



EUROPEAN COMMISSION

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2011/0111 (CNS)

Proposal for a

COUNCIL REGULATION

**temporarily suspending autonomous Common Customs Tariff duties on imports of
certain industrial products into the Canary Islands**

EXPLANATORY MEMORANDUM

Context of the proposal

Grounds for and objectives of the proposal

The government of the Kingdom of Spain has made a request on behalf of the authorities of the Autonomous Community of the Canary Islands for a prolongation of the current regime providing for tariff suspensions on imports of certain industrial products. These measures are aimed at strengthening the competitiveness of the local economic operators and thus securing a more stable employment on these islands.

General context

The Canary Islands belong to the Outermost Regions of the European Union, for which special measures may be foreseen, pursuant to Article 349 of the Treaty on the Functioning of the European Union, in order to overcome the economic disadvantages these regions suffer due to their geographical situation.

Existing provisions in the area of the proposal

Similar provisions have been introduced by Council Regulation (EU) No 973/2010 of 25 October 2010 for the autonomous regions of the Republic of Portugal, Azores and Madeira.

Consistency with the other policies and objectives of the Union

This proposal is in line with Union policies, particularly in the field of international trade, competition, enterprise, development and external relations.

Consultation of interested parties and impact assessment

Consultation of interested parties

The members of the Commission's expert working group "Economic Tariff Questions" have been consulted and raised no economic objections against the suspensions proposed.

Collection and use of expertise

There was no need for external expertise.

Impact assessment

An impact assessment was not carried out due to the universal application of the measures proposed.

Legal elements of the proposal

Summary of the proposed action

The proposed suspension of the Common Customs Tariff duties allows the local economic operators in the Canary Islands to import a certain number of raw materials, parts,

components and capital goods duty free. In order to avoid any misuse or change in traditional trade flows it is foreseen that products benefitting from duty suspension are subject to end use control.

Moreover, capital goods will have to be used by local companies on the islands for a period of at least two years before they could be sold freely to other companies located in other parts of the customs territory of the European Union.

Raw materials, parts and components will have to be used for industrial transformation and maintenance in the Canary Islands in order to benefit from the duty suspension.

Legal basis

Article 349 of the Treaty on the Functioning of the European Union.

Subsidiarity principle

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

Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

The form of action is regularly used as instrument to strengthen the competitiveness of the economic operators. The imposition of end use controls in accordance with the provisions of the Community Customs Code and its implementing provisions is an established procedure in this context and does not create significant supplementary administrative burdens to the regional and local authorities and economic operators.

Choice of instruments

Proposed instruments: Regulation.

The treaty does not allow any other means for the implementation of such measures.

Budgetary implication

The proposal has implications for the Union budget since the duty suspensions will lead to loss in revenue of the Union's own resources.

Proposal for a

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temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) According to Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products and opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands⁴ the Common Customs Tariff duty suspension for certain capital goods for commercial or industrial use will expire on 31 December 2011.
- (2) In September 2010 the government of Spain requested on behalf of the government of the Canary Islands, the prolongation of the autonomous suspension of the Common Customs Tariff duties for a number of products in accordance with Article 349 of the Treaty. The justification of their request was that in view of the remoteness of those islands, the economic operators suffer severe economic and commercial disadvantages which have negative effects on demographic trends, employment and social and economic developments.

¹ Opinion of ... 2011 (not yet published in the Official Journal).

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ L 111, 26.4.2002, p. 1.

- (3) The Canary Islands industrial sector, together with construction, has been severely affected by the recent economic crisis. The slump in building depressed all the auxiliary industry that depends on it. Unfavourable financial conditions had a serious impact on many areas of business. In addition, the sharp rise in unemployment in Spain aggravated the slump in domestic demand, including demand for industrial products.
- (4) The unemployment on the Canary Islands has been consistently exceeding the national average for Spain for the last ten years and, since 2009, the Autonomous Community has recorded the highest level throughout the country⁵. Moreover, more than half of the industrial production in the Canaries is consumed on the Islands, which is particularly serious since demand there has been hit harder.
- (5) Therefore, with the aim of giving a long term perspective to investors and enabling economic operators to reach a level of industrial and commercial activities which stabilises the economic and social environment on the islands, it is appropriate to prolong in full the suspension of the Common Customs Tariff duties for certain goods as detailed in Annex II and Annex III of Regulation (EC) No 704/2002 for a period of 10 years.
- (6) In addition, in the same context the Spanish authorities have requested the suspension of the common customs tariff duties for four new products with CN codes 3902 10 00, 3903 11 00, 3906 10 00 and 4805 00 00. This request was accepted as these suspensions would strengthen the economy of the Canary Islands.
- (7) In order to ensure that only economic operators located on the territory of the Canary Islands benefit from these tariff measures, the suspensions should be made conditional on the end use of the products in accordance with Council Regulation (EEC) 2913/92 of 12 October 1992 establishing the Community Customs Code⁶ and Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁷.
- (8) In case of a deflection of trade and in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission allowing the Commission to temporarily withdraw the suspension. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁸.
- (9) In order to ensure continuity with the measures set out in Regulation (EC) No 704/2002, it is necessary to apply the measures provided in this Regulation from 1 January 2012.

