

Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands’

COM(2011) 259 final — 2011/0111 (CNS)

(2011/C 376/10)

Rapporteur-General: **Mr HERNÁNDEZ-BATALLER**

On 16 June 2011 the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council Regulation temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands

COM(2011) 259 final — 2011/0111 (CNS).

On 20 September 2011 the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr HERNÁNDEZ BATALLER as rapporteur-general at its 474th plenary session, held on 21 and 22 September 2011 (meeting of 22 September), and adopted the following opinion by 132 votes to 5.

1. Conclusions and recommendations

1.1 The EESC supports the proposal, given its socio-economic importance and the fact that it is clearly legitimate for the Union to adopt it, in view of its exclusive competence regarding the customs field.

1.2 Moreover, the proposal only concerns a limited number of goods and products already given favourable tariff treatment under Council Regulation (EC) No 704/2002 of 25 March 2002, to which four more products are added (rubber and certain polymer derivatives).

1.3 The imposition of end-use checks, in accordance with the Community Customs Code and its implementing provisions, is an established procedure in this context and does not entail significant additional administrative burdens for regional and local authorities and economic operators.

1.4 Continuing tariff suspensions for the import of industrial products is deemed beneficial for the Canary Islands economy, which has been harder hit by the crisis than other parts of the Union and of Spain.

1.5 The EESC reiterates⁽¹⁾ that maintaining specific economic and tax arrangements is crucial for helping the outermost regions to overcome the structural difficulties they face.

2. Introduction

2.1 With a total area of around 7 542 km², the Canary Islands form an archipelago in the Atlantic Ocean just over

1 000 kilometres from the nearest tip of the Iberian peninsula. Together with the archipelagos of the Azores, Madeira, the Savage islands and Cape Verde they make up the biogeographic region known as Macaronesia. They also form part of the EU regions termed ‘outermost’ because of their remoteness and their island nature; the EESC has issued several opinions on these regions⁽²⁾.

2.1.1 The current population stands at 2 118 519. The two most populous islands are Tenerife (906 854 inhabitants) and Gran Canaria (845 676)⁽³⁾, which together account for over 80 % of the total population. This high concentration creates certain social problems, with high unemployment rates and emigration.

2.1.2 The islands’ remoteness means that economic operators face serious economic and commercial disadvantages which have an adverse impact on demographic trends, employment and the socio-economic situation. The industry sector, and construction and allied trades have been especially hard hit by the current economic crisis. This has led to rising unemployment, which exceeds the Spanish national average and could make the general economic situation more vulnerable because of the volatile nature of international tourism, on which the islands are increasingly dependent.

2.1.3 As the EESC has already noted⁽⁴⁾, the islands face permanent disadvantages which clearly distinguish them from mainland regions. These permanent disadvantages, with common characteristics although varying in intensity, include:

⁽¹⁾ OJ C 211 of 19.8.2008, p. 72.

⁽²⁾ OJ C 221 of 17.9.2002, p. 37.

⁽³⁾ Figures from the Spanish National Statistics Institute.

⁽⁴⁾ OJ C 268 of 19.9.2000, p. 32.

isolation from the mainland; higher cost of sea and air transport, communications and infrastructure on account of natural and climate-related obstacles; restricted usable land area; limited fishery resources; restricted water supplies; restricted sources of energy; marine and coastal pollution; special difficulties in waste management; falling population, particularly of young people; coastal erosion; the shortage of a skilled workforce; the absence of a favourable economic climate for businesses; difficult access to education and health services.

2.1.4 An earlier EESC opinion⁽⁵⁾ discussed the concept of the 'extra costs' faced by the outermost regions, and drew up an indicative list which included the higher cost of transporting goods, materials and passengers, higher warehousing costs, higher recruitment costs and higher installation costs.

2.1.5 The industry sector in the Canary Islands produces mainly for the local market and faces huge difficulties finding customers further afield. The problem is caused mainly by the limited means of transport and the high cost of buying and distributing goods. This pushes up manufacturing costs for end products, making those costs higher than those borne by similar businesses on the mainland.

