



EUROPEAN
COMMISSION

Brussels, 28.10.2013
COM(2013) 737 final

2013/0353 (NLE)

Proposal for a

COUNCIL REGULATION

**amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical
nomenclature and on the Common Customs Tariff**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The purpose of the present draft Council Regulation is to provide for simplification of the nomenclature, as well as for simplification of customs duties, on an autonomous basis, for certain sanitary articles [sanitary towels (pads) and tampons, napkins and napkin liners for babies, and similar articles, of any material].

Before the introduction of the 2012 version of the Harmonized System (HS)¹, such sanitary articles were classified, depending on their nature or on the constituent material, in different chapters of the HS nomenclature, mainly in Chapters 39, 48, 56, 61, 62 and 63. Various rates of customs duty were associated with these articles. This led to a complex tariff system of classification.

The 2012 version of the HS nomenclature created a single specific HS heading (9619 00) for such sanitary articles. However, the situation prior to 2012 was transposed into the 2012 version of the Combined Nomenclature (CN) without any further amendments. Thus, under the new CN code 9619 00, the same complex tariff system of classification has been kept.

Because this complexity could lead to unnecessary difficulties and burden in applying the CN, it would be appropriate to simplify both the nomenclature and the tariff structure, on an autonomous basis (thus, without requiring any amendment to the Union's WTO schedule), with effect from 1 January 2014.

The proposal aims at having four categories of product (instead of eight), each of these categories being associated with a single autonomous rate of duty (four different rates, instead of eight).

The attached proposal has been discussed with European federations. It is considered to be a balanced approach, taking into account the legal context and the interests of European industry.

There is no loss of relevant statistical data.

The proposal has also been discussed with Member States.

The proposal is in line with the Union's external trade and industry policies.

In the light of the foregoing, it is proposed to amend Council Regulation (EEC) No 2658/87 accordingly.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission's Tariff and Statistical Nomenclature Section of the Customs Code Committee has been consulted on several occasions (in October and December 2012, and in March and July 2013).

The Commission's Economic Tariff Questions Group was consulted on 10 July 2013.

¹ The Harmonized Commodity Description and Coding System (Harmonized System) is an international 'product' nomenclature developed and governed by the World Customs Organization (WCO). The Union's Combined Nomenclature (CN) is established on the basis of this Harmonized System. Each CN subheading consists of an eight-digit code number. The first six digits of this code number correspond to the relevant heading and subheading of the Harmonized System.

Industry was consulted during the whole process (and, in particular, in meetings in June and July 2011).

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis of this proposal is Article 31 of the Treaty on the Functioning of the European Union.

The subsidiarity principle does not apply, since the proposal falls under the exclusive competence of the Union.

The proposal complies with the proportionality principle given that, as foreseen in the Treaty, it promotes trade between Member States and third countries, and balances the commercial interests of economic operators (manufacturers in the Union and importers) without changing the Union's WTO schedule.

By virtue of Article 31 of the Treaty on the Functioning of the European Union, the autonomous rate of duty is fixed by the Council acting by qualified majority on the basis of a proposal from the Commission.

4. BUDGETARY IMPLICATION

The loss of revenue in traditional own resources is around 320 000 € on an annual basis (based on the import statistics of 2012 and without taking into account the preferential regimes).

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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) Until 2012, sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles of any material were classified in different Chapters of the Harmonised System nomenclature, depending on the nature or constituent material of the article. Different rates of customs duty were associated with those articles. This led to a complex tariff system of classification.
- (2) In 2012, a single heading 9619 00 was created in the Harmonised System to cover those sanitary articles. However, the same complex tariff system of classification was kept under the new heading, which was divided into twelve subheadings according to the constituent material, each corresponding to a different conventional rate of duty.
- (3) This complex system has been found to lead to unnecessary difficulties and burdens in the application of the Combined Nomenclature. In the interest of legislative simplification and to avoid unnecessary difficulties in applying the Combined Nomenclature, it is therefore appropriate to simplify both the nomenclature and the tariff structure for those sanitary articles, in order to implement four categories of products (instead of eight), each of them associated with a single autonomous rate of duty.
- (4) Council Regulation (EEC) No 2658/87¹ should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EEC) No 2658/87 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 January 2014.

¹ 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).

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

Done at Brussels,

For the Council
The President

ANNEX

In Annex I to Regulation (EEC) No 2658/87, the entries for CN codes 9619 00 to 9619 00 90 in Part Two, Section XX, Chapter 96, are replaced by the following:

"9619 00	Sanitary towels (pads) and tampons, napkins and napkin liners for babies, and similar articles, of any material:		
9619 00 30	– Of wadding of textile materials	(¹)	—
	– Of other textile materials:		
9619 00 40	– – Sanitary towels (pads), tampons and similar articles	(²)	—
9619 00 50	– – Napkins and napkin liners for babies, and similar articles	(³)	—
	– Of other materials:		
	– – Sanitary towels (pads), tampons and similar articles:		
9619 00 71	– – – Sanitary towels (pads)	(⁴)	—
9619 00 75	– – – Tampons	(⁴)	—
9619 00 79	– – – Other	(⁴)	—
	– – Napkins and napkin liners for babies, and similar articles:		
9619 00 81	– – – Napkins and napkin liners for babies	(⁴)	—
9619 00 89	– – – Other (for example, incontinence care articles)	(⁴)	—

(¹) Autonomous rate of duty : 3,8 %.

