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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	16 November 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 645 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2021/2283 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

Delegations will find attached document COM(2022) 645 final.

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Brussels, 16.11.2022
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2022/0381 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2021/2283 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Autonomous tariff quotas of the Union are needed for products whose production in the Union is insufficient to meet the needs of the user industry in the Union for a given quota period. Union tariff quotas should be opened at zero or reduced duty rates for appropriate volumes, without disturbing the markets for such products.

On 20 December 2021, the Council of the European Union adopted Regulation (EU) 2021/2283[1] opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products so that Union demand for the products in question could be met under the most favourable conditions.

The Regulation is updated every six months to accommodate the needs of Union industry.

The Commission, assisted by the Economic Tariff Questions Group ("ETQG"), has reviewed all requests from the Member States for autonomous tariff quotas duties.

Following this review, the Commission considers that the opening of autonomous tariff quotas is justified for some new products, currently not listed in the Annex to Council Regulation (EU) 2021/2283. In relation to some other products the wording of the description needs to be changed, new TARIC codes should be assigned, or an increase of the initial quota volume became necessary. Products for which a tariff quota is no longer in the Union's economic interest should be withdrawn.

For reasons of clarity it is advisable to publish a consolidated version of the Annex to Council Regulation (EU) 2021/2283, which will fully 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 on agriculture, trade, enterprise, development, environment, and external relations.

The trade-liberalising measures that are contained in this proposal aim at ensuring that the temporary suspension of the Union's common customs tariff is conducted in the context of the principles and objectives of the Union's external action set out in Article 21 TEU and that different areas of external action of the Union, as well as its external action and other Union policies, be consistent with another. It is therefore appropriate to exclude a number of products originating in Russia and Belarus from the tariff reduction, in order to ensure

[1] OJ L 458, 22.12.2021, p.33

consistency with the restrictive measures taken by the Union against these countries following Russia's aggression against Ukraine. However, in order to ensure appropriate supply and avoid serious disturbances in some EU markets, it is necessary to retain the tariff quotas for certain products originating from Russia.

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 quotas[2]. 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 tariff quotas scheme was part of an evaluation study carried out in 2013 on autonomous tariff suspensions[3].

This is because the two measures are similar, except that autonomous tariff quotas limit import volumes, while autonomous tariff suspensions permit the total or partial waiver of the normal duties applicable to certain goods imported to the EU for an unlimited quantity. The evaluation 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, these savings can have wider benefits, such as boosting competitiveness, making production methods more efficient, and creating or keeping jobs in

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

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

the Union. Details of the savings stemming from this regulation can be found in point 4 and 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 in the preparation of this proposal.

The ETQG 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 ETQG carried out the assessment through discussions, and Member States consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

All listed tariff quotas were the subject of agreements or compromises reached in the discussions held at the ETQG. No potentially serious risks with irreversible consequences was identified.

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of tariff quotas listed in the Annex to Regulation (EU) No 2021/2283. 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 quotas 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. The annex contains eight new products. The uncollected duties corresponding to the respective tariff quotas are calculated on the basis of requesting Member State projections for 2021. However, due to the deletion of fifteen quotas and the reintroduction of the tariffs, the impact on the collection of customs duties is estimated at a surplus of EUR 14 million per year. The overall positive effect on the traditional own resources of the EU budget is estimated at EUR 10,5 million per year (75 % of the total). The legislative financial statement sets out the budgetary implications of the proposal in greater detail.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The proposed measures are managed within the framework of the Integrated Tariff of the European Union “TARIC” (they are integrated in TARIC and managed by the QUOTA database) and applied by the Member States’ customs administrations.

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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 produced in insufficient quantities in the Union and thereby avoid any disturbances on the market for those products, autonomous tariff quotas were opened by Council Regulation (EU) 2021/2283[1]. Within those tariff quotas, products can be imported into the Union at reduced or zero duty rates.

(2) As it is in the Union's interest to ensure an adequate supply of certain industrial products and having regard to the fact that identical, equivalent or substitute products are not produced in sufficient quantities within the Union, it is necessary to open new tariff quotas with order numbers 09.2921, 09.2922, 09.2923, 09.2924, 09.2925, 09.2926, 09.2927 and 09.2931 at zero duty rates for appropriate quantities of those products.

(3) As the scope of the tariff quotas with order numbers 09.2723 and 09.2763 has become inadequate to fulfil the needs of the economic operators in the Union, the description of the products covered by those quotas should be amended and the applicable TARIC codes for those products should therefore be modified.

(4) As is it in the Union’s interest to ensure an adequate supply of certain industrial products the volumes of tariff quotas with order numbers 09.2563, 09.2682, 09.2828 and 09.2854 should be increased.

(5) As the Union production capacity for certain industrial products has been increased the volumes of tariff quotas with order numbers 09.2575 and 09.2913 should be decreased.

[1] Council Regulation (EU) 2021/2283 of 20 December 2021 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products, and repealing Regulation (EU) No 1388/2013 (OJ L 458, 22.12.2021, p. 33).

(6) For the tariff quotas with order numbers 09.2583, 09.2819, 09.2839 and 09.2855 the quota period should be extended and the quota volume should be adapted on a yearly basis as the tariff quotas were opened for a period of 6 months only and it is still in the Union's interest to maintain them.

(7) As it is no longer in the Union's interest to maintain the tariff quotas with order numbers 09.2003, 09.2576, 09.2577, 09.2592, 09.2650, 09.2673, 09.2688, 09.2694, 09.2708, 09.2710, 09.2734, 09.2799, 09.2829, 09.2866 and 09.2880, they should be closed.

