Council Regulation (EU) No 973/2010 of 25 October 2010 temporarily suspending the autonomous Common Customs Tariff duties on imports of certain industrial products into the autonomous regions of the Azores and Madeira

COUNCIL REGULATION (EU) No 973/2010

of 25 October 2010

temporarily suspending the autonomous Common Customs Tariff duties on imports of certain industrial products into the autonomous regions of the Azores and Madeira

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,

Having regard to the opinion of the European Parliament[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

After consulting the Committee of the Regions,

Acting in accordance with a special legislative procedure,

Whereas:

(1) In August and December 2007 the regional authorities of the Azores and Madeira requested, with the support of the Portuguese Government, an autonomous suspension of the Common Customs Tariff duties for a number of products in accordance with Article 299(2) of the Treaty establishing the European Community. They justified their requests on the grounds that, in view of the remoteness of those islands, economic operators in the Azores and Madeira are at a severe commercial disadvantage, which has negative effects on demographic trends, employment and social and economic developments.

(2) The local economies of the Azores and Madeira are to a large extent dependant on national and international tourism, a fairly volatile economic resource, which is determined by factors on which the local authorities and the Portuguese Government have hardly any influence. As a result, the economic development of the Azores and Madeira is severely restrained. In these circumstances it is necessary to support those economic sectors which are less dependent on the tourist industries in order to compensate the fluctuations of the tourist sector and thus to stabilise local employment.

(3) Council Regulation (EEC) No 1657/93 of 24 June 1993 temporarily suspending the autonomous Common Customs Tariff duties on certain industrial products intended to equip the free zones of the Azores and Madeira[(3)] did not have the desired effect in the last years before its expiry on 31 December 2008. This is in all likelihood due to the fact that the suspensions laid down in that Regulation were limited to the free zones of

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the Azores and Madeira and were therefore no longer used in the last years before their expiry. It is therefore appropriate to provide for new suspensions which are not restricted to industries located in free zones but can benefit to all types of economic operators located on the territory of those regions. The scope of commercial sectors benefiting from the suspensions should therefore cover the fishery, agricultural, industrial and service sectors.

(4) In order to ensure that the suspensions laid down in this Regulation have an economic impact, it is appropriate to extend the range of products benefiting from the suspensions to finished goods for agricultural, commercial or industrial use, as well as to raw materials, parts and components used for agricultural purposes, industrial transformation or maintenance.

(5) In order to give a long-term perspective to investors and enable economic operators to reach a level of industrial and commercial activity which stabilises the economic and social environment in the regions concerned, it is appropriate to suspend in full the Common Customs Tariff duties for certain goods for a period of 10 years as from 1 November 2010.

(6) In order to ensure that only economic operators located on the territory of the Azores and Madeira benefit from these tariff measures, the suspensions should be made conditional on the end use of the products in accordance with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(4)] and Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/93 establishing the Community Customs Code[(5)].

(7) In order to allow efficient operation of the suspensions, the authorities of the Azores and Madeira should take the necessary implementing measures and inform the Commission thereof.

(8) The Commission should be permitted to adopt, if necessary, temporary measures designed to prevent any speculative movement of deflection of trade until a definitive solution for that movement will be adopted by the Council.

(9) Amendments to the Combined Nomenclature may not give rise to any substantive changes to the nature of the suspension of duties. The Commission should therefore be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union for the purpose of making necessary amendments and technical adaptations to the list of goods for which a suspension applies,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 November 2010 to 2 November 2020 the Common Customs Tariff duties applicable to imports into the autonomous regions of the Azores and Madeira of finished goods for agricultural, commercial or industrial use listed in Annex I shall be suspended in full.

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These goods shall be used in accordance with Regulation (EEC) No 2913/92 and 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 autonomous regions of the Azores and Madeira.

Article 2

From 1 November 2010 to 2 November 2020 the Common Customs Tariff duties applicable to imports into the autonomous regions of the Azores and Madeira of raw materials, parts and components listed in Annex II, and used for agricultural purposes, industrial transformation or maintenance in the autonomous regions of the Azores and Madeira, shall be suspended in full.

Article 3

The competent authorities of the Azores and Madeira shall take the measures necessary to ensure compliance with Articles 1 and 2.

Those authorities shall inform the Commission of those measures before 30 April 2011.

Article 4

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 5

1 Where the Commission has reason to believe that the suspension laid down in this Regulation has led to a deflection of the trade for a specific product it may, in accordance with the procedure referred to in Article 11(2), temporarily withdraw the suspension for a period not longer than 12 months. 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 autonomous regions of the Azores and Madeira shall be conditional upon the provision of such guarantee.

2 When the Council decides, on a proposal from the Commission within the 12-month period, that the suspension should definitively be withdrawn, the amounts of duties secured by guarantees shall be definitively collected.

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

Article 6

When necessary the Commission may adopt by means of delegated acts in accordance with Article 7 and subject to the conditions of Articles 8 and 9 such amendments and technical adaptations to Annexes I and II as are required as a consequence of amendments to the Combined Nomenclature.

Article 7

1 The powers to adopt the delegated acts referred to in Article 6 shall be conferred on the Commission for an indeterminate period.

2 As soon as it adopts a delegated act, the Commission shall notify it to the Council.

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3 The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 8 and 9.

Article 8

1 The delegation of power referred to in Article 6 may be revoked by the Council.

2 Where the Council has commenced an internal procedure for deciding whether to revoke the delegation of powers, it shall endeavour to inform the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

3 The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 9

1 The Council may object to the delegated act within a period of three months from the date of notification.

2 If, on expiry of that period, the Council has not objected to the delegated act, or if, before that date, the Council informs the Commission that it has decided not to raise objections, the delegated act shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

3 If the Council objects to the adopted delegated act, it shall not enter into force. The Council shall state the reasons for objecting to the delegated act.

Article 10

The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

Article 11

1 The Commission shall be assisted by the Customs Code Committee.

2 Where reference is made to this paragraph, Articles 4 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(6)] shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

Article 12

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

It shall apply from 1 November 2010, except for Articles 6 to 10, which shall apply from the date of entry into force of this Regulation.

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

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Done at Luxembourg, 25 October 2010.

For the Council

The President

S. VANACKERE