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(Acts whose publication is obligatory)

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 Islands

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 299(2) thereof,

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

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee,

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

Whereas:

(1) In October and November 2000 the Spanish authorities asked to maintain the Common Customs Tariff (CCT) measures for the Canary Islands first introduced by Council Regulation (EEC) No 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands [3], which expired on 31 December 2001, for another period of 10 years and submitted some documentation justifying their request. However, the time to evaluate the documentation was insufficient to reach a definitive conclusion as to whether maintaining the measures for the requested period was still justified.

(2) The application of the tariff measures was therefore prolonged for one year by Council Regulations (EC) No 1105/2001 of 30 May 2001 amending Regulation (EEC) No 1911/91 [4] and (EC) No 1106/2001 of 30 May 2001 extending the period of application of Regulation (EEC) No 3621/92 temporarily suspending the autonomous Common Customs Tariff duties on imports of certain fishery products into the Canary Islands and Regulation (EC) No 527/96 temporarily suspending the autonomous Common Customs Tariff duties and progressively introducing the Common Customs Tariff duties on imports of certain industrial products into the Canary Islands [5].

(3) Since the introduction of specific measures for the Canary Islands in 1991 the economic situation of the region has significantly improved. Average income of workers and employees have almost reached the corresponding averages of Spain. Unemployment has fallen to levels which correspond to the Spanish average (around 12 %) and the gap in the living standard of the people between the Islands and Spain has almost been closed. This development was mainly due to the enormous increase in the tourist sector and the commerce related to it and to improvements in the agricultural sector.

(4) At the same time, however, it was noted that development of the manufacturing sector stayed significantly behind the other two sectors and is in danger of being completely sidelined. The contribution of this sector to the gross national product (GNP) of the Canary Islands has fallen in the last two years to less than 6 % of the local GNP. The reasons for this decrease will be explained below. A further decrease in this area of economy bares the risk that the overall economic situation becomes more vulnerable in view of a certain volatility of international tourism on which the islands are more and more dependent.

(5) Until now the industrial sector in the Canaries mainly produces for the local market of the islands and has, despite its vicinity to the African continent, enormous difficulties in finding customers for its products outside the islands. This difficult situation is mainly caused by a lack of transport means and the high level of transport costs for the purchase and the distribution of goods. This has a negative impact on the manufacturing costs of finished goods which can lead to an increase in manufacturing costs of up to 12 % compared to manufacturing costs of similar companies on the Spanish peninsula depending on the type of product. In addition, the development of energy prices and its worldwide impact on transport costs in the last two years has certainly contributed to a further deterioration of the competitive situation of the industrial sector on the islands. Furthermore, at the same time the advantages resulting from autonomous tariff suspensions introduced since 1991 in order to support the development of this sector were continuously reduced. This had the effect that the competitiveness of the local industries in relation to its competitors on the Spanish mainland and the rest of the Community suffered severely.

[1] OJ C 75 E, 26.3.2002, p. 343.
[2] Opinion delivered on 5 February 2002 (not yet published in the Official Journal).
[3] OJ L 171, 29.6.1991, p. 1.
[4] OJ L 151, 7.6.2001, p. 1.
[5] OJ L 151, 7.6.2001, p. 3.

(6) Both aspects contributed to the standstill in the industrial development which lead to disconnection of the sector from the general economic developments of the Canary Islands.

(7) Given the social and economic development in the Canary Islands since 1991 it is not appropriate to phase out by the end of 2001 the existing autonomous tariff measures. An elimination of these measures would have an immediate inflationary effect on the Canarian market and would risk to eliminate more or less the already very small industrial base of the islands. It is, however, necessary to restructure the tariff measures taking hereby into account the changes in the social and economic situation of the people living on the islands, the difficult competitive situation of the local industries, and the changes of the duty rates of the CCT due to the results of the Uruguay round.

(8) Distinction should therefore be made between the treatment of end-consumer industrial products, capital investment goods and raw materials, parts and components for industrial transformation and maintenance. Products subject to CCT duties below 2 % on 1 January 2002 should be excluded from the suspensions since the economic impact resulting from the suspension is considered to be insignificant. Furthermore, products within the scope of the proposal for a Council Decision on the arrangements concerning the AIEM tax applicable in the Canary Islands should also be excluded from tariff suspension as it would be against the single market principle to replace Community customs duties by local taxes.

(9) Imports of end-consumer products benefited in the years 2000 and 2001 from an average duty advantage of 4,5 %. Since the economic and social situation of the people living on the islands has very much improved since 1991 and considering that there are other regions in the Community whose economic situation are significantly worse and which do not benefit from similar advantages, it is appropriate that the duty suspensions for end-consumer products should be phased out.

(10) However, in order to avoid inflationary effects on the Canarian market, the suspensions and tariff quotas should be repealed step by step over a period of five years.

