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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 16 May 2019 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2019) 219 final |
| Subject: | Proposal for a COUNCIL REGULATION amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products |

Delegations will find attached document COM(2019) 219 final.

Encl.: COM(2019) 219 final



Brussels, 16.5.2019
COM(2019) 219 final

2019/0106 (NLE)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs
Tariff duties on certain agricultural and industrial products**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• **Reasons for and objectives of the proposal**

In order to ensure sufficient and uninterrupted supplies of certain agricultural and industrial products which are inadequately produced or not produced at all in the Union and to avoid any disturbances on the market for these products, some autonomous Common Customs Tariff duties have been partially or totally suspended by Council Regulation (EU) No 1387/2013 (hereinafter "the Regulation").

The Regulation is updated every six months to accommodate the needs of Union industry. The Commission, assisted by the Economic Tariff Questions Group, has reviewed all requests from the Member States for autonomous tariff suspensions.

Following this review, the Commission considers that the suspension of duties is justified for some new products, currently not listed in the Annex of the Regulation. In relation to some other products it is necessary to modify the conditions in terms of: product description, classification, duty rates or end-use requirement. Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.

• **Consistency with existing policy provisions in the policy area**

This proposal does not affect countries that have a preferential trading agreement with the Union nor - candidate countries or potential candidates for preferential agreements with the Union (e.g. Generalised System of Preferences; the African, Caribbean and Pacific group trade regime; Free Trade Agreements).

• **Consistency with other Union policies**

The proposal is in line with Union policies in the area of agriculture, trade, enterprise, environment, development and external relations.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• **Legal basis**

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

• **Subsidiarity (for non-exclusive competence)**

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

• **Proportionality**

The proposal complies with the principle of proportionality. The measures envisaged are in line with the principles for simplifying procedures for operators engaged in foreign trade, as stated in the Commission communication concerning autonomous tariff suspensions and quotas¹. This Regulation does not go beyond what is necessary to achieve the objectives pursued in accordance with Article 5(4) of the Treaty on European Union (TEU).

¹ OJ C 363, 13.12.2011, p. 6.

- **Choice of the instrument**

By virtue of Article 31 of the Treaty on the Functioning of the European Union (TFEU), "Common Customs Tariff duties shall be fixed by the Council on a proposal from the Commission". Therefore, a regulation is the appropriate instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The whole scheme of autonomous suspensions was subject to an evaluation study which was carried out in 2013. The evaluation concluded that the core rationale for the scheme remains valid. The cost savings for EU businesses importing goods under the scheme can be significant. In turn, depending on the product, company and sector, these savings can have wider benefits, such as boosting competitiveness, making production methods more efficient, and creating or keeping jobs in the Union. Details of the savings of this regulation can be found in the attached legislative financial statement.

- **Stakeholder consultations**

The Economic Tariff Questions Group, which consists of delegations from all Member States plus Turkey, assisted the Commission to assess this proposal. The group met three times before agreeing the changes in this proposal.

It carefully assessed each request (new, or for an amendment). It particularly examined each case to ensure that it was not causing any harm to Union producers and was strengthening and consolidating the competitiveness of Union's production. The members of the Economic Tariff Questions Group carried out the assessment through discussions, and Member States consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

All listed tariff suspensions were the subject of agreements or compromises reached in the discussions held at the Economic Tariff Questions Group. No potentially serious risks with irreversible consequences were mentioned.

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of suspensions listed in the Annex to Council Regulation (EU) No 1387/2013. Therefore, no impact assessment was carried out for this proposal.

- **Fundamental rights**

The proposal has no consequences on fundamental rights.

4. BUDGETARY IMPLICATIONS

This proposal has no financial impact on expenditure but has a financial impact on revenue. Uncollected customs duties total approximately EUR 27,8 million per year. The effect on the budget's traditional own resources is EUR 22,2 million per year (i.e. 80 % of the total). The legislative financial statement sets out the budgetary implications of the proposal in greater detail.

The loss of revenue in traditional own resources shall be compensated by Member States Gross National Income (GNI) based on resource contributions.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The measures proposed are managed within the framework of the Integrated Tariff of the European Union (TARIC) and applied by customs administrations of the Member States.

