Commission Regulation (EU) No 185/2011 of 25 February 2011 amending Council Regulation (EC) No 499/96 as regards tariff quotas of the Union for certain fish and fishery products and live horses originating in Iceland

COMMISSION REGULATION (EU) No 185/2011

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 499/96 of 19 March 1996 opening and providing for the administration of Community tariff quotas for certain fishery products and live horses originating in Iceland[(1)], and in particular Article 5(1)(a) and (b) thereof,

Whereas:

(1) In 2009, negotiations were concluded for an Additional Protocol to the Agreement between the European Economic Community and the Republic of Iceland concerning special provisions applicable for the period 2009-2014 to imports into the European Union of certain fish and fishery products, hereinafter 'the Additional Protocol'.

(2) The signing, on behalf of the European Union, and the provisional application of the Additional Protocol has been authorised by Council Decision 2010/674/EU of 26 July 2010 on the signing and provisional application of an Agreement between the European Union, Iceland, Liechtenstein and Norway on an EEA Financial Mechanism 2009-2014, an Agreement between the European Union and Norway on a Norwegian Financial Mechanism 2009-2014, an Additional Protocol to the Agreement between the European Economic Community and Iceland concerning special provisions applicable to imports into the European Union of certain fish and fishery products 2009-2014 and an Additional Protocol to the Agreement between the European Economic Community and Norway concerning special provisions applicable to imports into the European Union of certain fish and fishery products 2009-2014[(2)].

(3) The Additional Protocol provides for new annual duty-free tariff quotas at import into the European Union of certain fish and fishery products originating in Iceland.

(4) In accordance with the Additional Protocol, the volumes of the duty-free tariff quotas for the first 12-month period from 1 May 2009 to 30 April 2010 will be allocated to the second tariff quota period. Furthermore, unused volumes of the tariff quotas for some products for the tariff quota period 1 March 2011 to 30 April 2011 should be carried over to the corresponding tariff quotas for the period 1 May 2011 to 30 April 2012.

(5) In order to implement the tariff quotas provided for in the Additional Protocol, it is necessary to amend Regulation (EC) No 499/96.

(6) It is necessary to replace the current reference in Regulation (EC) No 499/96 to free-at-frontier prices by a reference to the declared customs value in accordance with Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products[3], and to provide that in order to qualify for the preferences laid down in the Additional Protocol, that value must at least be equal to any reference price fixed or to be fixed in accordance with the same Regulation.

(7) Protocol 3 of the Agreement between the European Economic Community and the Republic of Iceland defining the concept of originating products and setting out the arrangements for administrative cooperation has been amended by Decision No 2/2005 of the EC-Iceland Joint Committee of 22 December 2005[4]. It is therefore necessary to provide explicitly that Protocol 3 as amended in 2005 is to apply.

(8) Within the agreement in the form of an Exchange of Letters between the European Community and the Republic of Iceland concerning additional trade preferences in agricultural products undertaken on the basis of Article 19 of the Agreement on the European Economic Area, attached to Council Decision 2007/138/EC[5], the bilateral trade in live horses was liberalised between the European Union and Iceland for unlimited quantities. Therefore the tariff quota laid down in the Annex to Regulation (EC) No 499/96 for live horses is redundant.

(9) For reasons of clarity and to take account of the amendments of the Combined Nomenclature Codes, laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff[6], and of the TARIC subdivisions, it is appropriate to replace the complete Annex to Regulation (EC) No 499/96.

(10) Regulation (EC) No 499/96 should therefore be amended accordingly.

(11) In accordance with Decision 2010/674/EU the new tariff quotas for certain fish and fishery products have to apply from 1 March 2011. This Regulation should therefore apply from the same date.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 499/96 is amended as follows:

1. the title is replaced by the following:

> opening and providing for the administration of tariff quotas of the Union for certain fish and fishery products originating in Iceland;

2. Article 1 is replaced by the following:

Article 1

1 When products originating in Iceland listed in the Annex are put into free circulation in the European Union, they shall be eligible for exemption of customs

duties within the limits of the tariff quotas, during the periods and in accordance with the provisions set out in this Regulation.

2 Imports of the fish and fishery products listed in the Annex shall qualify for the tariff 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 Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products[(7)].

3 Protocol 3 of the Agreement between the European Economic Community and the Republic of Iceland defining the concept of originating products and setting out the arrangements for administrative cooperation, as last amended by Decision No 2/2005 of the EC-Iceland Joint Committee of 22 December 2005[(8)] shall apply.

4 The benefit of the tariff quotas with order numbers 09.0792 and 09.0812 shall not be granted for goods declared for release for free circulation during the period 15 February to 15 June.;

3. in Article 2, the second paragraph, is replaced by the following:

> However, Article 308c(2) and (3) of Regulation (EEC) No 2454/93 shall not apply to the tariff quotas with order numbers 09.0810, 09.0811 and 09.0812.;

4. Article 3 is replaced by the following:

Article 3

Where the tariff quotas with order numbers 09.0810, 09.0811 and 09.0812 will not be fully exhausted for the tariff quota period from 1 March 2011 to 30 April 2011, the remaining volume shall be carried over to the corresponding tariff quotas for the period 1 May 2011 to 30 April 2012.

For this purpose drawings on the tariff quotas applicable from 1 March 2011 to 30 April 2011 shall be stopped on the second working day in the Commission following 1 September 2011. On the following working day, the unused balances of these tariff quotas shall be made available under the corresponding tariff quota applicable from 1 May 2011 to 30 April 2012.

From the second working day in the Commission following 1 September 2011 no retroactive drawings and no returns shall be possible on the particular tariff quotas applicable from 1 March 2011 to 30 April 2011.;

5. the Annex is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 March 2011.

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

Done at Brussels, 25 February 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX

‘ANNEXNotwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN code	TARIC subdivision	Description of products	Quota period	Quota volume (in tonnes net weight unless otherwise specified)	Quota duty (%)
09.0792	ex 0303 51 00	10 20	Herrings of the species *Clupea harengus* or *Clupea pallasii*, frozen, excluding livers and roes, for industrial manufacture[ab]	From 1.1 to 31.12	950	0
09.0812	0303 51 00		Herrings of the species *Clupea harengus* or *Clupea pallasii*, frozen, excluding livers and roes[b]	From 1.3.2011 to 30.4.2011	1 900	0
				From 1.5.2011 to 30.4.2012	950	
				From 1.5.2012 to 30.4.2013	950	
				From 1.5.2013 to 30.4.2014	950	
09.0793	0302 12 00 0304 19 13 0304 29 13		Pacific salmon (*Oncorhynchus*	From 1.1 to 31.12	50	0

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

b As the MFN duty is free from 15 February to 15 June, the benefit of the tariff quota shall not be granted to goods declared for free circulation during this period.’