



EUROPEAN
COMMISSION

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2013/0384 (NLE)

Proposal for a

COUNCIL REGULATION

suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products and repealing Regulation (EU) No 1344/2011

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Commission proposes a new base regulation on autonomous tariff suspensions. This became necessary as Council Regulation (EU) 1344/2011 of 19 December 2011 has been amended four times and fishery products are no longer covered by that Regulation. Therefore, in the interests of transparency, it is proposed to repeal the said Regulation and replace it by the current proposal.

The production in the Union of the products specified in this regulation does not exist or is inadequate and, therefore, by allowing enterprises to obtain supplies at a lower cost for a certain period, it would become possible to stimulate economic activity within the Union, to improve the competitive capacity of these enterprises and, in particular, to enable the latter to maintain or create employment, modernise their structures, etc.

In this context, it should be pointed out that goods imported under the tariff suspension arrangements enjoy freedom of movement throughout the Union; consequently, once a tariff suspension is granted, any operator in any Member State is eligible to benefit from it.

Since autonomous tariff suspensions constitute an exception to the general rule represented by the Common Customs Tariff, they must, like all derogations, be surveilled and reviewed systematically on a regular basis (at least every five years). This should not exclude the termination of certain measures earlier if it is no longer in the Union's interest to maintain suspension of autonomous Common Customs Tariff duties or because of technical product developments and economic trends on the market justify it or due to changed circumstances. Where the Commission considers, on the basis of the review, that a suspension for a certain product is to be changed or terminated, it will submit to the Council a proposal to amend the list set out in Annex I accordingly.

Annex 1 of the attached proposal contains products for which duties were already suspended by virtue of Council Regulation (EU) No 1344/2011 as last amended by Regulation (EU) No 626/2013 as well as a number of agricultural and industrial products which were reviewed since this last amendment.

It was also considered necessary to provide that not only the weight in kg or tonnes but also the relevant supplementary units for the imports of certain products are entered in the declaration for release for free circulation. Thus, Annex II of the attached proposal contains the list of product codes with the corresponding supplementary units.

The Commission assisted by the Economic Tariff Questions Group (ETQG), has reviewed all the new requests for temporary suspension of autonomous Common Customs Tariff duties presented to it by the Member States. These new requests for suspension were examined in the light of the criteria set out in the Communication from the Commission concerning autonomous tariff suspensions and quotas (see OJ C 363, 13.12.2011, p. 6).

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

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

The ETQG, in which the competent authorities of all Member State are represented, was consulted. All listed suspensions correspond to agreements or compromises reached in the discussions of the group.

There was no mention of potentially serious risks with irreversible consequences.

This proposal has been subject to an inter-service consultation procedure and will be published in the *Official Journal of the European Union* after its adoption by the Council.

3. LEGAL ELEMENTS OF THE PROPOSAL

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

The proposal falls under the exclusive competence of the Union.

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 (OJ C 363, 13.12.2011, p. 6).

By virtue of Article 31 of the Treaty on the Functioning of the European Union autonomous tariff suspensions and quotas are approved by the Council acting by qualified majority on the basis of a Commission proposal, therefore a regulation is the appropriate instrument.

4. BUDGETARY IMPLICATION

Uncollected customs duties of a total amount of approximately 86 Mio €/year. The effect on the traditional own resources of the budget is -64,5 Mio €/year (75% x 86 Mio €/year).

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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) The production in the Union of the agricultural and industrial products set out in Annex I is currently inadequate or non-existent and thus, the needs of user industries in the Union cannot be met.
- (2) It is therefore in the interest of the Union to suspend partially or totally the autonomous Common Customs Tariff duties for those products.
- (3) Council Regulation (EU) No 1344/2011¹ has been amended many times. In addition, in the amendment by Council Regulation (EU) No 1220/2012², fishery products were removed from the scope. In the interest of transparency it should, therefore, be replaced in its entirety.
- (4) Regulations suspending the autonomous Common Customs Tariff duties on certain industrial and agricultural products have largely renewed previous measures. Therefore, in the interests of rationalising implementation of the measures concerned, it is appropriate not to limit the period of validity of this Regulation as its scope can be adapted and products added to or removed from the Annex to this Regulation by means of a Council regulation.
- (5) In view of their temporary nature, the suspensions listed in Annex 1 to this Regulation should be reviewed systematically, at the latest five years after their application or renewal. Moreover, closure of certain suspensions should be warranted at any time, as

¹ Council Regulation (EU) No 1344/2011 of 19 December 2011 temporarily suspending the autonomous Common Customs Tariff duties on certain agricultural, fishery and industrial products (OJ L 349, 31.12.2011, p.1).

