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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	18 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 704 final
Subject:	Proposal for a COUNCIL REGULATION suspending the Common Customs Tariff duties referred to in Article 56(2) point (c) of Regulation (EU) No 952/2013 on certain agricultural and industrial products

Delegations will find attached document COM(2021) 704 final.

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EUROPEAN
COMMISSION

Brussels, 18.11.2021
COM(2021) 704 final

2021/0364 (NLE)

Proposal for a

COUNCIL REGULATION

**suspending the Common Customs Tariff duties referred to in Article 56(2) point (c) of
Regulation (EU) No 952/2013 on certain agricultural and industrial products**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Council Regulation (EU) 1387/2013 of 17 December 2013¹ suspends the Common Customs Tariff duties on certain agricultural and industrial products listed in its Annex. This Regulation is amended every semester in order to accommodate the needs of the EU industry. In view of the fact that:

- the Regulation has been amended already 15 times,
- it is necessary to make several amendments to the Combined Nomenclature codes listed in the Annex to Regulation (EU) No 1387/2013 as the product codes of the Combined Nomenclature have been updated by Commission Regulation (EU) 2021/1832² in order to fulfil international commitments related to the changes in the Harmonized System nomenclature of 2022,

in the interests of clarity, it is proposed to repeal Council Regulation (EU) 1387/2013 and replace it by the current proposal.

The production in the Union of the products specified in the Annex to this Regulation does not exist or is inadequate, therefore the needs of user industries in the Union cannot be met. Allowing enterprises to obtain supplies of those products at a lower cost for a certain period, would stimulate economic activity within the Union, improve the competitive capacity of these enterprises and enable the latter to maintain or create employment, modernise their structures, etc.

In this context, it should be pointed out that goods imported under the tariff suspension arrangements enjoy freedom of movement throughout the Union; consequently, once a tariff suspension is granted, any enterprise in any Member State is eligible to benefit from it.

Since autonomous tariff suspensions constitute an exception to the general rule represented by the Common Customs Tariff, they must, like all derogations, be monitored and reviewed systematically. Moreover, it should always be possible to terminate earlier the suspension of the concerned Common Customs Tariff duties, if it is no longer in the Union's interest to maintain it or due to technical product developments, changed circumstances or economic trends on the market. Where the Commission considers, as a result of the review, that a suspension for a certain product is to be changed or terminated, it will submit to the Council a proposal to amend the list set out in the Annex accordingly.

The Annex of the attached proposal contains products for which duties were already suspended by virtue of Council Regulation (EU) No 1387/2013 as last amended by

¹ 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](#)).

² Commission Regulation (EU) 2021/1832 of 12 October 2021 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 385, 29.10.2021, p.1)

Regulation (EU) No 1052/2021 as well as a number of agricultural and industrial products which were reviewed since this last amendment.

In addition, the Annex of the attached proposal contains all the new requests for temporarily autonomously suspending Common Customs Tariff duties which were accepted by the Economic Tariff Questions Group (ETQG) during the examination phase. These new requests for suspension were examined in the light of the criteria set out in the Communication from the Commission concerning autonomous tariff suspensions and quotas³.

The proposal is in line with the trade, enterprise, development and external relations policies. Especially this proposal is not at the expense of countries enjoying a preferential trading agreement with the EU (e.g. GSP, ACP regime, candidate countries and potential candidates).

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 enterprises engaged in foreign trade, as stated in the Commission Communication concerning autonomous tariff suspensions and quotas. 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).

- **Choice of the instrument**

By virtue of Article 31 of the TFEU, "Common Customs Tariff duties shall be fixed by the Council on a proposal from the Commission". Therefore, a Council 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 autonomous suspensions scheme was subject to an evaluation study carried out in 2013. The evaluation concluded that the core rationale for the scheme remains valid. The cost savings for EU enterprises 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

³ OJ C 363, 13.12.2011, p. 6

boosting competitiveness, making production methods more efficient, and creating or keeping jobs in the Union. Details of the savings related to this Regulation can be found in point 4 and in the attached legislative financial statement.

- **Stakeholder consultations**

The Economic Tariff Questions Group (ETQG), which consists of representatives from all Member States plus Turkey, was consulted. All listed suspensions correspond to agreements or compromises reached in the discussions of the group.

The ETQG carefully examined each case to ensure that it would not cause any harm to Union enterprises and would strengthen and consolidate the competitiveness of Union's production. The members of the ETQG carried out the assessment through discussions, and Member States, in turn, consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

No potential serious risk with irreversible consequences was identified

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of the suspensions currently listed in the Annex to Council Regulation (EU) No 1387/2013 (which is repealed and replaced by the current proposal). An impact assessment was not carried out because the proposed changes in the list of products that would benefit from the autonomous Common Customs Tariff duties suspension are not expected to have significant impacts.

- **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 corresponding to the suspension amount approximately EUR 1 294 million per year. The negative effect on the budget's traditional own resources is EUR 970,5 million per year (i.e. 75 % 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 own resource contributions.