(11) In order to avoid a deflection of the trade with end-consumer products, the suspensions should only apply to products which are unloaded from ship or aircraft when the customs declaration for release into free circulation is submitted to the Spanish customs authorities located on the Canary Islands and which are removed from the customs area after release into free circulation. Also special provisions need to be foreseen for the import of motor cars.

(12) As demonstrated above the industrial sector faces today the risk of being completely sidelined and is further away than ever from the possibility of achieving an economy of scale by selling its products to customers outside the islands. In order to give this sector the possibility of restoring and improving its competitiveness, it is necessary to set a framework of measures which gives a long-term perspective to investors and enables the economic operators to reach a level of industrial and commercial activities which makes it more interesting for cargo transport companies to offer better services at reasonable prices.

(13) It is, therefore, appropriate to suspend in full the CCT duties for capital investment goods and raw materials, parts and components for industrial transformation and maintenance used by companies in the Canary Islands for a period of 10 years starting on 1 January 2002.

(14) The suspensions should be made conditional on the end use of the products in accordance with the customs legislation in force.

(15) The exceptional geographical situation of the Canary Islands in relation to the sources of supply of certain fishery products which are essential for domestic consumption entails additional costs for this sector. This natural handicap can be remedied, *inter alia*, by temporarily suspending customs duties on imports of the products in question from third countries within Community tariff quotas of an appropriate volume.

(16) The competent Spanish authorities have submitted a report on the working of the tariff suspension arrangements under Council Regulation (EEC) No 3621/92, and the Commission has examined the impact of the measures adopted on imports of certain fishery products into the Canary Islands.

(17) The Commission considers that two tariff quotas for certain fishery products are warranted because they would cover the needs of the Canary Islands' domestic market while ensuring that flows of reduced-duty imports into the Community remain predictable and clearly identifiable.

(18) To avoid directly affecting the working of the internal market, measures should be taken to ensure that fishery products for which suspension is requested are intended solely for the Canary Islands' domestic market.

(19) 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 Code [1] codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations.

[1] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

(20) Measures should be taken to permit the Commission to be regularly informed of the imports in question and provision should be made to empower the Commission, following receipt of the opinion of the Customs Code Committee to adopt temporary measures, if necessary, designed to prevent any speculative movement of deflection of trade till a definitive solution is adopted by the Community institutions.

(21) Amendments to the Combined Nomenclature do not normally give rise to any substantive changes to the nature of the measures. For reasons of simplification, provision should therefore be made to empower the Commission, following receipt of the opinion of the Customs Code Committee, to make the necessary amendments and technical adaptations of the Annexes to this Regulation, including the publication of a consolidated version.

(22) In order to ensure a continuity with the measures set out in Regulation (EEC) No 1911/91, it is necessary to apply the measures provided in this Regulation from 1 January 2002,

HAS ADOPTED THIS REGULATION:

Article 1

1. From 1 January 2002 to 31 December 2006 the CCT duties applicable to imports into the Canary Islands of end-consumer products listed in Annex I Section A shall be suspended at the levels and in accordance with the timetable laid down in the said section.

2. From 1 January 2002 to 31 December 2006 the CCT duties applicable to imports into the Canary Islands of end-consumer products listed in Annex I Section B shall be suspended at the levels and in accordance with the timetable laid down in this section up to the amounts indicated.

3. The suspensions shall only be applied to goods which are unloaded from ship or aircraft before the customs declaration for release into free circulation is submitted to the customs authorities located on the Canary Islands.

Imported motor cars falling within CN code 8703 and motor cycles falling within CN code 8711 for which duties have been suspended in accordance with this Regulation have to be registered for a period of at least 24 month by persons having their main residence on the Canary Islands in accordance with the provisions of the Spanish road traffic laws.

4. From 1 January 2002 to 31 December 2011 the CCT duties applicable to imports into the Canary Islands of capital investment goods for commercial and industrial use listed in Annex II shall be suspended in full. These goods shall be used for a period of at least 24 months after the release into free circulation by economic operators located on the Canary Islands.

5. From 1 January 2002 to 31 December 2011 the CCT duties applicable to imports into the Canary Islands of raw materials, parts and components used for industrial transformation and maintenance listed in Annex III shall be suspended in full.

Article 2

1. The competent Spanish authorities shall take the measures necessary to ensure compliance with Article 1. They shall inform the Commission of implemented measures before 1 July 2002.

2. The suspension of duties referred to in Article 1(4) and (5) shall be subject to end-use in accordance with Articles 21 and 82 of Council Regulation (EEC) No 2913/92 [1] and to the controls laid down by the Community implementing provisions for those Articles.

