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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 343 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) 343 final.

Encl.: COM(2018) 343 final



Brussels, 28.5.2018
COM(2018) 343 final

2018/0174 (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

Certain agricultural and industrial products are not produced in the Union, or produced in insufficient quantities. To ensure sufficient and uninterrupted supplies and to prevent market disturbance for these products, Council Regulation (EU) No 1387/2013¹ partially or totally suspended some autonomous Common Customs Tariff duties.

The Regulation is updated every six months to accommodate the needs of the 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 a suspension of duties is justified for some new products, currently not listed in the Annex to Council Regulation (EU) No 1387/2013. The conditions governing the description, classification or end-use requirement of some other products should be changed. Products for which a tariff suspension is no longer in the economic interest of the Union should be withdrawn.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, 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 on agriculture, trade, enterprise, 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 Union's exclusive competence. 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 quotas². 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 L 354, 28.12.2013, p. 201.

² 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 entire autonomous suspensions scheme was the subject of an evaluation study which was carried out in 2013³.

The study concluded that the core rationale for the scheme remains valid. The cost savings for Union businesses importing goods under the scheme can be significant. In turn, depending on the product, company and sector, those savings can have wider benefits, such as boosting competitiveness, making production methods more efficient, and creating and 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 brings together delegates 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 focused especially on the need to prevent any harm to Union producers, and to strengthen and consolidate the competitiveness of Union production. All listed 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 25 million per year. The effect on budget's traditional own resources of the budget is EUR 20 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 own resource contributions.

³ http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm

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 Member States' customs administrations.

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 or only available in inadequate quantities 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 1387/2013⁴. Those products can be imported into the Union at reduced or zero duty rates.
- (2) It is no longer in the interest of the Union to maintain the suspension of autonomous Common Customs Tariff duties for 5 products currently listed in the Annex to Regulation (EU) No 1387/2013. The products in question are those identified in Annex I to this Regulation by CN and TARIC codes which are not at the same time listed in Annex II to this Regulation. Suspensions for those products should therefore be deleted.
- (3) The production in the Union of 85 products that are currently not listed in the Annex to Regulation (EU) No 1387/2013 is inadequate or non-existent. The products in question are those identified in Annex II to this Regulation by CN and TARIC codes which are not at the same time listed in Annex I to this Regulation. It is therefore in the interest of the Union to suspend the autonomous Common Customs Tariff duties on those products.
- (4) It is necessary to modify the conditions for the suspension of autonomous Common Customs Tariff duties for certain 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. In particular:
 - for one suspension, it is necessary to adapt the end-use requirements⁵;
 - for another the applicable duty rate should be amended⁶;
 - for 19 suspensions the description should be clarified or aligned⁷;

⁴ 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).

⁵ ex 3912 90 10 10

⁶ ex 3901 90 80 91

- for 14 suspensions it is necessary to change the classification⁸;
 - for 18 suspensions the supplementary unit needs to be adapted⁹.
- (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, the changes provided for in this Regulation regarding the suspensions for the products concerned should apply from 1 July 2018. This Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EU) No 1387/2013, the table is amended as follows:

- (1) all asterisks and endnote (*) containing the text 'A newly introduced measure or a measure with amended conditions.' are deleted;
- (2) the rows relating to suspensions 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 following 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 following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2018.

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

Done at Brussels,

For the Council
The President

⁷ ex 2921 59 90 10, ex 3906 90 90 43, ex 3907 40 00 45, ex 3912 90 10 10, ex 3919 90 80 22, ex 3920 99 90 20, ex 3926 90 97 50, ex 3926 90 97 77, ex 8108 90 30 25, ex 8418 99 10 70, ex 8483 30 32 30, ex 8483 30 38 60, ex 8501 31 00 50, ex 8503 00 91 31, ex 8503 00 99 32, ex 8503 00 99 55, ex 8505 11 00 63, ex 8529 90 92 39, ex 8529 90 92 55, ex 8708 99 10 35, ex 8708 99 97 35, ex 9013 80 90 30.

⁸ ex 3208 90 19 25, ex 3904 69 80 89, ex 3906 90 90 43, ex 3907 40 00 45, ex 3919 90 80 22, ex 3926 30 00 10, ex 3926 90 97 23, ex 8708 29 10 10, ex 8708 29 90 10, ex 8108 90 30 25, ex 8418 99 10 70, ex 8483 30 32 30, ex 8483 30 38 60, ex 8501 31 00 50, ex 8503 00 99 55, ex 8505 11 00 63, ex 8529 90 92 39, ex 8708 99 10 35, ex 8708 99 97 35, ex 9013 80 90 30.

⁹ ex 2106 90 92 50, ex 2841 90 30 10, ex 2912 29 00 35, ex 2932 20 90 50, ex 2934 20 80 15, ex 2934 99 90 54, ex 3801 90 00 20, ex 3824 99 96 45, ex 3907 20 99 80, ex 7020 00 10 20, ex 8108 20 00 55, ex 8108 20 00 70, ex 8108 90 30 15, ex 8108 90 50 45, ex 8108 90 60 30, ex 8483 40 90 20, ex 8505 19 90 50, ex 8507 60 00 25.

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 1 2 and Article 1 2 0 – Customs duties and other duties referred to in point (a) of Article 2(1) of Decision 2014/335/EU, Euratom;

Amount budgeted for the year 2018 (22 844 000 000 EUR)

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 place¹⁰)

Budget line	Revenue ¹¹	6-month period, starting dd/mm/yyyy	[Year: second half of 2018]
Article 120	<i>Impact on own resources</i>	01/07/2018	-10

Situation following action	
	[2019 - 2022]
Article 120	-20/year

Annex II contains 85 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2018 to 2022, amount to EUR 14 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

¹⁰ 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 pro rata.

¹¹ 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 20 % for collection costs.

other Member States using the same suspensions. This will result in uncollected duties of around EUR 25,2 million per year.

Five products have been withdrawn from the Annex to the regulation, reflecting the reintroduction of customs duties. This represents an increase of EUR 0,2 million in the collection of duties.

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 25 million (EUR 25,2 – 0,2 million). Multiplying this gross amount, including collection costs, by a factor of 0,8 gives a total of EUR 20 million per year for the period running from 1 July 2018 to 31 December 2022.

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.