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2017/0331 (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 European Union, or not in sufficient quantity. To ensure sufficient and uninterrupted supplies and to prevent market disturbance for these products, Council Regulation (EU) No 1387/2013 partially or totally suspended some autonomous Common Customs Tariff duties.

The Regulation is updated every six months to accommodate the needs of EU industry. The Commission, assisted by the Economic Tariff Questions Group (ETQG), reviews all Member State requests for autonomous Common Customs Tariff duties to be suspended temporarily.

Following this review, the Commission considers that a suspension of duties is justified for some new products currently not listed in the Annex to the Regulation. 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 Products for which a tariff suspension is no longer in the EU's economic interest should be withdrawn.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 EU, candidate countries or potential candidates for preferential agreements with the EU (e.g. the Generalised System of Preferences, the African, Caribbean and Pacific group trading arrangements, or free-trade agreements).

- **Consistency with other Union policies**

The proposal is in line with EU 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 EU'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. 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 regulation is the appropriate instrument.

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

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

A 2013 evaluation of the entire autonomous suspensions scheme 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, those savings can have wider benefits, such as boosting competitiveness, making production methods more efficient, and creating and keeping jobs in the EU. Details of the savings of this regulation can be found in the attached legislative financial statement.

- **Stakeholder consultations**

The ETQG, brings together delegates from all Member States plus Turkey, assisted the Commission to prepare 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 EU producers, and to strengthen and consolidate the competitiveness of EU production.

All listed suspensions were the subject of agreements or compromises reached in the ETQG's discussions. No potentially serious risks with irreversible consequences were mentioned.

- **Impact assessment**

The proposed amendment is technical and concerns only the coverage of suspensions listed in the Annex to Council Regulation (EU) No 1387/2013. Therefore, no impact assessment has been 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 revenue. Uncollected customs duties total approximately EUR 15,7 million per year. The effect on the budget's traditional own resources is EUR 12,5 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.

5. OTHER ELEMENTS

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

The measures proposed are managed under TARIC (the Integrated Tariff of the European Union) and applied by Member States' customs administrations.

Furthermore, the whole scheme of autonomous suspensions and quotas was subject to an evaluation study which was completed in the beginning of December 2013 (http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm). The evaluation concluded that the core rationale for the scheme remains valid and that the scheme should continue.

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 67 products that are currently not listed in the Annex to Council Regulation (EU) No 1387/2013¹ is not sufficient to cover the needs of the Union industry. It is, therefore, in the interest of the Union to totally suspend the autonomous Common Customs Tariff ('CCT') duties for those products.
- (2) It is necessary to modify the conditions of 49 suspensions of autonomous CCT 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. Certain product classifications have been amended to allow the industry to fully benefit from the suspensions in force. Moreover, the Annex to Regulation (EU) No 1387/2013 should be updated due to 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 requirements.
- (3) The date for mandatory review set out in Regulation (EU) No 1387/2013 should be revised for 188 suspensions.
- (4) It is no longer in the interest of the Union to maintain 92 of the suspension of autonomous CCT duties that are currently included in the list set out in the Annex to Regulation (EU) No 1387/2013.
- (5) In the interest of clarity, the entries for the suspensions that are modified or newly introduced by this Regulation should be marked with an asterisk while the asterisk should be removed from the entries for the suspensions which are not modified by this Regulation.
- (6) Regulation (EU) No 1387/2013 should therefore be amended accordingly.
- (7) In order to avoid any interruption of the application of the suspension scheme and to fulfil the guidelines set out in the Commission Communication concerning autonomous tariff suspensions and quotas (2011/C 363/2011)², the changes regarding

¹ 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).

² OJ C 363, 13.12.2011, p. 6.

the suspensions for the products concerned provided for in this Regulation should enter into force as a matter of urgency and apply from 1 January 2018,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 1387/2013 is amended as follows:

- (1) the rows for the products for which the CN and TARIC codes are set out in Annex I to this Regulation are deleted;
- (2) all asterisks and in the notes, the line '* A newly introduced measure or a measure with amended conditions.' are deleted;
- (3) the rows for the products listed in Annex II to this Regulation are inserted following the order of the CN codes indicated in the first column of the table in the Annex to Regulation (EU) No 1387/2013.

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 2018.

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 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 place³)

Budget line	Revenue ⁴	12 month period, starting dd/mm/yyyy	[2018 – 2022]
Article 120	<i>Impact on own resources</i>	01/01/2018	- 12,5

Annex I contains 67 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 22,2 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 other Member States using the same suspensions. This will result in uncollected duties of around EUR 40,0 million per year.

92 products have been withdrawn from the Annex to the regulation, reflecting the reintroduction of customs duties. This represents an increase of EUR 24,3 million in the collection of duties. As the deletions are in force as of 1st of January 2018 statistics are not available and the increase has been calculated using requesting Member State projections.

³ 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.

⁴ 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.

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 15,7 million (EUR 40,0 – 24,3 million). Multiplying this gross amount, including collection costs, by a factor of 0,8 gives a total of EUR 12,5 million per year for the period running from 1 January 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.