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2021/0365 (NLE)

Proposal for a

COUNCIL REGULATION

opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Autonomous tariff quotas of the Union are needed for products where production in the Union is insufficient to meet the needs of the user industry in the Union for a given quota period. In response to requests from Member States, the Commission, together with the Member States experts concerned, assesses and decides whether to open autonomous tariff quotas for certain agricultural and industrial products.

On 17 December 2013, the Council of the European Union adopted Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products so that Union demand for the products in question could be met under the most favourable conditions. This Regulation is amended bianually in order to accommodate the needs of the EU industry.

In view of the fact that:

- the Regulation has been amended already 15 times,
- it is necessary to make several amendments to the Combined Nomenclature codes listed in the Annex to Regulation (EU) No 1388/2013 as the product codes of the Combined Nomenclature have been updated by Commission Regulation (EU) 2021/1832[1] in order to fulfil international commitments related to the changes in the Harmonized System nomenclature of 2022,

in the interests of clarity, it is proposed to repeal Council Regulation (EU) 1388/2013 and replace it by the current proposal.

Tariff quotas of the Union should be opened at zero or reduced rates of the autonomous Common Customs Tariff duty for appropriate volumes of certain agricultural and industrial products, without perturbing the markets for such products. Discussions at meetings of the Economic Tariff Questions Group (ETQG), showed that the Member States were ready to open quotas for the products covered by this proposal for a Regulation and that such quotas would not perturb the markets for such products.

The proposal is in line with Union policies on agriculture, trade, enterprise, development, environment, and external relations. 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).

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).

[1] Commission Regulation (EU) 2021/1832 of 12 October 2021 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 385, 29.10.2021, p.1)

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the Union'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[2]. 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 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 tariff quotas scheme was part of an evaluation study carried out in 2013 on autonomous tariff suspensions[3].

This is because the two measures are similar, except that tariff quotas limit import volumes. The evaluation concluded that the core rationale for the scheme remains valid. The cost savings for Union 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 point 4 an in the attached legislative financial statement.

- **Stakeholder consultations**

The Economic Tariff Questions Group (ETQG), which consists of representatives from all Member States plus Turkey, was consulted. All listed tariff quotas were the subject of agreements or compromises reached in the discussions of the group.

The ETQG carefully assessed each request (new, or for an amendment) to ensure that it would not cause any harm to Union producers and would strengthen and consolidate the competitiveness of Union's production. The members of the ETQG carried out the assessment through discussions, and Member States, in turn, consulted the concerned industries, associations, chambers of commerce and other stakeholders involved.

No potential serious risk with irreversible consequences was identified.

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2 OJ C 363, 13.12.2011, p. 6.

3 http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm

- **Impact assessment**

The proposed amendment is of a purely technical nature and concerns only the coverage of the tariff quotas listed in the Annex to Regulation (EU) No 1388/2013 (which is repealed and replaced by the current proposal). An impact assessment was not carried out because the proposed changes to the tariff quotas are not expected to have significant impacts.

- **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 186,5 million per year. The negative effect on the budget's traditional own resources is EUR 139,9 million per year (i.e. 75 % 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.

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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) Production of certain agricultural and industrial products in the Union is insufficient to meet the specific requirements of the user industries therein. Consequently, Union supplies of those products depend on imports from third countries. The most urgent Union requirements for the products concerned should be met immediately on the most favorable terms. Union tariff quotas at preferential duty rates should therefore be opened within the limits of appropriate volumes taking account of the need not to perturb the markets for such products or impede the establishment or development of production in the Union.

(2) It is necessary to ensure equal and uninterrupted access to the Union tarriff quotas for all importers in the Union and to ensure the uninterrupted application of the rates laid down for those quotas to all imports of the products concerned into all Member States until the quotas have been exhausted.

(3) Commission Regulation (EU) No 2015/2447[1] provides for a system of tariff quota management which ensures equal and uninterrupted access to the quotas and uninterrupted application of the rates and follows the chronological order of dates of acceptance of declarations of release for free circulation. The tariff quotas opened by this Regulation should therefore be managed by the Commission and the Member States in accordance with that system.