(8) At the same time, relations between the Union and Russia have deteriorated over the past years, particularly due to Russia's disregard for international law and its unprovoked and unjustified invasion of Ukraine. On 6 October 2022, the Council adopted an eighth package of sanctions[2] against Russia over its continued war of aggression against Ukraine and the reported atrocities committed by Russian armed forces in Ukraine.

(9) While Russia is a member of the World Trade Organization, the Union can rely on the exceptions that apply under the Agreement Establishing the World Trade Organization, and in particular Article XXI of the General Agreement on Tariffs and Trade 1994, in particular with regard to the obligation to accord to products imported from Russia the advantages granted to like products imported from other countries (most-favoured-nation treatment).

(10) In light of the deterioration of the relations between the Union and Russia, in order to ensure the coherence with the Union's actions and principles in the field of the Union's external action, it would therefore not be appropriate to allow products originating from Russia to enjoy duty-free and most-favoured-nation treatment with regard to the products covered by this Regulation. Therefore, it is necessary to remove respective tariff quotas for those products.

(11) The situation between the Union and Belarus has deteriorated over the past years, because of the Belarusian regime's disregard for international law, fundamental rights and human rights. In addition, Belarus has provided extensive support to the Russian military aggression against Ukraine from its very beginning.

(12) Since October 2020, the Union has progressively imposed restrictive measures against Belarus over continued human rights abuses, the instrumentalisation of migrants and the involvement of Belarus in the Russian military aggression against Ukraine. As Belarus is not a member of the World Trade Organization, the Union is not obliged, by virtue of the Agreement Establishing the World Trade Organization, to accord the most-favoured-nation treatment to products from Belarus. In addition, trade agreements allow for certain actions to be taken that are justified on the basis of applicable exception clauses, in particular security exceptions.

(13) In the light of the deterioration of the relations between Belarus and Union, in order to ensure the coherence with the Union's actions and principles in the field of the

[2] Council Regulation (EU) 2022/1903 (OJ 259 I, p.1)
Council Regulation (EU) 2022/1904 (OJ 259 I, p.3)
Council Regulation (EU) 2022/1905 (OJ 259 I, p. 76)
Council Regulation (EU) 2022/1906 (OJ 259 I, p. 79)

Union's external action, it would therefore not be appropriate to allow products originating from Belarus to enjoy duty-free treatment and most-favoured-nation treatment with regard to the products covered by this Regulation.

(14) However, in order to ensure appropriate supply and avoid serious disturbances in some EU markets, it is necessary to retain the tariff quotas with order numbers 09.2600, 09.2742, 09.2698 and 09.2835 for certain products originating in Russia, falling under TARIC codes 2712 90 39 10, 2926 10 00 10, 3204 17 00 30 and 7604 29 10 30 respectively. Those products represented more than 50% of the total value of imports into the Union in the years 2019 to 2021 with no or limited alternative suppliers from other third countries. The value of those imports would indicate that the Union industry operators are dependent to a very large extent on those imports and that the removal of the tariff quotas would cause disproportionate hardship to those operators.

(15) Therefore, in the light of the context above, the removal of the suspension on CCT duties on certain products originating from Russia and Belarus is appropriate and permitted, in application of the General Rules concerning duties set out in Annex I to Council Regulation (EEC) No 2658/87[3], and in particular Part One, Section I, Part B, point 1 thereof.

(16) As the granting of the autonomous tariff quotas is an exception to the application of the common customs tariff duties, the re-introduction of these common customs tariff duties to the imports originating in Belarus and Russia constitutes a return to the normal state of affairs (see points 2.1.2 and 2.2.1 of the Communication from the Commission concerning autonomous tariff suspensions and quotas). Thus, the limited removal of tariff quotas for certain products originating from Russia and Belarus is not a restrictive or prohibitive measure, but its purpose is to prevent those countries from indirectly benefiting from a unilateral Union measure and to ensure the overall coherence of the Union's actions.

(17) Regulation (EU) 2021/2283 should therefore be amended accordingly.

(18) In order to avoid any interruption in the application of the tariff quota scheme and to comply with the guidelines set out in the Communication from the Commission concerning autonomous tariff suspensions and quotas, the changes provided for in this Regulation regarding the tariff quotas for the products concerned should apply from 1 January 2023. This Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2021/2283 is amended as follows:

(1) in Article 1, the following paragraph is added:

[3] 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).

"4. The suspension laid down in paragraph 2 does not apply to products originating in Belarus and in Russia, with the exception of quota order numbers 09.2600, 09.2742, 09.2698 and 09.2835.";

(2) the Annex 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 2023

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. NAME OF THE PROPOSAL:

Council Regulation amending Regulation (EU) No 2021/2283 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

2. BUDGET LINES

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2023: 21 590 300 000

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)

Budget line	Revenue[1]	12-month period, starting dd/mm/yyyy	[Year: 2023]
Article 120	*Impact on own resources*	01/01/2023	+10,5

The annex contains eight new products. The uncollected duties corresponding to these tariff quotas, calculated on the basis of requesting Member State projections for 2021, amount to EUR 5 073 751 per year.

15 products have been withdrawn from the Annex to this regulation reflecting the reintroduction of customs duties. This represents an increase in the collection of customs duties of EUR 19 156 708 per year.

On the basis of the above, the positive impact on revenue for the EU budget resulting from this Regulation is estimated at EUR - 5 073 751 + 19 156 708 = EUR +14 082 957 (gross amount, including collection costs) x 0,75 = EUR +10 562 218 per year (net amount).

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.

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

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.