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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	21 November 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 599 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) 599 final.

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EUROPEAN
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Brussels, 21.11.2019
COM(2019) 599 final

2019/0265 (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

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<u>**EXPLANATORY MEMORANDUM**</u>

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 insufficiently 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 date foreseen for mandatory review. Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.

For reasons of clarity, it is advisable to publish a consolidated version of the Annex to Council Regulation (EU) No 1387/2013, which will replace the previous Annex.

• 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 quotas[1]. 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 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.

[1] OJ C 363, 13.12.2011, p. 6.

- **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 4 million per year. The effect on the budget's traditional own resources is EUR 3,2 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.

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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, the Common Customs Tariff (CCT) duties on those products have been suspended by Council Regulation (EU) No 1387/2013[2]. Those products can be imported into the Union at reduced or zero duty rates.

(2) The Union production of certain agricultural and industrial products that are 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 CCT duties on those products.

(3) With a view to promoting integrated battery production in the Union and in accordance with the communication from the Commission entitled "*Europe on the Move — Sustainable Mobility for Europe: safe, connected, and clean*"[3], a partial suspension of the CCT duty should be granted for certain products currently not listed in the Annex to Regulation (EU) No 1387/2013. Only a partial suspension of the CCT duty should be granted in respect of certain battery related products currently subject to complete suspensions. Furthermore, the date set for the mandatory review of the suspensions referred to in this recital should be 31 December 2020 in order to allow for the prompt review of those suspensions having regard to the evolution of the battery sector in the Union.

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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) It is necessary to modify the product description of certain suspensions listed in the Annex to Regulation (EU) No 1387/2013 in order to take account of technical product developments and economic trends on the market.

(5) A review has been undertaken for 334 autonomous CCT duty suspensions currently listed in the Annex to Regulation (EU) No 1387/2013. New dates should therefore be set for their next mandatory review.

(6) For certain products listed in the Annex to Regulation (EU) No 1387/2013, the classification in the Combined Nomenclature (CN) has changed. The indication of the applicable CN codes and TARIC subheadings for those products should therefore be modified.

(7) It is no longer in the interest of the Union to maintain certain suspensions of CCT duties listed in the Annex to Regulation (EU) No 1387/2013. Those suspensions should therefore be withdrawn. Moreover, in accordance with the Communication from the Commission concerning autonomous tariff suspensions and quotas[4], for practical reasons, requests for tariff suspensions or quotas where the amount of uncollected customs duty is estimated to be less than EUR 15 000 per year cannot be taken into consideration. The mandatory review of the existing suspensions has indicated that imports of products subject to 70 suspensions listed in the Annex to Regulation (EU) No 1387/2013 do not reach that threshold. Those suspensions should therefore be withdrawn. Furthermore, another three suspensions should be withdrawn as a result of the implementation of the agreement in the form of the Declaration on the Expansion of Trade in Information Technology Products[5], which reduced the duty rate for the products concerned to zero.

(8) It is appropriate to create a unique serial number for each suspension to enable better identification of those suspensions as listed in the Annex to Regulation (EU) No 1387/2013.

(9) Taking into account the number of amendments to be made and for the sake of clarity, the Annex to Regulation (EU) No 1387/2013 should be replaced.

(10) Regulation (EU) No 1387/2013 should therefore be amended accordingly.

(11) 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 concerning autonomous tariff suspensions and quotas, the changes provided for in this Regulation regarding the suspensions for the products concerned must apply from 1 January 2020. Therefore, this Regulation should enter into force as a matter of urgency,

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4 OJ C 363, 13.12.2011, p. 6.

5 OJ L 161, 18.6.2016, p. 4.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 1387/2013 is replaced by the text set out in the Annex to this Regulation.

Article 2

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 2020.

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. 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 2020: 22 156 900 000 €

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

X Proposal has no financial impact on expenditure but has a financial impact on revenue -the effect is as follows:

(EUR million to one decimal place[6])

Budget line	Revenue[7]	12 month period, starting dd/mm/yyyy	[Year: 2020]
Article 120	*Impact on own resources*	01/01/2020	-3,2

Situation following action	
	[2020 – 2024]
Article 120	-3,2/ year

This Annex contains 78 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2020 to 2024, amount to EUR 26,6 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

6 The amounts per year need to be an estimation based on the formula under section 3 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, sugar levies, customs duties), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.

account of imports into other Member States using the same suspensions. This means uncollected duties of some EUR 47,9 million per year.

The zero duty rate for 19 existing suspensions was increased to 50% of the third country duty. This represents an increase of EUR 11,3 million in the collection of duties, as estimated on the basis of 2018 statistics.

84 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of EUR 32,6 million 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 47,9 – 32,6 – 11,3 = EUR 4 million (gross amount, including collection costs) x 0,8 = EUR 3,2 million per year for the period 01.01.2020 - 31.12.2024.

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.