(4) The quota volumes are mostly expressed in measurement units of weight. For certain products for which an autonomous tariff quota is opened, the quota volume is set out in another measurement unit. Where no supplementary measurement unit is specified for those products in the Combined Nomenclature laid down in the Annex I to Council Regulation (EEC) No 2658/87[2], there can be uncertainty in respect of the measurement unit used. For the sake of clarity and in the interest of a better quota management, it is

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[1] Commission Regulation (EU) No 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p.558).

[2] 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).

therefore necessary to provide that, in order to benefit from those autonomous tariff quotas, the exact quantity of the products imported be entered in the declaration for release for free circulation using the measurement unit of the quota volume set out for those products in the Annex to this Regulation.

(5) It is necessary to clarify that any mixtures, preparations or products made up of different components containing products subject to autonomous tariff quotas should be excluded from the scope of this Regulation since only the products as described in the Annex are subject of the autonomous tariff quotas.

(6) Council Regulation (EU) No 1388/2013[3] has been amended many times. In addition, as the coding of the Combined Nomenclature has been updated[4] in order to fulfil international commitments related to the changes in the Harmonised System nomenclature of 2022 (‘HS 2022’), there is a large number of changes required in the CN codes of the Annex to Council Regulation (EU) No 1388/2013. Therefore, in the interest of clarity and transparency that Regulation should be replaced in its entirety.

(7) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of promoting trade between Member States and third countries to lay down rules in order to balance the commercial interest of economic operators in the Union without changing the Union’s World Trade Organisation (WTO) schedule. 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.

(8) In order to avoid any interruption of the application of the tariff quota scheme and to comply with the guidelines set out in the Communication from the Commission concerning autonomous tariff suspensions and quotas, the tariff quotas for the products listed in the Annex to this Regulation should apply from 1 January 2022. This Regulation should therefore enter into force on the day of its publication in the Official Journal of the European Union and should apply from 1 January 2022 as a matter of urgency,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the products listed in the Annex, autonomous tariff quotas of the Union shall be opened within which the Common Customs Tariff duties, referred to in Article 56(2), (c), of Regulation (EU) No 952/2013 of the European Parliament and of the Council[5], shall be suspended for the periods, at the duty rates, and up to the volumes indicated therein.

2. Paragraph 1 shall not apply to any mixtures, preparations or products made up of different components containing products listed in the Annex.

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3 Council Regulation (EU) No 1388/2013 of 17 December 2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products, and repealing Regulation (EU) No 7/2010 (OJ L 354, 28.12.2013, p. 319).

4 Commission Regulation (EU) 2021/1832 of 12 October 2021 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 385, 29.10.2021, p.1)

5 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).

Article 2

The tariff quotas referred to in Article 1 shall be managed by the Commission in accordance with Articles 49 to 54 of Regulation (EU) No 2015/2447.

Article 3

Where a customs declaration for release for free circulation is lodged for the products in relation to which the supplementary units have been provided in the Annex, the exact quantity of the products imported shall be entered in that declaration using the measurement unit set out in the Annex.

Article 4

Regulation (EU) No 1388/2013 is repealed.

Article 5

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 2022.

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:

Proposal for a Council Regulation opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

2. BUDGET LINES

Chapter and Article: Chapter 12, Article 120

Amount budgeted for the year 2022: 17 912 606 159

2. 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 place[1])

Budget line	Revenue[2]	12 month period, starting dd/mm/yyyy	[Year: 2022]
Article 120	*Impact on own resources*	01/01/2022	-139,9

This Regulation replaces existing Council Regulation (EU) No 1388/2013. The Annex of the existing Regulation has 123 product lines and results in an estimated amount of uncollected customs duties totalling to EUR 186,5 million for the year 2021, based on the actual figures for the first six months of 2021, multiplied by 2. This figure is obtained on the basis of DG TAXUD “Surveillance” data concerning the total value of imports of products falling under autonomous tariff quotas in 2021, multiplied by the respective *ad valorem* duty rate of the common Customs Tariff for the specific tariff lines. The total amount 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 1388/2013. Moreover, the amendments in the quota volumes of the products for which quota is already in place were also taken into account in the final calculation of the aforementioned figure.

The impact on the loss of revenue for the EU budget resulting from this Regulation is estimated at EUR 186,5 million (gross amount, including collection costs) x 0,75 = EUR 139,9 million per year.

3. 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.

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[1] Indicative amount based on the calculations of section 2, below.

[2] 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.

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) No 952/2013.