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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	6 December 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 791 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(2018) 791 final.

Encl.: COM(2018) 791 final



Brussels, 6.12.2018
COM(2018) 791 final

2018/0411 (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. The end dates of the measures have been amended according to the rules governing prolongation. Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.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 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).

- **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.

¹ OJ C 363, 13.12.2011, p. 6.

- **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 36,4 million per year. The effect on the budget's traditional own resources is EUR 29 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 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 87 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 Common Customs Tariff duties on those products.
- (3) It is necessary to modify the conditions for the suspension of autonomous Common Customs Tariff duties for 26 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) For certain products currently listed in the Annex to Regulation (EU) No 1387/2013 the classification in the Combined Nomenclature (CN) of the products covered by suspensions should be adapted.
- (5) It is also necessary, in the interest of the Union, to amend the end date for the mandatory review of 720 products listed in the Annex to Regulation (EU) No 1387/2013 in order to allow duty-free imports beyond that date. The autonomous Common Customs Tariff duty suspensions for 720 products listed in the Annex to Regulation (EU) No 1387/2013 have been reviewed and new dates should therefore be set for their next mandatory review.

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).

- (6) It is no longer in the interest of the Union to maintain the suspension of autonomous Common Customs Tariff duties for 12 of the products that are currently listed in the Annex to Regulation (EU) No 1387/2013. The suspensions for those products should therefore be deleted.
- (7) According to the Communication from the Commission concerning autonomous tariff suspensions and quotas³, 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. From the mandatory review of the existing suspensions it emerged that the estimated amount of customs duty on imports in relation to 197 products currently listed in the Annex to Regulation (EU) No 1387/2013 does not reach that threshold. Those suspensions should therefore be deleted from that Annex.
- (8) In the interest of clarity, and taking into account the number of amendments to be made, the Annex to Regulation (EU) No 1387/2013 should be replaced.
- (9) Regulation (EU) No 1387/2013 should therefore be amended accordingly.
- (10) 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 should apply from 1 January 2019. Therefore, this Regulation should enter into force as a matter of urgency,

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 of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2019.

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

Done at Brussels,

*For the Council
The President*

³ OJ C 363, 13.12.2011, p. 6.

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 2019: 21 471 164 786 €

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 place⁴)

Budget line	Revenue ⁵	12 month period, starting dd/mm/yyyy	[Year: 2019]
Article 120	<i>Impact on own resources</i>	01/01/2019	-29

Situation following action	
	[2019 – 2023]
Article 120	- 29/ year

This Annex contains 87 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2019 to 2023, amount to 34,1 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 61,4 Mio € /year.

⁴ 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.

⁵ 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.

12 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of 25 Mio € in the collection of duties, as estimated on the basis of 2017 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 $61,4 - 25 = 36,4$ Mio € (gross amount, including collection costs) $\times 0,8 = 29$ Mio €/year for the period 01.01.2019 - 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.