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COM(2016) 783 final

2016/0387 (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 semester with the objective of accommodating the needs of the EU industry. The Commission, assisted by the Economic Tariff Questions Group (ETQG), reviews all requests for temporary suspension of autonomous Common Customs Tariff duties sent by the Member States.

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 Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.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 which will replace the previous Annex.

• Consistency with existing policy provisions in the policy area

This proposal is not at the expense of countries enjoying a preferential trading agreement with the EU, candidate countries and potential candidates for preferential agreements (e.g. Generalized System of Preferences; African, Caribbean and Pacific group regime; Free Trade Agreements).

• Consistency with other Union policies

The proposal is in line with Union policies in the area of 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 exclusive competence of the Union. The subsidiarity principle therefore does not apply.

• Proportionality

The proposal complies with the principle of proportionality as the envisaged measures are in line with the principles set out to simplify the procedures for the 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 in order 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 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 that import goods under the scheme can be significant. In turn, these savings can lead to wider benefits (such as higher competitiveness, more efficient production methods, creation or maintenance of EU jobs, etc.), depending on the product, company and sector in question.

- **Stakeholder consultations**

This proposal has been prepared with the assistance of the ETQG, which brings together delegates from all Member States plus Turkey. It met three times before the changes laid down in this proposal were agreed.

Each request (new or amendment) has been assessed carefully by the group. In examining each case, particular attention has been paid to the need to prevent any harm for EU producers and to strengthen and consolidate the competitiveness of EU production.

All listed suspensions correspond to agreements or compromises reached in the discussion of the ETQG. There was no mention of potentially serious risks with irreversible consequences.

- **Impact assessment**

The proposed amendment is a technical one concerning only the coverage of suspensions listed in the Annex to Council Regulation (EU) No 1387/2013. Thus no impact assessment was carried out for this proposal.

- **Fundamental rights**

The proposal has no impact on fundamental rights.

4. BUDGETARY IMPLICATIONS

This proposal has no financial impact on expenditure but has a financial impact on revenues. Uncollected customs duties of a total amount of approximately 10,4 Mio €/year. The effect on the traditional own resources of the budget is 8,3Mio €/year (80% x 10,4 Mio €/year). The legislative financial statement contains more details of the budgetary implications of the proposal.

The loss of revenue in Traditional Own Resources shall be compensated by Member States contributions based on the GNI.

¹ C 363, 13.12.2011 p.6

5. OTHER ELEMENTS

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

The measures proposed are treated within the framework of TARIC (Integrated Tariff of the European Union) and applied by customs administrations of the Member States.

Checks on the end-use of some of the products covered by this 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.

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) The Union production of 110 agricultural and industrial products that are currently not listed in Annex to Council Regulation (EU) No 1387/2013² is, at present, 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.
- (2) It is necessary to modify the conditions of 38 suspensions of autonomous Common Customs Tariff duties, 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 relation to some running measures, the classification was adapted in order to allow industry to fully benefit from the suspensions in force. Moreover, the annex was updated in order to take into account the need to align or clarify texts in some cases. The modified conditions relate to changes in the product description, classification, duty rates or end-use requirement. Moreover, in the light of the Agreement in the form of the Declaration on the Expansion of Trade in Information Technology Products³ and the upcoming changes in the Combined Nomenclature as of 1 January 2017⁴, 441 items should be amended. The suspensions in respect of which modifications are necessary should be deleted from the list of suspensions in the Annex to Regulation (EU) No 1387/2013, and the modified suspensions should be inserted into that list.
- (3) It is also necessary, in the interest of the Union, to amend the end date for the mandatory review of 206 products currently listed in the Annex to Regulation (EU) No 1387/2013 in order to allow duty-free imports beyond that date. The autonomous

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).

³ Council Decision (EU) 2016/971 of 17 June 2016 on the conclusion, on behalf of the European Union, of an agreement in the form of the Declaration on the Expansion of Trade in Information Technology Products (ITA) (OJ L 161, 18.6.2016, p. 2).

⁴ Commission Implementing Regulation (EU) No 2016/1821 of 6 October 2016 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 294, 28.10.2016, p. 1).

Common Customs Tariff duty suspensions for those products have been reviewed and new revised dates should be set for their next mandatory review.

- (4) It is no longer in the interest of the Union to maintain the suspension of autonomous Common Customs Tariff duties for 18 of the products that are currently listed in the Annex to Regulation (EU) No 1387/2013. Moreover, according to the Commission Communication the amount of uncollected customs duty cannot be less than EUR 15 000 per year. Following the mandatory review of the existing suspensions, it emerged that the imports in relation to 71 suspensions do not reach this established threshold. Therefore, they should be also deleted from that Annex. In addition, 27 suspensions should be deleted from the same Annex as a result of the Agreement in the form of the Declaration on the Expansion of Trade in Information Technology Products, which reduced the duty rate in relation to the products concerned to zero.
- (5) In the interest of clarity, and taking into account the number of amendments, the Annex to Regulation (EU) No 1387/2013 should be replaced in its entirety.
- (6) Regulation (EU) No 1387/2013 should therefore be amended accordingly.
- (7) In order to avoid any interruption of the application of suspensions scheme and to fulfil the rules set in the Commission Communication the changes regarding the suspensions for the products concerned provided for in this Regulation must apply from 1 January 2017. 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 2017.

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. 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 2017: 20 000 500 000€ (B 2017)

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 place⁵)

Budget line	Revenue ⁶	12 month period, starting dd/mm/yyyy	[Year: 2017]
Article 120	<i>Impact on own resources</i>	01/01/2017	-8,3

Situation following action	
	[2017 – 2021]
Article 120	- 8,3/ year

This Annex contains 110 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2017 to 2021, amount to 11,9 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 21,4 Mio € /year.

18 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of 11 Mio € in the collection of duties, as estimated on the basis of 2015 statistics.

⁵ 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.

⁶ 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.

On the basis of the above, the impact on the loss of revenue for the EU budget resulting from this Regulation is estimated at $21,4 - 11 = 10,4$ Mio € (gross amount, including collection costs) $\times 0,8 = 8,3$ Mio €/year for the period 01.01.2017 - 31.12.2021.

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.