).

[2] Additional Protocol to the Agreement between the European Economic Community and the Kingdom of Norway (OJ L 141, 28.5.2016, p. 22).