

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.11.2006
COM(2006)696 final

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The aim of this draft Council Regulation is to suspend customs duty autonomously for an indefinite period, on certain goods contained in Chapter 30 (pharmaceutical products), and hence amend Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

- **General context**

(1) Chapter 30 of the Combined Nomenclature (CN) covers pharmaceutical products.

(2) Sterile surgical or dental adhesion barriers, whether or not absorbable, are, in 2006, classified in chapter 39 or 60 (according to their constituent material) of the 2002 version of the Harmonised System. Appliances identifiable for ostomy use are, in 2006, classified in chapter 39 of the 2002 version of the Harmonised System. Those products are subject to a 6,5% customs duty.

(3) Such products will be classifiable, from 1 January 2007, in Chapter 30 of the Combined Nomenclature following the transposition of the CN into the HS 2007 (as a result of the amendments to the nomenclature appended as an annex to the International Convention on the Harmonized Commodity Description and Coding System accepted pursuant to the Recommendation of 26 June 2004 of the Customs Co-operation Council).

(4) As an outcome of the Uruguay Round negotiations on pharmaceutical products, Chapter 30 is free of customs duties.

(5) On public health grounds, it is of the Community interest to autonomously extend this exemption from customs duties to these products.

- **Existing provisions in the area of the proposal**

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

- **Consistency with other policies and objectives of the Union**

In line with, trade, enterprise, health and external relations policies.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The Tariff and Statistical Nomenclature Section (CN sector) of the Customs Code Committee.

Summary of responses and how they have been taken into account

The suspension corresponds to the agreement of the consultation of the group.

- **Collection and use of expertise**

Scientific/expertise domains concerned

Customs Experts representing the MS on the Customs Code Committee.

Methodology used

Meetings.

Main organisations/experts consulted

Experts designated by each of the MS.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has not been mentioned.

Means used to make the expert advice publicly available

Publication of the Proposal.

- **Impact assessment**

Inter service consultation.

Health benefit.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Proposal for a COUNCIL REGULATION amending Annex I of Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

- **Legal basis**

Art 26 of the Treaty.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

Not applicable.

This set of measures is in line with the principles set out to simplify the procedures for the operators engaged in foreign trade.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

By virtue of Article 26 of the EC Treaty autonomous tariff suspensions and quotas are approved by the Council acting on a qualified majority on the basis of a Commission proposal.

4) BUDGETARY IMPLICATION

Uncollected customs duties.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) Following the negotiations in the framework of the Uruguay-Round, provision was made in the Combined Nomenclature (CN), laid down in Annex I to Council Regulation (EEC) No 2658/87[2], for an exemption from tariff duties for pharmaceutical products falling under Chapter 30.

(2) Sterile surgical or dental adhesion barriers, whether or not absorbable, and appliances identifiable for ostomy use, are classified currently in different chapters of the Combined Nomenclature and are subject to a 6,5% rate of duty. However, after 1 January 2007, they are to be classified in Chapter 30 of the Combined Nomenclature as a result of the amendments to the Nomenclature appended as an annex to the International Convention on the Harmonized Commodity Description and Coding System, accepted pursuant to the Recommendation of 26 June 2004 of the Customs Co-operation Council.

(3) For reasons of public health, it is in the Community interest to extend autonomously to those goods the exemption for pharmaceutical products falling under Chapter 30. That should be done by means of a suspension of duties for an indefinite period.

(4) Regulation (EEC) No 2658/87 should therefore be amended accordingly.

(5) Since the amendment introduced by this Regulation is to be applied from the same date as the Combined Nomenclature for 2007, laid down in Regulation (EC) No 1549/2006, this Regulation should enter into force immediately and apply from 1 January 2007,

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1 OJ C […] […], p. […]

2 OJ L 256, 7.9.1987. Regulation as last amended by Commission Regulation (EC) No 1549/2006 (OJ L 301, 31.10.2006, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Section VI, Chapter 30 of Part Two (Schedule of Duties) of Annex I to Council Regulation (EEC) No 2658/87 is amended as follows:

(a) in the entry for heading CN 3006 10 30, the text in the third column is replaced by the following:

"6,5*

_____

* Customs duty autonomously suspended for an indefinite period."

(b) in the entry for heading 3006 91 00, the text in the third column is replaced by the following:

"6,5*

_____

* Customs duty autonomously suspended for an indefinite period."

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 January 2007.

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

2. BUDGET LINES :

Chapter and Article: Chap. 12 art. 120

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:

It is very difficult to estimate the loss of own resources involved. No precise statistics for these two categories of products are available at import because they are classified, in 2006, in different residual subheadings where the trade volume is very high.

On the basis of the imports realized in 2005, the maximum loss of revenue has been estimated to EURO 1.104. 000 (before deduction of the 25 %) for the two products, which is the estimated loss for 2005 of goods, similarly transferred in the previous HS exercise.

(€ million to one decimal place)

Budget line	Revenue[3]	starting	[Year n]
Article 120	*Impact on own resources*	1/1/2007	828.000

4. ANTI-FRAUD MEASURES

Application of the normal measures foreseen under the Community Customs Code.

5. OTHER REMARKS

[3] 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.