

Proposal for a Council Regulation adopting autonomous measures concerning the importation of fish and fishery products originating in the Republic of Poland

(2002/C 262 E/04)

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(Submitted by the Commission on 6 March 2002)

EXPLANATORY MEMORANDUM

On 29 May 2000, the Council authorised the Commission to undertake negotiations on behalf of the Community with the Republic of Poland to liberalise reciprocal trade in fish and fishery products.

Negotiations were held on 18-19 July, 16 November, 7 December 2000 and 8 February 2001. An addendum to the agreement was signed on 13 July 2001.

The two parties agreed on a model for simple, gradual and reciprocal tariff concessions, whose details have been recorded in the Agreed Minutes and an addendum signed by each head of delegation. The main commitments made by the Community as a result of the conclusion of negotiations are as follows:

- One month after the date of entry into force of the agreement, the tariff duties applied on all fish and fishery products covered by the definition set out in Regulation (EC) No 104/2000, will be reduced by one-third. One year after entry into force of the agreement, a further one-third reduction will be applied. Two years after entry into force of the agreement, full free trade of all fish and fishery products will be applied.
- However, as regards or the products specified in the annex to the attached proposal for a Council Regulation, one month after the entry into force of the agreement the Community will apply 70 % of the MFN rate of tariff duties. One year after the entry into force of the agreement, the Community will apply 40 % of the MFN rate of tariff duties as they were at the time of the entry into force of the agreement. Two years after entry into force of the agreement, full free trade of all fish and fishery products will be applied.
- The tariff quotas already granted by the Community to Poland on an autonomous basis will remain valid until accession. Imports into the Community above the quota quantities will be subject to the agreed tariff reductions as outlined above.

A Protocol laying down the new trade arrangements for certain fish and fishery products has to be added to the Europe Agreement between the Community and the Republic of Poland. Pending the completion of internal procedures required for the entry into force of the additional Protocol, it is proposed that, through a Council Regulation, the Community adopts autonomous measures enabling the concessions made to Poland to apply as early as 1 January 2002. A swift implementation of the agreement is desirable in order to introduce the gradual liberalisation of trade in fish and fishery products and to give a positive political sign to Poland in the context of the accession process.

The adoption of the proposed autonomous measures will bring forward the effective starting date for the gradual liberalisation of trade in fish and fishery products between the Community and the Republic of Poland. It is therefore necessary to ensure that this circumstance is taken into account at the time when the new Additional Protocol to the Europe Agreement enters into force. For this purpose, the conclusion of an interpretative Exchange of Letters with Poland will be proposed shortly.

In light of the above, the Council is requested to adopt the attached Regulation implementing, on an autonomous basis, the concessions agreed between the Community and Poland.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part ⁽¹⁾, was signed in Brussels in December 1991 and entered into force in February 1994.
- (2) Regulation (EC) No 1798/94 ⁽²⁾, as modified by Regulation (EC) No 921/96 ⁽³⁾, provides for certain concessions for fish and fishery products which are listed in Annex IV thereto.
- (3) In accordance with the Directives issued by the Council on 29 May 2000, negotiations with Poland on a new Additional Protocol to the Europe Agreement were concluded on 13 July 2001.
- (4) The new Additional Protocol, based on Articles 23 and 20(5) of the Europe Agreement, provides for concessions on fish and fishery products.
- (5) A swift implementation of the agreement forms an essential part of the results of the negotiations for the conclusion of a new Additional Protocol to the Europe Agreement with Poland.
- (6) Poland will take all useful legislative provisions, on an autonomous basis, in order to enable the reciprocal and simultaneous implementation of concessions to the Community provided for in the Additional Protocol.
- (7) It is therefore appropriate for the Community to adopt autonomous measures introducing the concessions provided for in the new Additional Protocol to the Europe Agreement.

- (8) As far as the management of the tariff quotas is concerned, it is appropriate to follow the chronological order of dates of acceptance of customs declarations in accordance with 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 ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. The arrangements for the importation into the Community of fish and fishery products originating in Poland, as set out in Articles 2, 3 and 4 below, shall modify the Europe Agreement with the Republic of Poland.
2. From the date of entry into force of the new Additional Protocol to the Europe Agreement with Poland, the concessions provided therein shall apply taking account of the implementation measures already adopted by both Parties, in a reciprocal manner, in advance of that date. Accordingly, on the date of entry into force of the Additional Protocol, its provisions shall replace and supersede the relevant provisions of this Regulation.

Article 2

As from 1 January 2002, the Community shall apply a one-third reduction of the tariff duties applied for fish and fishery products as defined in Article 1 of Council Regulation (EC) No 104/2000 ⁽⁵⁾, other than those mentioned in Articles 3 and 4 below.

As from 1 January 2003, the Community shall apply a further one-third reduction of the tariff duties as they were at the time this Regulation became applicable.

As from 1 January 2004, the Community shall eliminate the tariff duties on all fish and fishery products, including those products mentioned in Articles 3 and 4 below.

Article 3

As from 1 January 2002, the Community shall apply a 30 % reduction of the tariff duties applied to the products mentioned in the Annex to this Regulation. As from 1 January 2003, the Community shall apply a further reduction of 30 % of the tariff duties as they were at the time this Regulation became applicable.

⁽¹⁾ OJ L 348 of 31.12.1993, p. 2.

⁽²⁾ OJ L 189 of 23.7.1994, p. 1.

⁽³⁾ OJ L 126 of 24.5.1996, p. 1.

⁽⁴⁾ 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).

⁽⁵⁾ OJ L 17, 21.1.2000, p. 22.

Article 4

The tariff quotas mentioned in Annex IV to Regulation (EC) No 1798/94 remain valid until 31 December 2003. For quantities imported into the Community above these tariff quotas, the provisions of Article 2 shall apply.

Article 5

The calculation of the reductions mentioned in Articles 2 and 3 will be carried out using common mathematical principles.

In particular, the following rules shall apply:

- (a) all the figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number,

- (b) all the figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number,

- (c) all the tariffs below 2 % shall automatically be fixed at 0 %.

Article 6

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

It shall apply from 1 January 2002.

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

ANNEX

	EU Combined Nomenclature	Description
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304:	
	0302 40 00	– Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>), excluding livers and roes
0303	Fish, frozen, excluding fish fillets and other fish meat of heading No 0304:	
	0303 50 00	– Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>), excluding livers and roes
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:	
	0304 10 97	– – – – Flaps of herring
		– Frozen fillets:
	0304 20 75	– – of herring (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)
		– Other
	0304 90 22	– – – – of herring (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)
0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption:	
	0305 42 00	– – Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)
	0305 59 30	– – – Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)
	0305 61 00	– – Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)
1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:	
	1604 12	– – Herrings