



Brussels, 18.11.2020
COM(2020) 737 final

2020/0328 (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 insufficiently 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 six months to accommodate the needs of Union industry. The Commission, assisted by the Economic Tariff Questions Group, 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, duty rates, end-use requirement or date foreseen 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 Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.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.

- **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 quotas¹. 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).

¹ OJ C 363, 13.12.2011, p. 6.

- **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. 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 of this regulation can be found 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 to assess this proposal. The group met three times before agreeing the changes in this proposal.

It carefully assessed each request (new, an amendment or deletion). 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 Economic Tariff Questions Group carried out the assessment through discussions, and Member States consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

All listed tariff suspensions were the subject of agreements or compromises reached in the discussions held at the Economic Tariff Questions Group. No potentially serious risks with irreversible consequences were mentioned.

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of suspensions listed in the Annex to Council Regulation (EU) No 1387/2013. Therefore, no impact assessment was carried out for this proposal.

- **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 amount approximately EUR 47,6 million per year. The negative effect on the budget's traditional own resources is EUR 38,1 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 on resource contributions.

5. OTHER ELEMENTS

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

The measures proposed 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 in the market for those products, Common Customs Tariff (CCT) duties of the type referred to in Article 56(2)(c) of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹ on those products have been suspended by Council Regulation (EU) No 1387/2013². Those products can be imported into the Union at reduced or zero duty rates.
- (2) The Union production of certain products that are not listed in the Annex to Regulation (EU) No 1387/2013 is inadequate or non-existent. It is therefore in the interest of the Union to suspend totally the CCT duties on those products.
- (3) With a view to promoting integrated battery production in the Union in accordance with the Communication from the Commission of 17 May 2018 entitled ‘Europe on the Move – Sustainable Mobility for Europe: safe, connected, and clean’³, a partial suspension of the CCT duties should be granted in respect of certain products that are not listed in the Annex to Regulation (EU) No 1387/2013. In addition, only a partial suspension of the CCT duties should be granted in respect of certain products that are currently subject to complete suspensions. The date for the mandatory review of those suspensions should be 31 December 2021, in order for that review to have regard to the evolution of the battery sector in the Union.
- (4) It is necessary to amend the product description, classification and end-use requirement for certain CCT duty suspensions listed in the Annex to Regulation (EU) No 1387/2013 in order to take into account technical product developments and economic trends in the market.

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).

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 COM(2018) 293 final

- (5) A review has been undertaken of certain CCT duty suspensions listed in the Annex to Regulation (EU) No 1387/2013. 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) No 1387/2013. The suspensions for those products should therefore be withdrawn. Moreover, according to the Communication from the Commission of 13 December 2011 concerning autonomous tariff suspensions and quotas⁴, for practical reasons, requests for tariff suspensions or quotas where the amount of uncollected customs duty is estimated to be less than EUR 15 000 per year cannot be taken into consideration. The suspensions for products which do not reach that threshold, as indicated by the mandatory review, should therefore be withdrawn from the Annex to Regulation (EU) No 1387/2013.
- (7) Regulation (EU) No 1387/2013 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, the changes provided for in this Regulation regarding the tariff suspensions for the products concerned should apply from 1 January 2021. This Regulation should therefore enter into force as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 1387/2013 is amended in accordance with 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 2021.

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

Done at Brussels,

For the Council
The President

⁴ OJ C 363, 13.12.2011, p. 6.

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 2021: 17 605 700 000

3. FINANCIAL IMPACT

Proposal has no financial implications

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	12 month period, starting dd/mm/yyyy	[Year 2021]
Article 120	<i>Impact on own resources</i>	01/01/2021	-38,1

Situation following action	
	[2021 – 2025]
Article 120	- 38,1 EUR million/ year

The Annex contains 83 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2021 to 2025, amount to EUR 37,6 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 means uncollected duties of some EUR 67,7 million per year.

The zero duty rate for four existing suspensions was increased. This represents an increase of EUR 0,3 million per year in the collection of duties, as estimated on the basis of 2019 statistics.

116 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of EUR 19,8 million per year in the collection of duties, as estimated on the basis of 2019 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 $67,7 - 19,8 - 0,3 = \text{EUR } 47,6$ million

(gross amount, including collection costs) x 0,8 = EUR 38,1 million per year for the period 01.01.2021 - 31.12.2025.

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.

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) n° 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.