Proposal for a

COUNCIL REGULATION

suspending the Common Customs Tariff duties referred to in Article 56(2) point (c) of Regulation (EU) No 952/2013 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) The Union production of certain agricultural and industrial products set out in Annex is currently inadequate or non-existent and thus the needs of user industries in the Union cannot be met. It is therefore in the interest of the Union to grant a partial or complete suspension of the Common Customs Tariff duties of the type referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹ ('CCT duties') on those products.
- (2) It is necessary to clarify that any mixtures, preparations or products made up of different components containing the products subject to the suspension of Common Customs Tariff duties should be excluded from the scope of this Regulation since only the products as described in the Annex are subject of the suspension.
- (3) In order to take into account the Union's interest, technical product developments, changes in circumstances or economic trends on the market it may be necessary to end certain suspensions. It is therefore necessary to provide for a review of suspensions.
- (4) With a view to promoting integrated battery production in the Union the date for the mandatory review of certain products listed in the Annex should be 31 December 2022, in order for that review to take into account the evolution of the battery sector in the Union.
- (5) Statistics for certain products listed in the Annex to this Regulation are frequently expressed in pieces, square metres or measurement units other than weight. However, in some cases, there are no such supplementary units in the Combined Nomenclature

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

laid down in Annex I to Council Regulation (EEC) No 2658/87². Therefore, it is necessary to provide that not only the weight in kilograms or tonnes in the customs declaration for release for free circulation, but also the relevant supplementary units for the imports of the products concerned.

- (6) Council Regulation (EU) No 1387/2013³ has been amended several times. In addition, as the product codes of the Combined Nomenclature have been updated by Commission Regulation (EU) 2021/1832⁴ in order to fulfil international commitments related to the changes in the Harmonized System nomenclature of 2022, it is necessary to make several amendments to the Combined Nomenclature codes listed in Annex to Regulation (EU) No 1387/2013. It is also necessary to make further amendments to that Regulation. Regulation (EU) No 1387/2013 should therefore be replaced in the interests of clarity.
- (7) In order to avoid any interruption in the application of the autonomous tariff suspension scheme and to comply with the guidelines set out in the Communication from the Commission of 13 December 2011 concerning autonomous tariff suspensions and quotas, the suspensions for the products listed in the Annex to this Regulation should apply from 1 January 2022. This Regulation should therefore enter into force on the day of its publication in the Official Journal of the European Union and should apply from 1 January 2022 as a matter of urgency.
- (8) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of improving the competitive capacity of the Union industry, thereby enabling that industry to maintain or create employment and modernise its structures, to lay down rules on the suspension of the CCT duties for the agricultural and industrial products listed in the Annex to this Regulation. 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Common Customs Tariff duties, referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013, for the agricultural and industrial products listed in the Annex, are hereby suspended.

2. Paragraph 1 shall not apply to any mixtures, preparations or products made up of different components containing products listed in the Annex.

² 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](#)).

³ 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](#)).

⁴ Commission Regulation (EU) 2021/1832 of 12 October 2021 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 385, 29.10.2021, p.1)

Article 2

1. The Commission may review the suspensions for the products listed in the Annex in the following cases:

- (a) on its own initiative;
- (b) at the request of Member States.

2. The Commission shall review the suspensions for products listed in the Annex during the year preceding the date foreseen for mandatory review provided for in the Annex.

Article 3

Where a customs declaration for release for free circulation is presented for the products for which supplementary units have been provided in the Annex, the exact quantity of the products imported shall be entered in that declaration using the measurement unit set out in the Annex.

Article 4

Regulation (EU) No 1387/2013 is repealed.

Article 5

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

It shall apply from 1 January 2022.

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 FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation suspending the Common Customs Tariff duties referred to in Article 56(2) point (c) of Regulation (EU) No 952/2013 on certain agricultural and industrial products

2. BUDGET LINES:

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2022: 17 912 606 159

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 place¹)

Budget line	Revenue ²	12 month period, starting dd/mm/yyyy	[Year: 2022]
Article 120	<i>Impact on own resources</i>	01/01/2022	-970,5

Situation following action	
	[2022 – 2026]
Article 120	-970,5/ year

This Regulation replaces Council Regulation (EU) No 1387/2013. The Annex of Council Regulation (EU) No 1387/2013 includes 2 260 product lines and results in an estimated amount of uncollected customs duties totalling to EUR 1 270,5 million, for the year 2021, based on the actual figures for the first six months of 2021, multiplied by 2. This figure is obtained on the basis of the data of the “Surveillance” database of the Commission’s Directorate General for Taxation and Customs Union

¹ Indicative amount based on the calculations of section 3, below.

² In the case of traditional own resources (agricultural duties, sugar levies, customs duties), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.

concerning the total value of imports of products falling under autonomous tariff suspensions in 2021, multiplied by the respective *ad valorem* duty rate of the common Customs Tariff for the specific tariff lines. The total amount above already excludes the uncollected duties for products which will no longer be suspended after the entry into force of this Regulation and the abrogation of Regulation (EU) No 1387/2013.

In addition to the aforementioned suspended products lines, this proposal contains 70 new product lines to be suspended. The uncollected duties corresponding to these suspensions, calculated on the basis of the requesting Member State(s) projections for the period 2022 to 2026, amount to EUR 13 million per 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 EUR 23,4 million per year.

Thus, the uncollected duties corresponding to the suspensions listed in the Annex of this proposal, calculated on the basis of expected imports into the requesting Member State for 2022 until 2026, are in total EUR 1 294 million per year.

On the basis of the above, the impact on the loss of revenue for the EU budget resulting from this Regulation is estimated at EUR 1 294 million (gross amount, including collection costs) $\times 0,75 =$ EUR 970,5 million per year for the period 01.01.2022 - 31.12.2026.

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.

In addition, Member States may carry out any customs controls they deem appropriate under the risk management they undertake, as provided for by Article 46 of Regulation (EU) No 952/2013.