3. The tariff quotas listed in Annex I Section B and Annex IV shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

1. From 1 January 2002 to 31 December 2006 the CCT duties applicable to imports into the Canary Islands of the fishery products listed in Annex IV shall be suspended in full for the quantity indicated.

2. The basic quota volumes set out in Annex IV shall be increased by 2,5 % each year.

3. The suspension referred to in paragraph 1 shall be granted exclusively for products intended for the Canary Islands' domestic market. They shall only be applied to fishery products which are unloaded from ship or aircraft before the customs declaration for release into free circulation is submitted to the customs authorities located on the Canary Islands.

The competent Spanish authorities shall adopt the measures necessary to ensure compliance, and in particular the levying of CCT duties, when the products in question are dispatched to other parts of the customs territory of the Community. They shall inform the Commission of implemented measures before 1 July 2002.

[1] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

Article 4

1. The competent Spanish authorities shall send on 1 March and 1 October of each year a semi-annual report to the Commission on the imports of goods for which duty suspensions have been granted in accordance with the provisions of Article 1. The reports shall cover the period from 1 January to 30 June and 1 July to 31 December of each year respectively. The reports shall show for each the 8 digit CN code, the total customs value and the total weight of the imports during the six-month period. The report shall be broken down into four parts in accordance with the Annexes I, II and III of this Regulation.

2. If the Spanish authorities wish to eliminate or add new products to the products listed in Annex II and III of this Regulation, they shall lodge before 1 April of each year a request to the Commission accompanied by satisfactory documentary evidence justifying the request. The Commission will examine the request on the basis of the evidence submitted and propose to the Council, when the request is considered acceptable, the necessary amendments to the Annexes concerned.

Article 5

1. Before 1 June 2004 the competent Spanish authorities shall submit a report to the Commission on the implementation of the measures referred to in Article 3. The Commission will examine the impact of the measures adopted and, on the basis of this mid-term review, propose to the Council, if necessary, any relevant amendments to the quantities to be imported.

2. Before 1 June 2006 the competent Spanish authorities shall submit a report to the Commission on the implementation of the measures referred to in Article 3 after 2004. The Commission will re-examine the impact of the measures adopted and, on the basis of its findings, submit to the Council any relevant proposals for the period after 2006.

Article 6

1. Where the Commission has reasons to believe that the suspensions introduced by this Regulation has led to a deflection of the trade for a specific product it may, after receipt of the opinion of the Customs Code Committee, provisionally repeal the suspension by Commission Regulation for a period not longer than 12 months. Import duties for products for which the suspension has been provisionally repealed shall be secured by a guarantee, and the release of the products concerned for free circulation in the Canary Islands shall be conditional upon the provision of such a guarantee.

2. When the Council decides on a proposal from the Commission within the 12-month period that the suspension should definitively be repealed, 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 7

When necessary the Commission may, by Commission Regulation, after receipt of the opinion of the Customs Code Committee, make such amendments and technical adaptations to Annexes I to IV to this Regulation as are required as a consequence from amendments of the Combined Nomenclature.

Article 8

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

It shall apply from 1 January 2002.

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

Done at Brussels, 25 March 2002.

For the Council

The President

A. M. BIRULÉS Y BERTRÁN

ANNEX I

END-CONSUMER PRODUCTS

Section A

CN code (1)	Percentage of the CCT duty applied for the period			
	1.1.2002 to 31.12.2002	1.1.2003 to 31.12.2004	1.1.2005 to 31.12.2006	From 1.1.2007
4011 10 00	60	80	100	
4011 40	60	80	100	
4011 50 00	60	80	100	
4202 11	60	80	100	
4202 12 11	60	80	100	
4202 12 19	60	80	100	
4202 12 50	60	80	100	
4202 12 91	60	80	100	
4202 12 99	60	80	100	
4202 19 10	60	80	100	
4202 19 90	60	80	100	
4202 21 00	60	80	100	
4202 22 10	60	80	100	
4202 22 90	60	80	100	
4202 29 00	60	80	100	
4202 31 00	60	80	100	
4202 32 10	60	80	100	
4202 32 90	60	80	100	
4202 39 00	60	80	100	
4202 91	60	80	100	
4202 92 11	60	80	100	
4202 92 15	60	80	100	
4202 92 19	60	80	100	
4202 92 91	60	80	100	
4202 92 98	60	80	100	
4202 99 00	60	80	100	
4203 10 00	60	80	100	
4203 21 00	60	80	100	
4203 29 91	60	80	100	
4203 29 99	60	80	100	
4203 30 00	60	80	100	
4203 40 00	60	80	100	
5401 10 90	80	80	100	
5401 20 90	80	80	100	
5508 10 90	60	80	100	
5508 20 90	60	80	100	
5511	60	80	100	
6101	35	60	80	100
6102	35	60	80	100
6103	35	60	80	100