² Council Regulation (EU) No 1220/2012 of 3 December 2012 on trade related measures to guarantee the supply of certain fishery products to Union processors from 2013 to 2015, amending Regulations (EC) No 104/2000 and (EU) No 1344/2011 (OJ L 349, 19.12.2012, p.4).

a result of a proposal of the Commission on the basis of a review carried out on its own initiative or at the request of one or more Member States if the suspensions are no longer in the Union's interest to be maintained or due to technical product developments, to changed circumstances or to economic trends on the market.

- (6) Statistics for certain products listed in Annex I to this Regulation are frequently expressed in pieces, square meters (m²) or measurement units other than weight. However, there are no such supplementary units in the Combined Nomenclature laid down in Annex I to Council Regulation (EEC) No 2658/87³. It is, therefore, necessary to provide that not only the weight in kg or tonnes but also the relevant supplementary units for the imports of the products concerned are entered in the declaration for release for free circulation.
- (7) Since it is necessary that the suspensions laid down in this Regulation have to take effect on 1 January 2014, this Regulation should apply from that date and should enter into force immediately upon its publication in the *Official Journal of the European Union*.
- (8) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of improving the competitive capacity of the Union industry, thereby enabling that industry to maintain or create employment and modernise its structures, to lay down rules on the suspension of the Common Customs Tariff duties for the products set out in Annex I. In accordance with Article 5(4) of the Treaty of the European Union, this Regulation does not go beyond what is necessary to achieve the objectives pursued,

HAS ADOPTED THIS REGULATION:

Article 1

The autonomous Common Customs Tariff duties for the agricultural and industrial products listed in Annex I shall be suspended.

Article 2

1. The Commission may at any time review the suspensions for the products listed in the Annex in the following cases:

- (a) at its own initiative;
- (b) at the request of Member States.

2. The Commission shall review the suspensions in the year set out in Annex I.

³ 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).

Article 3

Where a declaration for release for free circulation is presented, in respect of the products falling under the CN codes or TARIC codes listed in Annex II, the supplementary unit provided in that Annex shall be entered in the relevant field of that declaration.

Article 4

Regulation (EU) No 1344/2011 is repealed.

Article 5

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 2014.

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 FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation 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 2014: **18.086.400.000 €(DB 2014)**

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:

Budget line	Revenue ⁴		[Year: 2014 – 2018]
Article 120	<i>Impact on own resources</i>		- 64 500 000 (per 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 Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of the Community Customs Code.

5. OTHER REMARKS

This Regulation replaces existing Council Regulation (EU) No 1344/2011. The Annex of the existing Regulation has 1792 product lines and results in estimated amount of uncollected customs duties of a total amount of 1040 Mio € for the year 2013, based on the actual figures for 2013/S1. This figure is obtained on the basis of Eurostat Comext data concerning the total value of imports of products falling under autonomous tariff suspensions in 2013, multiplied by the respective *ad valorem* duty rate of the common Customs Tariff for the specific tariff lines. The total amount

⁴ Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs

above already excludes the uncollected duties for products which will no longer be suspended after the entry into force of this Regulation and the abrogation of Regulation (EU) No 1344/2011.

In addition to the aforementioned suspended products lines, this proposal contains 130 new product lines to be suspended. The uncollected duties corresponding to these suspensions, calculated on the basis of requesting Member State projections, amount to 48 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 86 Mio €/year.

Thus, the uncollected duties corresponding to the suspensions listed in the Annex of this proposal, calculated on the basis of expected imports into the requesting Member State for 2014 until 2018, are in total 1 126 Mio €/year.

Estimated cost of this operation

The impact on the loss of revenue in traditional own resources resulting from this Regulation may be estimated (after deduction of the collection costs) at $86 \times 75\% = 64,5$ MEUR/year for the period 01.01.2014 - 31.12.2018.

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