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COM(2019) 596 final

2019/0264 (NLE)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU) No 1388/2013 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 are needed for certain products when, in the Union, production is insufficient to meet the needs of the user industry. Union tariff quotas should be opened at zero or reduced duty rates for appropriate volumes, without disturbing the markets for such 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 the Union demand for the products in question could be met under the most favourable conditions.

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 quotas duties.

Following this review, the Commission considers that the opening of autonomous tariff quotas is justified for some new products, currently not listed in the Annex to Council Regulation (EU) No 1388/2013. In relation to some other products the wording of the description needs to be changed, new TARIC codes should be assigned, or an increase of the initial quota volume became necessary, including retroactively. Products for which a tariff quota is no longer in the Union's economic interest should be withdrawn.

For reasons of clarity it is advisable to publish a consolidated version of the Annex to Council Regulation (EU) No 1388/2013, which will fully replace the previous Annex.

• 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 on agriculture, trade, enterprise, development, environment, 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 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 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).

- **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 suspensions².

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 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, or for an amendment). 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 quotas 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.

¹ OJ C 363, 13.12.2011, p. 6.

² 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 tariff quotas listed in the Annex to Regulation (EU) No 1388/2013. 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 total approximately EUR 16,5 million per year. The effect on the traditional own resources of the budget is EUR 13,2 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 the Member States' customs administrations.

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amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

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 produced in insufficient quantities in the Union and thereby avoid any disturbances on the market for those products, autonomous tariff quotas were opened by Council Regulation (EU) No 1388/2013¹. Within those tariff quotas, products can be imported into the Union at reduced or zero duty rates.
- (2) As it is in the Union's interest to ensure an adequate supply of certain industrial products and having regard to the fact that identical, equivalent or substitute products are not produced in sufficient quantities within the Union, it is necessary to open new tariff quotas with order numbers 09.2586 to 09.2593 at zero duty rates for appropriate quantities of those products.
- (3) In the case of tariff quotas with order numbers 09.2594, 09.2595, 09.2596, 09.2597, 09.2598, 09.2599, 09.2738, 09.2742 and 09.2872 the quota volumes should be increased as an increase is in the interest of the Union.
- (4) In addition, in the case of tariff quota with order number 09.2738, the reference to “tin” in the product description should be replaced with “zinc”. In the case of tariff quotas with order numbers 09.2595, 09.2596, 09.2597, 09.2598 and 09.2599, the quota period should be prolonged from six months to one year.
- (5) As the scope of the tariff quota with order number 09.2652 has become inadequate to fulfil the needs of the economic operators in the Union, the description of the product covered by this quota should be amended.
- (6) The products covered by the tariff quota with order number 09.2740 are classifiable under TARIC code 2309 90 31 87 and not under TARIC code 2309 90 96 97. The indication of the applicable CN code and TARIC subheading for those products should therefore be modified.

¹ 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).

- (7) As it is no longer in the Union's interest to maintain the tariff quotas with order numbers 09.2690, 09.2850, 09.2878, 09.2906, 09.2909, 09.2929 and 09.2932, they should be closed.
- (8) For the tariff quota with order number 09.2828, it is in the interest of the Union to apply the quota only during the months with the highest demand for the products concerned (i.e. from 1 April to 31 October) and to reduce the volume by half.
- (9) The tariff quota with order number 09.2722 has been applied simultaneously with a suspension of tariff duties in accordance with Council Regulation (EU) No 1387/2013² between 1 July 2019 and 31 December 2019. As the suspension will be closed as of 1 January 2020, it is in the interest of the Union to increase the quota volume.
- (10) The substances Dimethyl Sulphate (CAS RN 77-78-1), 2-Methylaniline (CAS RN 95-53-4) and 4,4'-Methanediyl dianiline (CAS RN 101-77-9) are included on the candidate list referred to in Article 59 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council³ and the substance with CAS RN 101-77-9 is included in Annex XIV to that Regulation. For that reason, existing tariff quotas for such products will be progressively closed and any newly opened tariff quotas will apply for a limited period. Therefore, the tariff quotas with order numbers 09.2648 and 09.2730 should apply only for the first 6 months of 2020 and the relevant quota volumes should be reduced in proportion. The tariff quota with order number 09.2590 should only be opened for the first 6 months of 2020.
- (11) The very early exhaustion of the quota with order number 09.2872 indicated that the demand for this product is very high and the production capacity in the Union is insufficient to cover this demand. To enhance the competitive capacity of the Union enterprises the quota volume should be increased with a retroactive effect, to cover the period from 1 January to 31 December 2019.
- (12) Taking into account the amendments to be made and for the sake of clarity, the Annex to Regulation (EU) No 1388/2013 should be replaced.
- (13) 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 quotas⁴, the changes provided for in this Regulation regarding the tariff quotas for the products concerned have to apply from 1 January 2020 and, in the case of the tariff quota with order number 09.2872, from 1 January 2019. This Regulation should therefore enter into force as a matter of urgency,

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 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

⁴ OJ C 363, 13.12.2011, p. 6.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1388/2013 is amended as follows:

(1) in the Annex, the row for the tariff quota with order number 09.2872 is replaced by the following:

‘09.2872		ex 2833 29 80	40	Caesium sulphate (CAS RN 10294-54-9) in solid form or as aqueous solution containing by weight 48 % or more but not more than 52 % of caesium sulphate	1.1.- 31.12.	200 tonnes	0 %’;
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(2) the Annex is replaced by the text set out in 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*.

Article 1(1) shall apply from 1 January 2019 to 31 December 2019.

Article 1(2) shall apply from 1 January 2020.

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 1388/2013 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 1 2 and Article 1 2 0 – Customs duties and other duties referred to in point (a) of Article 2(1) of Decision 2014/335/EU, Euratom;

Amount budgeted for the year 2020 (22 156 900 000 EUR)

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 ¹	12-month period, starting dd/mm/yyyy	[Year: 2020]
Article 120	<i>Impact on own resources</i>	01/01/2020	-13,2

The annex contains eight new products. The uncollected duties corresponding to these tariff quotas, calculated on the basis of requesting Member State projections for 2020, amount to EUR 20 173 225 per year.²

Eight products have been withdrawn from the Annex to this regulation reflecting the reintroduction of customs duties. This represents an increase of EUR 3 709 895 per year in the collection of duties.

On the basis of the above, the impact on the loss of revenue for the EU budget resulting from this Regulation is estimated at $\text{EUR } 20\,173\,225 - 3\,709\,895 = \text{EUR } 16\,463\,330$ (gross amount, including collection costs) $\times 0,8 = \text{EUR } 13\,170\,664$ per year (net amount).

4. ANTI-FRAUD MEASURES

¹ In case of traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts (i.e. gross amounts after deduction of 20% collection costs).

² The proposed quota volumes have been calculated on the basis of the needs of the EU28 and would swiftly be adapted, as appropriate after the departure of the United Kingdom.

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.