



Brussels, 26.5.2016
COM(2016) 301 final

2016/0154 (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 goods inadequate or non-existent in the Union and to avoid any disturbances on the market for certain agricultural and industrial products, some autonomous Common Customs Tariff duties have been partially or totally suspended by Council Regulation (EU) No 1387/2013.

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), has reviewed all requests for temporary suspension of autonomous Common Customs Tariff duties forwarded 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 Council Regulation (EU) No 1387/2013. In relation to some other products the wording of their description has to be changed or new CN or TARIC codes should be assigned. Products for which a tariff suspension is no longer in the Union's economic interest are proposed to be withdrawn.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 is not at the expense of countries enjoying a preferential trading agreement with the EU (e.g. GSP, ACP regime, candidate countries and potential candidates).

- **Consistency with other Union policies**

The proposal is in line with the agricultural, trade, enterprise, development and external relations policies.

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 this set of measures is in line with the principles set out to simplify the procedures for the operators engaged in foreign trade and in accordance with the Commission communication concerning autonomous tariff suspensions and quotas (C 363, 13.12.2011 p.6). 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.

- **Choice of the instrument**

By virtue of Article 31 of the TFEU autonomous tariff suspensions and quotas are fixed by the Council acting on qualified majority on the basis of a Commission proposal; 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 competitive abilities, more efficient production methods, creation or maintenance of EU jobs etc.), depending on the product, company and sector in question.

- **Stakeholder consultations**

The assessment of this proposal has been carried out with the assistance of the ETQG which consists of delegations from all Member States plus Turkey. It met three times before the changes laid down in this proposal have been agreed.

Each request (new or amendment) has been assessed carefully by the group. In particular, preventing any harm for EU producers and the strengthening and consolidation of the competitiveness of EU production are part of the examination of each case. This assessment has been carried out by discussions within the ETQG and consultation by Member States of the concerned industries, associations, chambers of commerce and other stakeholders involved.

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.

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

The proposed amendment is a technical one concerning only the coverage of suspensions listed in the Annex. The Regulation remains otherwise identical to the existing Council Regulation. Thus no impact assessment was carried out for this proposal.

- **Regulatory fitness and simplification**

Not relevant

- **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 of a total amount of approximately 88 Mio €/year. The effect on the traditional own resources of the budget is 66 Mio €/year (75% x 88 Mio €/year). 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.

5. OTHER ELEMENTS

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

The measures proposed are treated within the framework of TARIC (Tarif intégré de l'Union européenne/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 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.

- **Explanatory documents (for directives)**

Not relevant

- **Detailed explanation of the specific provisions of the proposal**

Not

applicable

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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) It is in the interest of the Union to suspend totally the autonomous Common Customs Tariff duties on 140 products that are not currently listed in the Annex to Council Regulation (EU) No 1387/2013¹.
- (2) It is no longer in the interest of the Union to maintain the suspension of autonomous Common Customs Tariff duties on 6 of the products that are currently listed in the Annex to Regulation (EU) No 1387/2013.
- (3) It is necessary to modify the conditions of 46 suspensions, currently listed in the Annex to Regulation (EU) No 1387/2013 in order to take into account technical product developments, economic trends on the market, further scrutiny of classification or to carry out linguistic adaptations. The modified conditions refer to changes of the product description, classification, duty rates or end-use requirement. 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.
- (4) In the interest of clarity, the footnote indicating a newly introduced measure or a measure with amended conditions listed in the Annex to Regulation (EU) No 1387/2013 should be deleted and the entries modified by this Regulation should be marked with an asterisk.
- (5) Regulation (EU) No 1387/2013 should therefore be amended accordingly.
- (6) As the changes regarding the suspensions for the products concerned provided for in this Regulation have to apply from 1 July 2016, 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 amended as follows:

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).

(1) the rows for the products listed in Annex I 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;

(2) the rows for the products for which the CN and TARIC codes are set out in Annex II to this Regulation are deleted;

(3) the footnote seven (7) "A newly introduced measure or a measure with amended conditions", currently appearing in the Annex to Regulation (EU) No 1387/2013 is deleted.

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 July 2016.

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 12, Article 120

Amount budgeted for the year 2016: € 18 465 300 000 € (B 2016)

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 place²)

Budget line	Revenue ³	6 month period, starting dd/mm/yyyy	[Year: 2/2016]
Article 120	Impact on own resources	01/07/2016	-33

Situation following action	
	[2017 – 2020]
Article 120	- 66/ 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 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

5. OTHER REMARKS

This proposal contains the amendments which must be made to the Annex to the existing Regulation in order to take into account the following:

² 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.

³ 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.

1. new requests for suspension which have been presented and accepted;
2. technical product developments and economic trends on the market resulting in the lifting of certain existing suspensions.

Addition

This Annex, in addition to the amendments resulting from description or code changes, contains 140 new products. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections for the period 2015 to 2019, amount to 55,8 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 loss of revenue of some 100,4 Mio € /year.

Withdrawal:

6 products have been withdrawn from this Annex reflecting the reintroduction of customs duties. This represents an increase of 12,4 Mio € in resources, as estimated on the basis of 2015 statistics.

Estimated cost of this operation

On the basis of the above, the impact on the loss of revenue resulting from this Regulation may be estimated at $100,4 - 12,4 = 88$ Mio € (gross amount, including collection costs) $\times 0,75 = 66$ Mio €/year for the period 01.07.2016 - 31.12.2020.

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