3. The Canary Islands and the European Union

3.1 The Canary Islands became part of the European Union with the accession of Spain in 1986. The Act of Accession of Spain and Portugal acknowledged the special and difficult socio-economic situation in the archipelago. In recognition of the particular difficulties, initially the Canary Islands were excluded from the Community's customs territory, the common commercial policy, and the common agricultural and fisheries policies.

3.2 The European Union has recognised the specific unique problems facing the region and their implications for the islands' integration into the Union. In more recent years, measures have been introduced which, in a sympathetic manner and bearing in mind the region's remote situation and island nature, have reduced the scale and impact of these exemptions. The islands thus became part of the customs union from 31 December 2000, when the Common Customs Tariff became fully applicable there⁽⁶⁾.

3.3 Council Regulation (EC) No 1911/91 on the application of the provisions of Community law to the Canary Islands was therefore adopted⁽⁷⁾, and has undergone various modifications. Pursuant to the regulation, specific measures were put in place

under Council Decision 91/314/EC setting up a programme of options specific to the remote and insular nature of the Canary Islands (Poseican)⁽⁸⁾. The programme allowed adjustments to be made to certain common policies, together with the adoption of certain specific measures to help the islands.

3.4 Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspended autonomous Common Customs Tariff (CCT) duties on imports of certain industrial products and opened and provided for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands. Under this regulation, the CCT duty suspension for certain capital goods for commercial or industrial use is to expire on 31 December 2011. The present proposal has thus been tabled in the run-up to the expiry of Regulation 704/2002.

3.5 Article 349 of the TFEU grants the Canary Islands the status of outermost region, takes account of the islands' structural social and economic situation, and recognises their remoteness, insularity, small size, difficult topography and climate, and dependence on few products. The permanence and combination of these factors severely restrain the islands' development. Accordingly, the Council may, on a proposal from the Commission, adopt specific measures concerning areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aid, and conditions of access to structural funds and to horizontal Union programmes.

4. The proposed Council regulation

4.1 The TFEU allows the establishment of special measures for the outermost regions to help them overcome the economic disadvantages caused by their geographic situation. The lengthy economic and financial crisis has aggravated the Canary Islands' job-creation problems and their dwindling competitiveness.

4.2 The Spanish Government has therefore requested that the current tariff suspensions on imports to the Canary Islands of certain industrial products be extended by means of a Council regulation. Tariff duties are also to be suspended for four new products.

4.3 The proposal is designed to be consistent with other EU policies, particularly in the field of international trade, competition, enterprise, development and external relations. This type of measure is used from time to time to help economic operators.

⁽⁵⁾ OJ C 211 of 19.8.2008, p. 72.

⁽⁶⁾ Protocol 2 of the Accession Act.

⁽⁷⁾ OJ L171 of 29.6.1991, p. 1.

⁽⁸⁾ OJ L171 of 29.6.1991, p. 5.

4.3.1 The proposal will allow the islands' economic operators to import a limited number of raw materials, parts, components and capital goods duty free, by temporarily suspending the tariff duties concerned.

4.3.1.1 Thus, from 1 January 2012 to 31 December 2021 the CCT duties applicable to imports into the Canary Islands of capital goods for commercial or industrial use listed in the regulation's Annex will be suspended in full.

4.3.1.2 These goods are to be used for a period of at least 24 months after their release into free circulation by economic operators located in the Canary Islands.

4.3.1.3 In addition, from 1 January 2012 to 31 December 2021, the CCT duties applicable to imports into the Canary Islands of raw materials, parts and components falling under the CN codes listed in the updated Annex II to the regulation and used for industrial processing or maintenance in the Canary Islands will be suspended in full.

4.3.2 Checks and cooperation mechanisms will be put in place in order to avoid any misuse or change in traditional trade flows: products benefitting from duty suspension are to be subject to checks on end-use.

4.3.3 Raw materials, parts and components must be used for industrial processing and maintenance in the Canary Islands in order to qualify for the duty suspension.

4.3.4 Additionally, capital goods must be used by local companies on the islands for a period of at least two years before they can be sold freely to companies in other parts of the customs territory of the EU.

4.3.4.1 In order to offer investors a long-term perspective and enable economic operators to attain a sufficient level of industrial and commercial activity, the suspension of the CCT duties for the goods listed in Annexes II and III of Regulation (EC) 704/2002 is to be extended for a further ten years.

