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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 September 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 496 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the elimination of customs duties on certain products

Delegations will find attached document COM(2020) 496 final.

Encl.: COM(2020) 496 final

EUROPEAN
COMMISSION

Brussels, 8.9.2020
COM(2020) 496 final

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the elimination of customs duties on certain products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

On 21 August 2020 Commissioner Hogan and US Trade Representative Lighthizer stated their intention to go ahead with a trade-facilitating package to eliminate or reduce customs duties for a small number of tariff lines covering EUR 168 million (approximatively USD 200 million) in EU and US exports.[1]

The Commission sees this initiative as a first step to de-escalate bilateral trade tensions and to support the settlement of on-going disputes.

In substance, the Commission proposes to eliminate a number of customs tariffs on lobster, while the US will provide duty relief for a comparable economic value on products such as prepared meals, certain crystal glassware, surface preparations, propellant powders, cigarette lighters and lighter parts. The US requested the tariff reduction for lobster in light of its declining exports of the product to Europe and the world.

The tariff reductions should be implemented in a fully WTO consistent manner and respect the most-favoured nation (MFN) principle.

• Consistency with existing policy provisions in the policy area

The objective of this proposal is to create additional opportunities for EU and US operators, by eliminating or reducing tariffs. It should also improve trade relations with the United States, de-escalate trade tensions and support the settlement of on-going disputes with the US. It is fully consistent with the Treaty on European Union (TEU), which enshrines that the EU should encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade.[2]

• Consistency with other Union policies

The proposal is consistent with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Articles 207 of the Treaty on the Functioning of the European (TFEU).

• Subsidiarity (for non-exclusive competence)

According to Article 5(3) of the TEU, the subsidiarity principle does not apply in areas of exclusive EU competence. The customs union and the common commercial policy is listed among the areas of exclusive competence of the Union in Article 3 of the TFEU. This policy includes the negotiation of trade agreements and the adoption of trade policy measures including tariff reductions pursuant to, inter alia, Article 207 TFEU.

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1 This figure is composed of 42 million euro of EU27 imports from the US, and 126 million euro of US imports from the EU (2019 data).

2 Article 21 para 2 (e) TEU.

- **Proportionality**

The Commission proposal is in line with the principle of proportionality, and necessary in light of our objective to de-escalate trade tensions with the US.

- **Choice of the instrument**

Regulation of the European Parliament and of the Council

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

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

Not applicable

- **Stakeholder consultations**

Not applicable

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

Not applicable. For the EU, lobster is not a sensitive product as we are a net importer of the product. Last year the EU27 imported 42 million euro of lobster products from the US (15% of overall extra-EU imports) while the market is estimated to be some 290 million euro in size. EU producers are supplying less than 5% of our consumption. The elimination of import duties will support the food-processing industry and the hospitality sector. In return, the US has committed to ease market access for EU27 exports worth 143 million euro (USD 160 million) on average in the past three years (126 million euro in 2019), through a 50% reduction of duties

- **Regulatory fitness and simplification**

Not applicable

- **Fundamental rights**

The proposal is consistent with the EU Treaties and the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The agreement on the liberalisation of industrial tariffs will have a limited negative impact on the budget of the EU in the form of foregone customs duties due to tariff liberalisation for the products covered by the tariff lines in annex to this Regulation, representing some 5.3 million euro in duties collected from the US (average 2017-19 period)[3].

[3] Source: Eurostat.

2020/0253 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the elimination of customs duties on certain products

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The European Union and the United States of America (United States) have the largest and deepest bilateral trade and investment relationship in the world and have highly integrated economies. The two-way trade in goods and services between them is worth over 1 trillion euros per year which equals 3 billion euros per day. This close trade and investment relationship is beneficial for consumers, workers, businesses and investors.

(2) The European Union is committed to improve the trade and investment relationship with the United States. This includes using new ways and means for improving the bilateral trade relationship, addressing trade irritants and resolving on-going trade disputes. To avoid further disruption of those trade relations, the customs duties applied by the European Union on imports should be eliminated for a limited number of products for a period of five years on an erga omnes basis.

(3) The elimination of customs duties should apply from the same date as the effective implementation of the announcement of the United States to reduce their customs duties on a selected number of products i.e. from the first of August 2020.

