



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.6.2007  
COM(2007) 289 final

Proposal for a

**COUNCIL REGULATION**

**opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal/General context**

Council Regulation (EC) No 379/2004 of 24 February 2004 (OJ L 64) laying down autonomous Community tariff quotas for certain fishery products for the period 2004 to 2006 has ran out on 31.12.2006. The proposal is to introduce a similar regime for the years 2007 to 2009 with due regard to the then prevailing supply needs and overall circumstances.

It is in the interest of the EU to increase certain existing autonomous tariff quotas, since processing industries in some Member States are facing serious difficulties in securing for themselves sufficient Community supplies of certain fishery products. In order to overcome the shortage of raw materials the industry is using substitute products originating from third countries. Due to changed supply needs the proposal contains some new and as the case may be amended quotas while others have not been prolonged.

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

Council Regulation (EC) No 379/2004 of 24 February 2004 (OJ L 64) laying down autonomous Community tariff quotas for certain fishery products for the period 2004 to 2006.

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

In line with agricultural, fisheries, trade, development and external relations policies. It will not be at the expenses of developing countries enjoying a preferential trading agreement with the EU, i.e. GSP and ACP regime.

### 2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

*Consultation methods, main sectors targeted and general profile of respondents*

Consultation of Member States through the Management Committee for Fisheries Products and through the Advisory Committee on Fisheries and Aquaculture. Informal consultative contacts with the EU industry (EU Fish Producers Association, Federation of National Organisations of Importers and Exporters of Fish)

*Summary of responses and how they have been taken into account*

The proposed measures are supported by a large majority of Member States.

- **Collection and use of expertise**

Scientific/expertise domains concerned

Experts representing the Member States in the Management Committee for Fishery Products.

Methodology used

Open consultation

Main organisations/experts consulted

Experts designated by each of the MS

Consultation of the Management Committee for Fishery Products on 6 April 2006, on 8 June 2006 and on 21. September 2006. Consultation of the Advisory Committee for Fisheries (ACFA) Working Group III Markets and Trade on 10 October 2006. Meeting with Community stakeholders on 20 March 2006: EU Fish Producers Association (AIPCE) and the Federation of National Organisations of Importers and Exporters of Fish (CEP).

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

Means used to make the expert advice publicly available

Publication of the Proposal

- **Impact assessment**

Not applicable

Proposal not included in the Commission's Working and Legislative Programme 2006

### 3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Proposal for a Council Regulation opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009

- **Legal basis**

Art 26 of the EC Treaty

- **Subsidiarity principle**

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

- **Proportionality principle**

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

It is necessary to adopt measures to alleviate serious supply shortages of the processing industry for the next triennial period beginning in 2007.

This set of measures is in line with the principles set out to simplify the procedures for the operators engaged in foreign trade and in accordance with the Commission communication concerning autonomous tariff suspensions and quotas (98/C 128/02).

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

By virtue of Article 26 of the EC Treaty, autonomous tariff suspensions and quotas are approved by the Council acting on a qualified majority on the basis of a Commission proposal. A regulation is required to ensure direct applicability and uniformity throughout the Community.

#### **4) BUDGETARY IMPLICATION**

Uncollected customs duties with a net amount of € 49 467 450.

#### **5) ADDITIONAL INFORMATION**

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

Proposal for a

## **COUNCIL REGULATION**

### **opening and providing for the management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009**

**(Text with EEA relevance)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Whereas:

- (1) Community supplies of certain fishery products currently depend on imports from third countries. It is in the Community's interest to suspend in part or in whole the customs duties for those products, within Community tariff quotas of an appropriate volume. In order not to jeopardise the development prospects of those products in the Community and to ensure an adequate supply to satisfy user industries, such quotas should be opened, applying variable customs duties in accordance with the sensitivity of the product in question on the Community market.
- (2) Equal and uninterrupted access to those quotas should be ensured for all Community importers and the rates laid down for the quotas should be applied without interruption to all imports of the products concerned into all Member States until the quotas have been used up.
- (3) To ensure the efficiency of a common management of the quotas, Member States should be permitted to draw from the 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 latter should in particular be able to monitor the rate at which the quotas are used up and should inform the Member States accordingly.
- (4) 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 Code<sup>2</sup> provides for a system of tariff quota management which follows the chronological order of the dates of acceptance of the declarations of release for free circulation. The tariff quotas opened by this Regulation should be

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1875/2006 (OJ L 360, 19.12.2006, p. 64).

managed by the Community authorities and the Member States in accordance with that system.