4.3.4.2 So as to ensure that only economic operators located on the territory of the Canary Islands benefit from these tariff measures, the suspension should be made conditional on the end use of the products, in accordance with the Community Customs Code. In the event of a deflection of trade, the Commission is to be granted implementing powers to temporarily withdraw the suspension.

5. General comments

5.1 The EESC welcomes the proposed amendment to the existing Council regulation and considers that the special

measures it contains can be adopted without any risk of undermining the integrity and coherence of the Union legal order, including the internal market and common policies.

5.2 These legal and economic justifications are underscored by other circumstances such as the fact that the Commission's expert working group on economic tariff questions raised no objections to the future adoption of the measures, and that no impact assessment was necessary owing to the universal application of the proposed measures.

5.3 The Commission bases its proposal on Article 349 TFEU although the measures solely concern customs policy, which is an exclusive competence of the EU. Submitting it to national parliaments thus seems excessively formalistic: the idea may have been prompted by a liberal interpretation of the first paragraph of Article 2 of Protocol 1 appended to the TEU and TFEU (on the role of national parliaments in the European Union).

5.4 This is likely to slow the regulation's adoption, as it may give rise to the type of domestic disputes which often harm the Union's general interests or the proper achievement of specific objectives such as the protection of outermost regions and territories in view of their adverse economic conditions.

5.5 It would also be helpful to define, both qualitatively and quantitatively, the concept of 'deflection of trade', whereby the Commission could be empowered to adopt implementing acts withdrawing the tariff suspensions.

5.6 This is all the more important because assessing the quantitative aspect of these deflections will require complex economic market analyses to ascertain the effective balance between imports of the relevant products and the supply needs of the islands' businesses.

5.7 Similarly, clarification is needed as to the legal nature of the acts laying down a definitive decision to maintain or withdraw the interruption of the suspension at the end of the 12-month period stipulated in Article 4(1) of the proposed regulation.

5.8 As it is the Council which will use a special legislative procedure to adopt the temporary-suspension regulation, it would be logical for it too to adopt the abovementioned definitive decision, thus limiting the Commission's delegated powers to the possible implementing acts for the temporary (12-month maximum) withdrawal.

5.9 The EESC considers that the proposal will help to guarantee economic, social and territorial cohesion, and equal opportunities for competition across the European Union, making up for the permanent geographic, natural, economic, social and structural disadvantages faced by the Canary Islands.

5.10 The proposed tariff suspension complies with the proportionality principle because of the severity of the disadvantages faced by the Canary Islands, in terms of accessibility, demographic situation and, possibly, productivity. The EESC takes the view that the tariff suspensions are designed to offset the extra costs caused by the islands' situation and will not distort the market: indeed, they will improve market balance.

6. Specific comments

6.1 Given the difficulty of reducing the Canary Islands' inaccessibility vis-à-vis the European mainland, the establishment of special economic and tax arrangements has helped to dynamise the Canary economy and endeavoured to offset its structural disadvantages.

6.2 The small size of the local market and businesses has made it impossible to pursue synergies between the provision of raw materials for production processes, transport, domestic marketing and export capacity. Businesses have thus been unable to add value on a sustainable basis or to exploit economies of scale as a result of demand-related marginal costs.

6.3 All these factors relating to insularity and 'extra costs' make it harder for the industry sector to compete with other markets which, in an increasingly globalised world, are becoming more important, because of the possibility to relocate. For the Canary economy, this could mean the decline of a sector which provides more skilled, stable employment and in which there is more scope for developing innovative processes.

6.4 Fiscal and tariff mechanisms have endeavoured to offset the 'extra costs' facing the industry sector in this outermost region. A recent study estimated these additional costs for the Canary Islands at EUR 5 988 273 924, and 25 % of these costs is borne by industry.

6.5 The islands' industry sector considers that 32 % of the extra cost is due to idle production capacity: the extra cost generated by being unable to exploit economies of scale because the islands' businesses have a limited local market and find it difficult to access external markets, given that 25 % of the extra costs are transport-related and 28 % are due to the higher cost of energy.

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The President
of the European Economic and Social Committee
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