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COVER NOTE

from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	5 November 2013
to:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No Cion doc.:	COM(2013) 718 final
Subject:	Council Regulation amending Annex I to regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

Delegations will find attached Commission document COM(2013) 718 final.

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EUROPEAN
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Brussels, 4.11.2013
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2013/0341 (NLE)

Proposal for a

COUNCIL REGULATION

amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The purpose of the attached proposal for a Regulation is the suspension of the autonomous common customs tariff duties on jet fuel, which is currently classified under CN code 2710 19 21.

Currently, bilateral aviation agreements with third countries typically include provisions concerning duty relief to jet fuel. However, it is necessary to ensure, at European level, clarity and uniformity in this regard, thus providing legal certainty for operators as well as avoiding any distortion of competition resulting from differing approaches and rules.

The vast majority of jet fuel imports to the European Union (EU) originates in countries that benefit from the Generalised Scheme of Preferences (GSP) and are, thus, duty free. This has a significant importance for the EU air industry.

Following the revision of the GSP scheme, regarding the preferences that will apply as of 1 January 2014, large exporting producers of jet fuel such as the Gulf Cooperation Council countries (GCC) will cease to be beneficiaries of this preferential access to the EU, whereas others (India), at least for the period 1 January 2014 to 31 December 2016 will not benefit from the GSP for some categories of products, including fuel.

The imposition of customs duties on jet fuel from those suppliers would likely have an abrupt impact on the price of jet fuel on the EU market in the absence of a diversification of the sourcing of jet fuel for the EU market. Moreover, refineries in the EU would not be able to increase production of aviation fuel to any significant degree at short notice, since this implies producing other derivative products, such as gasoline for which new exports opportunities would need to be explored. Both the EU air and oil industry sector therefore need time to adjust to the consequences of the graduation of these supplier countries from GSP status.

Taking into account possible future changes in the market situation, the suspension should be reviewed on the basis of proportionate assessment within five years.

In the light of the foregoing it is proposed to amend Council Regulation (EEC) No 2658/87 accordingly.

The proposal to prolong the status-quo is in line with the Union's policies.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Economic Tariff Questions Group, in which the competent authorities of all Member State are represented, was consulted.

There was no mention of potentially serious risks with irreversible consequences.

This proposal will follow an inter-service consultation procedure and will be published after its adoption by the Council.

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis of this regulation proposal is Article 31 of the Treaty on the Functioning of the European Union (TFEU).

By virtue of Article 31 of the TFEU, autonomous tariff rate is fixed by the Council acting by qualified majority on the basis of a Commission proposal.

The proposal complies with the proportionality principle given that, as foreseen in the Treaty, it promotes trade between Member States and third countries and balances the commercial interest of economic operators (service providers in the Union, users and consumers) without changing the EU WTO schedule.

The subsidiarity principle does not apply, as the proposal falls under the exclusive competence of the Union.

4. BUDGETARY IMPLICATION

There is no loss in the revenues of the Traditional Own Resources against the current situation. There is a potential non-realisation of additional revenues in view of the changes of the GSP status of certain third countries as of 01 January 2014. However, in view of bilateral aviation agreements currently applied that provide for duty relief to aviation fuel, the possible loss of additional revenue in Traditional Own Resources as of 01/01/2014 is considered to be negligible.

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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) The European Union (EU) market for jet fuel depends considerably on imports of jet fuel from third countries.

(2) Although bilateral aviation agreements between Member States and third countries typically include provisions concerning duty relief for jet fuel, it is necessary to lay down common rules on duty relief for jet fuel in order to ensure clarity and uniformity in this regard, provide legal certainty for operators and avoid any distortion of competition resulting from differing practices and rules.

(3) Currently, a significant part of jet fuel imports to the Union originates in countries that benefit from the scheme of generalised tariff preferences or have preferential access to the Union market, and thus the imports are duty free.

(4) With the application of tariff preferences in accordance with Regulation (EU) No 978/2012[1] starting from 1 January 2014, a number of countries which are important exporters of jet fuel will cease to be beneficiaries of this preferential access to the Union market, and certain other exporting countries will not benefit from this preferential access for certain product categories, including fuel[2].

(5) The imposition of customs duties on jet fuel from those suppliers would likely cause an increase in the price of jet fuel on the Union market as it is not economically viable

[1] Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p.1).

[2] Commission Implementing Regulation (EU) of 17 December 2012 suspending the tariff preferences for certain GSP beneficiary countries in respect of certain GSP sections in accordance with Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences (OJ L 348, 18.12.2012, p.11).

for refineries in the Union to increase their production of aviation fuel to any significant degree.

(6) Taking into account possible future changes in the market situation of jet fuel, this measure should be reviewed on the basis of a proportionate assessment within five years.

(7) It is therefore appropriate to suspend the autonomous rate of customs duty for jet fuel. The suspension should cover all products falling within CN code 2710 19 21.

(8) Annex I to Council Regulation (EEC) No 2658/87[3] should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex I to Regulation (EEC) No 2658/87, the text for CN code 2710 19 21 in column 3 of the table in Part Two, Section V, Chapter 27, is replaced by the following:

‘4,7 (*)

(*) Autonomous rate of duty: Free.’

Article 2

This Regulation shall enter into force on 1 January 2014.

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

Done at Brussels,

For the Council
The President

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3 Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

LEGISLATIVE FINANCIAL STATEMENT

NAME OF THE PROPOSAL:

Proposal for a Council Regulation amending Annex I to Regulation (EEC) No 2658/87 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff.

BUDGET LINES:

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2014: 18.086.400.000 € (DB 2014)

FINANCIAL IMPACT:

☐ Proposal has no financial implications

X Proposal has no financial impact on expenditure but it may have a potential financial impact, yet of negligible nature, for the following reasons:

In 2012, the total value of imports of CN code 2710 19 21 amounted to 12,2 Billion €[4]. The conventional rate of duty for this CN code is 4,7%.
The vast majority of these imports (above 97%) were duty free as a result of the implementation of Free Trade Agreements and the GSP.
As of 1/1/2014 a number of important exporting countries (accounting for 82% of imports) will no longer benefit from the GSP. This could evenually represent a potential revenue intake of approxiamtely 470 Mio € for Traditional Own Resources.
However, there exists currently more than 1 500 Air transport agreements between EU or Member States and third countries and Member States have issued national provisions for the stores of aircraft.
In view of this score of Member States measures that provide for duty relief to aviation fuel, the possible loss of the additional revenue in Traditional Own Resources as of 01/01/2014 is considered to be negligible.

[4] Source Eurostat – Statistical procedure: Normal