(4) The elimination of customs duties is subject to effective implementation of the announcement of the United States to reduce duties on a selected number of products and the abstention by the United States from introducing new measures that would undermine the objectives pursued by the Joint Statement of 21 August 2020.[4]

(5) Implementing powers should be conferred on the Commission to suspend the application of this Regulation if the above conditions are not complied with.

(6) In view of the urgency of avoiding further trade disruptions, it is important to apply an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union. For the same reason, this Regulation should enter into force immediately,

[4] https://trade.ec.europa.eu/doclib/press/index.cfm?id=2178

HAVE ADOPTED THIS REGULATION:

Article 1

Elimination of customs duties

The applicable import customs duties of the Common Customs Tariff shall be 0% (free of duty) for the tariff lines listed in Section I of the Annex.

Article 2

Conditions for the elimination of customs duties

The elimination of the customs duties for the products classified in the tariff lines listed in Section I of the Annex to this Regulation shall be subject to:

(a) the reduction by the United States on an erga omnes basis for the tariff lines listed in Section II of the Annex to this Regulation; and

(b) the abstention by the United States from introducing new measures against the European Union that undermine the objectives pursued by the Joint Statement of 21 August 2020.

Article 3

Temporary suspension

If the United States does not comply with the conditions set out in Article 2 or where there is sufficient evidence of a future failure to comply, the Commission may adopt an implementing act in order to suspend the elimination of duties provided for in this Regulation until those conditions are complied with. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 4(2).

Article 4

Committee procedure

1. For the implementation of Article 3 of this Regulation, the Commission shall be assisted by the Customs Code Committee established by Article 285 of Regulation (EU) No 952/2013.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 5

Entry into force and application

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

2. This Regulation shall apply as of 1 August 2020 and shall end its application on 31 July 2025.

3. The Commission shall publish in the Official Journal of the European Union a notice of suspension in case the application of this Regulation has been suspended pursuant to Article 3 or in case the Regulation ceases to apply before the 31 July 2025.

4. On request of the economic operators, the customs authorities of the Member States shall reimburse any duties paid in excess of those applicable in accordance with this Regulation for importations between 1 August 2020 and the entry into force of this Regulation.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT 'REVENUE'- FOR PROPOSALS HAVING BUDGETARY IMPACT ON THE REVENUE SIDE OF THE BUDGET

1. NAME OF THE PROPOSAL:

Regulation of the European Parliament and the Council on the elimination of customs duties on certain products

2. BUDGET LINES:

Revenue line (Chapter/Article/Item):

Revenue line: Chapter 1 2, Article 1 2 0

Amount budgeted for the year concerned: EUR 22 156 900 000

(only in case of assigned revenues):

The revenues will be assigned to the following expenditure line (Chapter/Article/Item): n/a

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

X Proposal has no financial impact on expenditure but has a financial impact on revenue

☐ Proposal has a financial impact on assigned revenue

The effect is as follows:

(EUR million to one decimal place)

Revenue line	Impact on revenue[5] [6]	XX months period starting dd/mm/yyyy (if applicable)	Year N
Chapter 12 , Article 120–Customs duties and other duties referred to in point (a) of Article 2(1) of Decision 2014/335/EU, Euratom	-2.2	5 months period starting 01/08/2020	2020

Situation following action					
Revenue line	2021	2022	2023	2024	2025

[5] The amounts per year need to be an estimation based on the formula or method defined under section 5. For the starting year, the yearly amount is normally paid without a reduction or prorata.

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

Chapter 12, Article 120	-5.3 million €	-5.3 million €	-5.3 million €	-5.3 million €	-3.1 million €

(Only in case of assigned revenues, under the condition that the budget line is already known):

Expenditure line[7]	Year N	Year N+1
Chapter/Article/Item …		
Chapter/Article/Item …		

Situation following action					
Expenditure line	[N+1]	[N+2]	[N+3]	[N+4]	[N+5]
Chapter/Article/Item …					
Chapter/Article/Item …					

4. ANTI-FRAUD MEASURES

[…]

5. OTHER REMARKS

The calculations were based on statistical data available, estimating that the foregone customs duties due to tariff liberalisation for the products covered by the tariff lines in annex to this Regulation represent approximately 5.3 million euro/year in duties collected from the US (average 2017-19 period).

[7] To be used only if necessary.