⁵ Eurostat: Regional statistics - Unemployment rate, by NUTS 2 regions, 1999-2009

⁶ OJ L 302, 19.10.1992, p.1

⁷ OJ L 253, 11.10.1993, p.1

⁸ OJ L 55, 28.2.2011, p. 13.

HAS ADOPTED THIS REGULATION:

Article 1

From 1 January 2012 to 31 December 2021 the Common Customs Tariff duties applicable to imports into the Canary Islands of capital goods for commercial or industrial use falling under the CN codes listed in Annex I as updated by any amendment to Council Regulation (EEC) No 2658/87⁹ shall be suspended in full.

Those goods shall be used in accordance with the relevant provisions of Regulation (EEC) 2913/92 and of Regulation (EEC) No 2454/93 for a period of at least 24 months after the release into free circulation by economic operators located in the Canary Islands.

Article 2

From 1 January 2012 to 31 December 2021 the Common Customs Tariff duties applicable to imports into the Canary Islands of raw materials, parts and components falling under the CN codes listed in Annex II as updated by any amendment to Regulation (EEC) No 2658/87, and used for industrial transformation or maintenance in the Canary Islands, shall be suspended in full.

Article 3

The suspension of duties referred to in Articles 1 and 2 shall be subject to end-use in accordance with Articles 21 and 82 of Regulation (EEC) No 2913/92 and to the controls provided for in Articles 291 to 300 of Regulation (EEC) No 2454/93.

Article 4

1. Where the Commission has reasons to believe that the suspensions laid down in this Regulation have led to a deflection of trade for a specific product it may adopt implementing acts, temporarily withdrawing the suspension for a period not longer than 12 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5.

Import duties for products for which the suspension has been temporarily withdrawn shall be secured by a guarantee, and the release of the products concerned for free circulation in the Community of the Canary Islands shall be conditional upon the provision of such guarantee.

2. Within the 12 month period referred to in paragraph 1, a definitive decision should be taken whether to maintain or to withdraw the suspension. If the suspension is withdrawn the amounts of duties secured by guarantees shall be collected definitively.

⁹ OJ L 256, 7.9.1987, p.1.

3. If no definitive decision has been adopted within the 12 month period in accordance with paragraph 2, the securities shall be released.

Article 5

1. The Commission shall be assisted by the Customs Code Committee, established by Article 247a (1) of Regulation (EEC) No 2913/92. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011¹⁰.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 6

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January 2012.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*

¹⁰ OJ L 55, 28.2.2011, p.13.

ANNEX I

Capital goods for commercial or industrial use falling within CN codes¹¹:

