



Commission proposes adjustments to trade in seal products

On 6 February 2015, the Commission adopted a proposal to amend the EU Regulation on Trade in Seal products to bring it into compliance with WTO rules.

The final WTO ruling adopted in June 2014 upheld the EU's ban on marketing of seal products. The WTO concluded however that the exceptions provided by the EU to Inuit and other indigenous communities and for maritime resource management had some discriminatory effects. Consequently, the current EU regime for trade in seal products needed to be adjusted. This proposal aims to address those limited concerns.

Background

Why the new Commission proposal?

In 2009, the European Parliament and Council adopted the EU Seal Regulation (EC 1007/2009) prohibiting the placing on the EU market of seal products. This was in response to concerns of EU citizens regarding animal welfare. The Regulation contains exceptions for products derived from hunts conducted by Inuit or other indigenous communities (IC exception) as well as for hunts conducted for the sole purpose of the sustainable management of marine resources on a small scale and non-profit basis (MRM exception).

This Regulation, and its implementing act, Commission Regulation (EU) No 737/2010, was challenged by Canada and Norway in the World Trade Organisation (WTO) in the dispute on EC – Measures Prohibiting the Importation and Marketing of Seal Products (DS400 and DS401). The final rulings of a WTO panel and the WTO Appellate Body were adopted by the Dispute Settlement Body of the WTO on 18 June 2014. They upheld the general ban on seal products as being justified for moral concerns regarding animal welfare but found the two exceptions from the general rule problematic. As a consequence, the EU has to modify its current regime in order to address the concerns raised by the WTO and to bring its Regulation into compliance with WTO rules. The Commission is therefore proposing an amendment to the current Regulation on trade in seal products.

What are the concerns raised by the WTO that need to be addressed?

The WTO found that the two exceptions were leading to a discriminatory treatment of Canadian and Norwegian seal products that are not justified. Despite MRM hunts being small in scale and not profit-oriented, the Panel considered that the differences between those hunts and the bigger commercial hunts were not sufficient to justify a different treatment. With regard to the IC exception, the WTO generally accepted that the protection of the economic and social needs of the Inuit is internationally recognised and can justify a different treatment. However, the WTO was concerned that some elements of the specific design and application of the Inuit exception in the EU's Regulation amounted to "arbitrary and unjustifiable discrimination". The WTO expressed in particular concerns that the EU did not address animal welfare in Inuit hunts given that the overall objective of its Regulation was based on animal welfare concerns, and that the ambiguity of some of its conditions could lead to a use of the exception for hunts that should in reality be characterised as primarily undertaken for commercial purposes.

What is the Commission proposing?

The proposal aims to bring the EU seal regime into compliance with the WTO rules. The proposal therefore addresses only those aspects of the Regulation on trade in seal products that the WTO Panel and Appellate Body ruled to be incompatible with WTO law.

With regard to the MRM exception, the contested discriminatory treatment can only be remedied by removing the MRM exception from the Basic Regulation as the WTO did not accept the *raison d'être* of the exception. According to the WTO ruling such hunts cannot be distinguished from commercial hunts, and banning only the latter is discriminatory. The proposal recognizes, however, the importance of such hunts for the purpose of sustainable management.

With regard to the IC exception, the concerns are addressed by certain modifications to the exception as they only relate to the specific design and application of the exception but not the legitimacy of an Inuit exception as such. In particular, the proposal links the use of the exception to the respect of animal welfare and provides for a mechanism that would help prevent its misuse, i.e. that prevent seal products derived from hunts that are primarily conducted for commercial purposes from entering the EU market under the Inuit exception.

Was an Impact Assessment carried out?

No. Since this is not a new policy initiative but only a limited modification necessary for bringing the EU seal regime in compliance with WTO rulings, the Commission did not carry out a new impact assessment.

Is there a deadline for EU to comply with WTO rulings?

Yes. The EU must comply with its WTO obligations by 18 October 2015. This means that both the present proposal amending the EU Seal regime as well as a subsequent modification of the implementing regulation needs to be adopted and enter into force prior to this date.

Is this the first time the EU needs to change its legislation after a WTO ruling?

No. The last time the EU changed its legislation through ordinary legislative procedure was to implement the WTO rulings on EU antidumping rules for fasteners (DS 397).

For more information

- [EU proposal](#)
- [The WTO case on the EU seal regime](#)