- (5) Considering that Council Regulation (EC) No 379/2004 of 24 February 2004 opening and providing for the management of autonomous Community tariff quotas for certain fishery products expired on 31.12.2006 no autonomous tariff quotas were available for the period between 1.1.2007 and the entry into force of this Regulation. Furthermore, given the fact that all quotas opened by this Regulation are subject to end use conditions in order to benefit from the favourable tariff treatment a retro-active implementation of this Regulation is not possible. Therefore, in order to ensure a certain continuity with the previous quota system, a successor regime should be foreseen which allows to grant a reduction on import duties for fishery products which have been released into free circulation between 1.1.2007 and the entry into force of this Regulation and which takes due account of the end use conditions and the available quantities of the specific quotas.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. Import duties on the products listed in the Annex shall be suspended, within tariff quotas, at the rates for the periods, and up to the amounts, indicated therein.
2. Imports of the products listed in the Annex shall be covered by the quotas referred to in paragraph 1 only if the declared customs value is at least equal to the reference price fixed, or to be fixed, in accordance with Article 29 of Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products<sup>3</sup>.

#### *Article 2*

The tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

#### *Article 3*

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

#### *Article 4*

1. Customs duties for fishery products released into free circulation between 1.1.2007 and the date of the entry into force of this Regulation which fall within the product scope of one of the tariff quotas listed in the Annex may be reduced on request of the declarant in accordance with the rates of duty set out therein.

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<sup>3</sup> OJ L 17, 21.1.2000, p. 22

2. The request shall be submitted within four weeks after entry into force of this Regulation to the customs office in charge of the release into free circulation of the product in question, indicating the quota concerned. It shall be accompanied with all relevant documentation which prove beyond any reasonable doubt that the imported product falls within the scope of the quota and that it had been or will be used in accordance with the end use conditions set out in the Annex for the tariff quota concerned.
3. This Article shall apply only where the balance of the relevant tariff quota so permits at the date of acceptance of the duly justified request. Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93 shall apply *mutatis mutandis*.

#### *Article 5*

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

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	TARIC code	Description	Annual amount of quota (tons)	Quota duty	Quota period
09.2759	ex 0302 50 10	20	Cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> ), excluding livers and roes, fresh, chilled or frozen, for processing <sup>(a)</sup> <sup>(b)</sup>	80 000	0%	1.1.2007 – 31.12.2009
	ex 0302 50 90	10				
	ex 0303 52 10	10				
	ex 0303 52 30	10				
	ex 0303 52 90	10				
09.2765	ex 0305 62 00	20	Cod ( <i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i> ) and fish of the species <i>Boreogadus saida</i> , salted or in brine, but not dried or smoked, for processing <sup>(a)</sup> <sup>(b)</sup>	10 000	0%	1.1.2007 – 31.12.2009
		25				
	ex 0305 69 10	10				
09.2761	ex 0304 29 91	10	Blue grenadier ( <i>Macruronus spp.</i> ), frozen fillets and other meat, for processing <sup>(a)</sup> <sup>(b)</sup>	20 000	0%	1.1.2007 – 31.12.2009
	ex 0304 29 99	41				
		81				
	ex 0304 99 99	60				
		81				
09.2760	ex 0303 78 11	10	Hake ( <i>Merluccius spp.</i> excluding <i>Merluccius merluccius</i> , <i>Urophycis spp.</i> ), and Pink cusk-eel ( <i>Genypterus blacodes</i> ), frozen, for processing <sup>(a)</sup> <sup>(b)</sup>	15 000	0%	1.1.2007 – 31.12.2009
	ex 0303 78 12	10				
	ex 0303 78 13	10				
	ex 0303 78 19	11				
		81				
	ex 0303 78 90	10				
09.2766	ex 0304 29 99	71	Southern blue whiting ( <i>Micromesistius australis</i> ), frozen fillets and other meat, for processing <sup>(a)</sup> <sup>(b)</sup>	2 000	0%	1.1.2007 – 31.12.2009
	ex 0304 99 99	91				
09.2770	ex 0305 63 00	10	Anchovies ( <i>Engraulis anchoita</i> ), salted or in brine, but not dried or smoked, for processing <sup>(a)</sup> <sup>(b)</sup>	10 000	0%	1.1.2007 – 31.12.2009
09.2788	ex 0302 40 00	10	Herrings ( <i>Clupea harengus</i> , <i>Clupea pallasii</i> ), of a weight exceeding 100 g per piece or flaps or a weight exceeding 50 g per piece, excluding livers and roes, for processing <sup>(a)</sup> <sup>(b)</sup>	20 000	0%	1.10.2007 – 31.12.2007 1.10.2008 – 31.12.2008 1.10.2009 – 31.12.2009
	ex 0303 51 00	10				
	ex 0304 19 97	10				
	ex 0304 99 23	10				
09.2792	ex 1604 12 99	10	Herrings, spiced and/or vinegar-cured, in brine, preserved in barrels of at least 70 kg net drained weight, for processing <sup>(a)</sup> <sup>(b)</sup>	10 000	6%	1.1.2007 – 31.12.2009
09.2790	ex 1604 14 16	20	Filets known as 'loins' of tunas and skipjack, for processing <sup>(a)</sup> <sup>(b)</sup>	10 000	6%	1.1.2007 – 31.12.2009
		30				
		95				
09.2762	ex 0306 11 10	10	Rock lobster and other sea crawfish ( <i>Palinurus spp.</i> , <i>Panulirus spp.</i> , <i>Jasus spp.</i> ), frozen, for processing <sup>(a)</sup> <sup>(b)</sup> <sup>(c)</sup>	1 500	6%	1.1.2007 – 31.12.2009
	ex 0306 11 90	10				
09.2794	ex 1605 20 10	50	Shrimps and prawns of the species <i>Pandalus borealis</i> ; cooked and peeled, for processing <sup>(a)</sup> <sup>(b)</sup> <sup>(d)</sup>	20 000	6%	1.1.2007 – 31.12.2009
	ex 1605 20 99	45				