4011 20	8450 20	8522 90 80	9006 53 80
4011 30	8450 90	8523 21	9006 59
4011 61	8469 00 91	8523 29 33	9007 19
4011 62	8472 10	8523 29 39	9007 20
4011 63	8472 30	8523 29 90	9008 20
4011 69	8472 90 10	8523 40 99	9008 30
4011 92	8472 90 70	8523 51 99	9008 40
4011 93	8473 10 19	8523 59 99	
4011 94	8473 40 18	8523 80 99	
4011 99	8501 10 10	8525 50	9010 10
5608	8501 10 91	8525 80 11	9010 50
6403 40	8501 10 93	8525 80 19	9011 10 90
6403 51 05	8501 10 99	8526 10	9011 20 90
6403 59 05	8501 20	8526 91 20	9011 80
6403 91 05	8501 31	8526 91 80	9011 90 90
6403 99 05	8501 32	8542 31 10	9012 10 90
8415 10 10	8501 33	8542 32 10	9012 90 90
8415 10 90	8501 34	8542 39 10	9030 10
8415 20	8501 40 20	8701 10	9030 20 91
8415 81	8501 40 80	8701 20	9030 31
8415 82	8501 51	8701 90 90	9030 33
8415 83	8501 52 20	8702	9106
8415 90	8501 52 30	8704 21 31	9107
8418 30 80	8501 52 90	8704 21 39	9207 10
8418 40 80	8501 53 50	8704 21 91	9207 90
8418 50	8501 53 81	8704 21 99	9506 91 90
8418 61	8501 53 94	8704 22	9507 10
8418 69	8501 53 99	8704 23	9507 20 90
8418 91	8501 61 20	8704 31 31	9507 30
8418 99	8501 61 80	8704 31 39	
8427	8501 62	8704 31 91	
8431 20	8501 63	8704 31 99	
8443 31 91			
8443 32 10	8501 64	8704 32	
8443 32 91			
8443 32 99	8518 40 30	8704 90	
8443 39 10			
8443 39 39	8518 90	8705	

¹¹ As defined in Commission Regulation (EU) No 861/2010 of 5 October 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 284, 29.10.2010, p.1).

8443 99 10
8450 11 90
8450 12
8450 19

8519 20
8519 81 51
8521 10 95
8522 90 49

9006 10
9006 30
9006 52

ANNEX II

Raw materials, parts and components used for agricultural purposes, industrial transformation or maintenance falling within CN codes¹²:

3901	4810 22 10	5501	
3902 10	4810 22 90	5502	
3903 11	4810 29	5503	8706
3904 10	4810 31	5504	8707
3906 10	4810 32	5505 10	8708
4407 21 10	4810 92	5505 20	8714 11
4407 21 91	4810 99 10	5506	8714 19
4407 22 10	4810 99 90	5507	8714 91
4407 22 91	5108	5508 10 10	8714 92
4407 25 10	5110	5508 20 10	8714 93
4407 25 30	5111 11	5509	8714 94
4407 25 50	5111 19 10	5510	8714 95
4407 26 10	5111 19 90	5512	8714 96
4407 26 30	5111 20	5513	8714 99
4407 26 50	5111 30	5514	9002 90
4407 29 15	5111 90 10	5515	9006 91
4407 29 20	5111 90 91	5516	9007 91
4407 29 25	5111 90 93	6001	9007 92
4407 29 45	5111 90 99	6002 40	9008 90
4407 29 83	5112 11	6002 90	9010 90
4407 29 85	5112 19	6217 90	9104
4407 99 40	5112 20	6305 10 10	9108
4410	5112 30	6305 10 90	9109 11
4412	5112 90	6305 20	9109 19
	5205	6305 32	9109 90
	5208	6305 33	9110 11 10
	5209	6305 39	9110 11 90
	5210	6305 90	9110 12
	5212	6309	9110 19
	5401 10 12	6406	9110 90
	5401 10 14	7601	9111
	5401 20 10	8517 70 90	9112
4803	5402	8529 10 80	9114
4804	5403	8529 10 95	
4805	5404 11	8529 90	
4810 13	5404 90		
4810 14	5407		
4810 19 10	5408		

¹² As defined in Commission Regulation (EU) No 861/2010 of 5 October 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 284, 29.10.2010, p.1).

**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 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands.

2. BUDGET LINES:

Chapter and Article: Chap. 12 art. 120

Amount budgeted for the year 2011: **€16 653 700 000**

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:

(€million to one decimal place)

Budget line	Revenue ¹³	period, starting dd/mm/aaaa	[Year 2012 –2021]
Article 120	<i>Impact on own resources</i>	01/01/2012 - 31/12/2021	-2,2/year

4. ANTI-FRAUD MEASURES

Checks on the end-use of all 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

To enable the economic operators to make long-term investment decisions the proposed suspensions should remain in force for 10 years.

¹³ 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.

It replaces the measures introduced by Council Regulation (EC) No 704/2002 which expires on 31.12.2011.

Estimated cost of this operation

On the basis of the information provided by the regional authorities, the impact on the loss of revenue resulting from this Regulation may therefore be estimated at MEUR 2,96 (gross amount, expenses incurred in collection included) x 0.75 = **MEUR 2,22/year for the period 01.01.2012 - 31.12.2021.**

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