Proposal for a COUNCIL REGULATION

**amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs
Tariff duties on certain agricultural and industrial products**

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) In order to ensure a sufficient and uninterrupted supply of certain agricultural and industrial products which are unavailable in the Union and thereby avoid any disturbances on the market for those products, autonomous Common Customs Tariff ("CCT") duties on those products have been suspended by Council Regulation (EU) No 1387/2013². Those products can be imported into the Union at reduced or zero duty rates.
- (2) The production in the Union of 97 products that are currently not listed in the Annex to Regulation (EU) No 1387/2013 is inadequate or non-existent. It is therefore in the interest of the Union to suspend totally the autonomous CCT duties on those products.
- (3) It is necessary to modify the conditions for the suspension of autonomous CCT duties for 47 products currently listed in the Annex to Regulation (EU) No 1387/2013 in order to take into account technical product developments and economic trends on the market.
- (4) It is no longer in the interest of the Union to maintain the suspension of autonomous CCT duties for 26 of the products that are currently listed in the Annex to Regulation (EU) No 1387/2013. Moreover, in view of promoting an integrated battery production in the Union and in accordance with the European Union policy objectives in that matter³, the suspensions for 20 additional products should be withdrawn. Furthermore, another 50 suspensions should be deleted from that Annex as a result of the implementation of agreement in the form of the Declaration on the Expansion of Trade in Information Technology Products⁴, which reduced the duty rate for the products concerned to zero.
- (5) Regulation (EU) No 1387/2013 should therefore be amended accordingly.
- (6) In order to avoid any interruption of the application of the autonomous suspension scheme and to comply with the guidelines set out in the Communication from the Commission concerning autonomous tariff suspensions and quotas⁵, the changes provided for in this Regulation regarding the tariff suspensions for the products

² Council Regulation (EU) No 1387/2013 of 17 December 2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products and repealing Regulation (EU) No 1344/2011 (OJ L 354, 28.12.2013, p. 201).

³ COM(2018) 293 final

⁴ OJ L 161, 18.6.2016, p. 4.

⁵ OJ C 363, 13.12.2011, p. 6.

concerned have to apply from 1 July 2019. The Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 1387/2013 is amended as follows:

1. all asterisks in the table and the endnote (*), containing the text 'New or amended position or position with prolonged validity.', are deleted;
2. in the table, the rows for the products for which the CN and TARIC codes are set out in Annex I to this Regulation are deleted;
3. the rows for the products listed in Annex II to this Regulation are inserted into the table according to the order of the CN and TARIC codes indicated in the first and second columns of that table, respectively.

Article 2

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

It shall apply from 1 July 2019.

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

Done at Brussels,

*For the Council
The President*

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Council Regulation amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products

2. BUDGET LINES:

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2019: 21 471 164 786 €

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:

(EUR million to one decimal place⁶)

| Budget line | Revenue ⁷ | 6 month period, starting dd/mm/yyyy | [Year: second half of 2019] |
|-------------|--------------------------------|--|--------------------------------|
| Article 120 | <i>Impact on own resources</i> | 01/07/2019 | -11,1 |

| Situation following action | |
|----------------------------|---------------|
| | [2019 – 2023] |
| Article 120 | - 22,2/ year |

Annex II contains 97 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member States projections for the period 2019 to 2023, amount to 28,1 Mio €/year.

On the basis of the existing statistics for preceding years, it would appear, however, necessary to increase this amount by an average factor, estimated at 1,8, to take account of imports into other Member States using the same suspensions. This means uncollected duties of some 50,6 Mio € /year.

⁶ The amounts per year need to be an estimation based on the formula under section 5 with a footnote indicating it, e.g. "indicative amount based on the agreed formula". For the starting year, the yearly amount is normally paid without a reduction or prorata.

⁷ In the case of traditional own resources (agricultural duties, customs duties), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

26 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of 22,8 Mio € in the collection of duties, as estimated on the basis of 2018 statistics.

On the basis of the above, the impact on the loss of revenue for the EU budget resulting from this Regulation is estimated at $50,6 - 22,8 = 27,8$ Mio € (gross amount, including collection costs) $\times 0,8 = 22,2$ Mio €/year for the period 01.07.2019 - 31.12.2023.

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 Article 254 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

5. OTHER REMARKS

The loss of revenue in Traditional Own Resources shall be compensated by Member States contributions based on the GNI.