Conventional rate of duty :

- Of man made fibres : 5 %,
- Other than of man made fibres : 3,8 %.

(²) Autonomous rate of duty: 6,3 %.

Conventional rate of duty:

- Knitted or crocheted: 12 %,
- Other: 10,5 %.

(³) Autonomous rate of duty: 10,5 %.

Conventional rate of duty:

- Knitted or crocheted: 12 %,
- Other: 10,5 %.

(⁴) Autonomous rate of duty: Free.

Conventional rate of duty:

- Of paper pulp, paper, cellulose wadding or webs of cellulose fibres: Free,
- Of other materials: 6,5%."

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL

1.1. Title of the proposal

Council Regulation amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

1.2. Nature of the proposal

To provide autonomous customs duties for certain sanitary articles [sanitary towels (pads) and tampons, napkins and napkin liners for babies, and similar articles, of any material], with appropriate changes to the tariff structure.

1.3. Objective

To facilitate the classification of certain sanitary articles, as well as to simplify the tariff, on an autonomous basis

1.4. Grounds for the proposal

With the introduction of the 2012 version of the Harmonized System (HS), certain sanitary articles were brought together under the same heading, instead of being classified in different chapters of the Combined Nomenclature. The customs duties associated with these sanitary articles are different, depending on the constituent material.

This proposal is intended to make it easier for importers or exporters to find the proper classification of the articles concerned, as well as to simplify control by customs offices. There should be neither significant loss of budget nor any loss of relevant statistical data.

1.5. Duration and financial impact

Duration: proposal of unlimited duration.

Loss of revenue in traditional own resources: in the range of 320 000 €, on an annual basis (based on the import statistics of 2012; preferential agreements are not taken into account).

1.6. Management method envisaged

Application of the monitoring, control and management provisions of the Union Customs Code.

2. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL

ESTIMATED IMPACT ON REVENUE

- ☐ Proposal/initiative has no financial impact on revenue.
- x Proposal has the following financial impact:

x on own resources

☐ on miscellaneous revenue

Budget revenue line:	Appropriations available for the on-going budget year	Impact of the proposal ¹
Article 120	/	Year 2012 0,326 (EUR million (to 3 decimal places))

The proposal is of unlimited duration.

Specify the method for calculating the impact on revenue.

The calculation of the loss of revenue in traditional own resources is based on the value of imports into the Union during 2012. The figures are provided by Eurostat.

The calculation does not take into account any possible tariff preferences. It is, therefore, a maximum possible loss.

The existing CN codes are taken into four categories; for each category, the autonomous rate of duty chosen is the lower one; the loss of resources of customs duties is limited to the difference between the amount collected in respect of the current duty and the amount that is collected in respect of the proposed duty.

The detailed estimated total loss is therefore be calculated as follows:

New CN code 9619 00 30 (merging former CN codes 9619 00 31 and 9619 00 39):

applying an autonomous rate of duty of 3,8 % (former CN code 9619 00 39) to those products previously subject to a rate of 5 % (former CN code 9619 00 39), the loss is 5 490 € (trade values: $457\,140\,€ \times 5\% = 22\,860\,€$; $457\,140 \times 3,8\% = 17\,370\,€$; difference = 5 490 €);

New CN code 9619 00 40 (merging former CN codes 9619 00 41 and 9619 00 49):

applying an autonomous rate of duty of 6,3 % (former CN code 9619 00 49) to those products previously subject to a rate of 12 % (former CN code 9619 00 41), the loss is 3 880 € (trade values: $68\,030\,€ \times 12\% = 8\,160\,€$; $68\,030\,€ \times 6,3\% = 4\,290\,€$; difference = 3 880 €);

New CN code 9619 00 50 (merging former CN codes 9619 00 51 and 9619 00 59):

applying an autonomous rate of duty of 10,5 % (former CN code 9619 00 59) to those products previously subject to a rate of 12 % (former CN code 9619 00 51), the loss is 31 020 € (trade values: $2\,068\,060\,€ \times 12\% = 248\,170\,€$; $2\,068\,060\,€ \times 10,5\% = 217\,150\,€$; difference = 31 020 €);

New CN codes 9619 00 71 to 9619 00 89 (merging former CN codes 9619 00 11 to 9619 00 29 with 9619 00 90):

applying an autonomous rate of duty of 0 % (former CN codes 9619 00 11 to 9619 00 29) to those products previously subject to a rate of 6,5 % (former CN code 9619 00 90), the loss is 394 690 € (trade values: $6\,072\,100\,€ \times 6,5\% = 394\,690\,€$; $6\,072\,100\,€ \times 0\% = 0\,€$; difference = 394 690 €).

The estimated total loss of revenue in traditional own resources on an annual basis is therefore calculated as follows (with the amount of the collection costs (25%) now being deducted):

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

$$5\,490\text{ €} + 3\,880\text{ €} + 31\,020\text{ €} + 394\,690\text{ €} = 435\,080\text{ €} * 75\% = \mathbf{326\,310\text{ €}}$$

The loss of revenue in traditional own resources should be compensated by Member States' contributions based on the GNI.