09.2785	ex 0307 49 59 ex 0307 99 11	10 10	Tubes of squid ( <i>Ommastrephes</i> spp. — excluding <i>Ommastrephes sagittatus</i> —, <i>Nototodarus</i> spp., <i>Sepioteuthis</i> spp.) and <i>Illex</i> spp., frozen, with skin and fins, for processing <sup>(a)</sup> <sup>(b)</sup>	45 000	0%	1.1.2007 – 31.12.2009
09.2786	ex 0307 49 59 ex 0307 99 11	20 20	Squid ( <i>Ommastrephes</i> spp. — excluding <i>Ommastrephes sagittatus</i> —, <i>Nototodarus</i> spp., <i>Sepioteuthis</i> spp.) and <i>Illex</i> spp., frozen whole or tentacles and fins, for processing <sup>(a)</sup> <sup>(b)</sup>	1 500	0%	1.1.2007 – 31.12.2009
09.2772	ex 0304 99 10	10	Surimi, frozen, for processing <sup>(a)</sup> <sup>(b)</sup>	55 000	0%	1.1.2007 – 31.12.2009
09.2774	ex 0304 29 58	10	Hake ( <i>Merluccius productus</i> ), frozen fillets for processing <sup>(a)</sup> <sup>(b)</sup>	15 000	4%	1.1.2007 – 31.12.2009
09.2776	ex 0304 29 21 ex 0304 29 29 ex 0304 99 31 ex 0304 99 33	10 20 10 10	Cod, ( <i>Gadus morhua</i> , <i>Gadus macrocephalus</i> ), frozen fillets and meat, for processing <sup>(a)</sup> <sup>(b)</sup>	20 000	0%	1.1.2007 – 31.12.2009
09.2778	ex 0304 29 99 ex 0304 99 99	65 65	Sole, frozen fillets and other fish meat, ( <i>Limanda aspera</i> , <i>Lepidopsetta bilineata</i> , <i>Pleuronectes quadrituberculatus</i> ) for processing <sup>(a)</sup> <sup>(b)</sup>	5 000	0%	1.1.2007 – 31.12.2009

(a) Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No. 2454/93 - OJ L 253 11.10.1993 p. 1 and subsequent amendments).

(b) This quota is available for products intended to undergo any operation, unless it is solely for one or more of the following operations:

- cleaning, gutting, tailing, heading,
- cutting (excluding dicing, filleting, production of flaps or cutting of frozen blocks or splitting of frozen interleaved fillet blocks),
- sampling, sorting,
- labelling,
- packing,
- chilling,
- freezing,
- deep freezing,
- thawing, separation.

