Council of the European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	21 November 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 718 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2021/2278 suspending the Common Customs Tariff duties referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013 on certain agricultural and industrial products

Delegations will find attached document COM(2023) 718 final.

Encl.: COM(2023) 718 final

EUROPEAN
COMMISSION

Brussels, 21.11.2023
COM(2023) 718 final

2023/0406 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2021/2278 suspending the Common Customs Tariff duties referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013 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 insufficiently produced or not produced at all in the Union and to avoid any disturbances on the market for these products, some Common Customs Tariff duties have been partially or totally suspended, without any limits as regards their quantity, by Council Regulation (EU) No 2021/2278 (hereinafter "the Regulation")[1].

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 Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.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

[1] OJ L 466, 29.12.2021, p.1

- **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 suspensions scheme was subject to an evaluation study carried out in 2013[3]. 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 stemming from this regulation can be found in the attached legislative financial statement.

- **Stakeholder consultations**

The Economic Tariff Questions Group (ETQG), which consists of representatives from all Member States plus Türkiye, assisted the Commission in the preparation of this proposal.

The ETQG carefully examined each request to ensure that it would not cause any harm to Union enterprises and would strengthen and consolidate the competitiveness of Union's production. The members of the ETQG carried out the assessment through discussions, and Member States, in turn, consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

All listed suspensions correspond to agreements or compromises reached in the discussions of the ETQG. No potential serious risk with irreversible consequences was identified.

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of the suspensions currently listed in the Annex to Council Regulation (EU) No 2021/2278. An impact assessment was not carried out because the proposed changes in the list of products that would benefit from the autonomous suspension of Common Customs Tariff duties are not expected to have significant impacts.

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2 OJ C 363, 13.12.2011, p. 6.

3 https://taxation-customs.ec.europa.eu/system/files/2016-09/evaluation_suspensions_duties.pdf

- **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 corresponding to the suspension will amount approximately EUR 19 998 035 per year. The negative effect on the budget's traditional own resources is EUR 14 998 526 per year (i.e. 75 % 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 proposed measures 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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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 not produced in the Union and thereby avoid any disturbances on the market for those products, Common Customs Tariff duties of the type referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1] ('CCT duties') on those products have been suspended by Council Regulation (EU) 2021/2278[2]. As a result, the products listed in the Annex to Regulation (EU) 2021/2278 can be imported into the Union at reduced or zero duty rates without any limitation as regards their quantity.

(2) The Union production of certain products that are not listed in the Annex to Regulation (EU) 2021/2278 is inadequate to meet the specific requirements of the user industries in the Union. As it is in the Union's interest to ensure an adequate supply of certain 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 grant a complete suspension of the CCT duties also on those products.

(3) With a view to promoting integrated battery production in the Union, a partial suspension of the CCT duties should be granted in respect of certain products related to battery production that are currently not listed in the Annex to Regulation (EU) 2021/2278, taking into consideration that the respective Union production of those products is inadequate to meet the specific requirements of the user industries in the

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[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/952/oj).

[2] Council Regulation (EU) 2021/2278 of 20 December 2021 suspending the Common Customs Tariff duties referred to in Article 56(2), point (c), of Regulation (EU) No 952/2013 on certain agricultural and industrial products, and repealing Regulation (EU) No 1387/2013 (OJ L 466, 29.12.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/2278/oj).

Union. The date for the mandatory review of those suspensions should be 31 December 2024, in order for that review to take into account the short-term evolution of the battery production sector in the Union.

(4) It is necessary to change the product description and classification for certain CCT duty suspensions listed in the Annex to Regulation (EU) 2021/2278 in order to take into account technical product developments and economic trends in the market.

(5) The Commission has reviewed certain CCT duty suspensions listed in the Annex to Regulation (EU) 2021/2278 in accordance with Article 2 of that Regulation. For those CCT duty suspensions, new dates should therefore be set for their next mandatory review.

(6) It is no longer in the interest of the Union to maintain the suspension of CCT duties for certain products listed in the Annex to Regulation (EU) 2021/2278. The suspensions for those products should therefore be deleted from that Annex, with effect from 1 January 2024.

(7) Regulation (EU) 2021/2278 should therefore be amended accordingly.

(8) In order to avoid any interruption in the application of the autonomous tariff suspension scheme and to comply with the guidelines set out in the Communication from the Commission of 13 December 2011 concerning autonomous tariff suspensions and quotas[3], the changes provided for in this Regulation regarding the tariff suspensions for the products concerned should apply from 1 January 2024. This Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) 2021/2278 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 2024.

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

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:

Proposal for amending Regulation (EU) 2021/2278 suspending the Common Customs Tariff duties referred to in Article 56 (2) point (c) of Regulation (EU) No 952/2013 on certain agricultural and industrial products

2. BUDGET LINES:

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2024: EUR 24 620 400 000

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)

Budget line	Revenue	12 month period, starting dd/mm/yyyy	[Year: 2024]
Article 120	*Impact on own resources*	01/01/2024	-15

Situation following action	
	[2024 – 2028]
Article 120	- 15 EUR million/ year

The Annex contains 60 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2024 to 2028, amount to EUR 19 952 989 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 other Member States using the same suspensions. This means uncollected duties of some EUR 39 915 380 per year.

17 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of EUR 19 917 345 per year in the collection of duties, as estimated on the basis of 2022 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 39 915 380 – 19 917 345 = EUR 19 998 035 (gross amount, including collection costs) x 0,75 = EUR 14 998 526 per year.

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.

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.