The quota is not available for products intended, in addition, to undergo treatment (or operations) which gives quota entitlement, where such treatment (or operations) is (are) carried out at retail or catering level. The reduction of customs duties shall apply only to fish intended for human consumption.

(c) Products under CN codes 0306 11 10 10 and 0306 11 90 10 will, however, qualify for the quota if they undergo one or both of the following operations:

- dividing the frozen lobster,
- subjecting the frozen lobster to heat treatment to enable the removal of internal waste material.

(d) Products under CN code 1605 20 10 50 and 1605 20 99 45 will, however, qualify for the quota if they undergo the following operation:

- subjecting the shrimps and prawns to processed treatment by modified atmosphere as defined in the EU Additives Directive (95/2/EC of 20 February 1995)

**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 management of autonomous Community tariff quotas for certain fishery products for the period 2007 to 2009.

**2. BUDGET LINES:**

Chapter and Article: Chap. 12 art. 120

Amount budgeted for the year 2007: M€ 15.287,9

**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 <sup>4</sup>	Year 2007
Article 120	Impact on own resources	- 49.5/year

**4. ANTI-FRAUD MEASURES**

Checks on the end-use of some of the products covered by this Council Regulation will be carried out in accordance with Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of the Community Customs Code.

**5. OTHER REMARKS**

Due to the fact that the predecessor autonomous tariff quota regime has ran out on 31 December 2006 the proposal is to provide continuity and introduce a similar regime with due regard to the prevailing supply needs and overall circumstances.

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<sup>4</sup> 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.

This proposal contains the adjustments which must be made to the annex to the expiring Regulation in order to take account of the following:

1. Requests for increases and amendments of product descriptions of autonomous tariff quotas which have been presented and accepted;
2. Changes of the fishing possibilities and developments on the market resulting in supply shortages

Estimated cost of this operation

Taking most recent complete statistics (2005) as a basis, the impact on the loss of revenue resulting from this Regulation may therefore be estimated at 66.0 MEUR for the first year of the triennial period beginning in 2007. 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 grants miscellaneous customs duty facilitations to different groups of third countries. Therefore the actual loss of revenue tends to result in lower amounts since MFN duties do not apply constantly. Suspensions granted by the common market organisation, however, have been considered in the calculation of the loss of revenue.

Order N°	Proposal 2007 - 2009	MFN duty (%) (valid on 08.11.2006)	Quota duty (%)	Unit Value (€ / ton )	Theoretical loss of revenue (in €)
09.2759	80.000	3 <sup>(1)</sup>	0	2.470	5.927.327
09.2760	15.000	15	0	2.497	5.618.059
09.2761	20.000	3,5 <sup>(2)</sup>	0	1.920	1.343.992
09.2762	1.500	12,5	6	16.921	1.649.818
09.2765	10.000	13	0	3.721	4.837.104
09.2766	2.000	7,5/ 15 average = 11,25	0	1.807	406.615
09.2770	10.000	10	0	1.482	1.481.705
09.2772	55.000	3,5 <sup>(3)</sup>	0	1.547	2.977.386
09.2785	45.000	8	0	2.613	9.405.825
09.2786	1.500	8	0	1.327	159.210
09.2788	20.000	15	0	632	1.896.506
09.2790	10.000	24	6	3.143	5.658.073
09.2792	10.000	20	6	1.656	2.319.039
09.2794	20.000	20	6	4.685	13.116.812
New 1 Hake, frozen fillets	15.000	6,1	4	1.588	500.213
New 2 Cod, frozen fillets & meat	20.000	7,5	0	4.292	6.437.413
New 3 Sole, frozen fillets & meat	5.000	15	0	2.962	2.221.465
<b>GRANDTOTAL</b>					<b>65.956.562</b>

(1) Suspension of common customs tariff duties from 12% to 3% for processing (Reg. 104/2000)

(2) Suspension of common customs tariff duties from 7,5% to 3,5% for processing (Reg. 104/2000)

(3) Suspension of common customs tariff duties from 15% to 3,5% for processing (Reg. 104/2000)

Source: Eurostat COMEXT 06.11.2006 & TAXUD Taric Database

Tab. Ref. ATQ 2007 2009 Financial Statement

Total loss of revenue compared to the absence of autonomous tariff quotas: € 65.956.562 net.