

COUNCIL REGULATION (EC) No 122/96

of 22 January 1996

establishing favourable tariff treatment for imports of certain goods into the free zones of Madeira and the Azores by reason of their end use

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 28 thereof,

Having regard to the proposal from the Commission,

Whereas Council Decision 91/315/EEC⁽¹⁾ set up a programme of options specific to the remote and insular nature of Madeira and the Azores (Poseima); whereas the programme recognizes in its preamble that the free zones of the Azores and Madeira are essential for the development of the two archipelagos and to this end lays down specific measures to stimulate activity there;

Whereas Declaration 26 on the outermost regions of the Community, annexed to the Final Act of the Treaty on European Union, advocates specific measures for the economic and social development of those regions as long as there is an objective need to take such measures;

Whereas the situation of the productive sectors in these archipelagos, as described in the Commission's report on the implementation of the Poseima programme (1992 to 1993), calls for additional customs measures;

Whereas the Portuguese Government, by a letter dated 7 February 1994 requested a reduction in customs duties on raw materials for processing in the free zone of Madeira and subsequently released for free circulation in the territory of the Community in the form of compensating products;

Whereas the free zones of Madeira and the Azores are a key component of the economic and social development strategy of the two regions; whereas increasing activity in the free zones will have significant repercussions on the development of these archipelagos by diversifying production and creating jobs;

Whereas, in view of the economic and geographical similarities between Madeira and the Azores, measures should be proposed for the free zones of both archipelagos;

Whereas Madeira and the Azores are among the least-developed regions of the Community, their per capita gross national product being less than half the Community per capita gross national product average; whereas their trade balance is in deep deficit because of, among other things, the scarcity of exportable products; whereas their products, for these reasons, encounter serious difficulties in reaching the Community market; whereas this handicap calls for the diversification and upgrading of production;

Whereas supplying the archipelagos with raw materials is likely to stimulate sustainable processing activities and so satisfy these requirements; whereas, in order to facilitate the marketing of the products of such processing activities in the Community, provision should be made for favourable tariff treatment of imports into Madeira and the Azores of non-agricultural raw materials for processing; whereas, however, to avoid injury to the Community producers concerned, the granting of such tariff treatment should be subject to specific conditions, namely that processing takes place in the free zones and that it constitutes a substantial processing of the goods;

Whereas admission of the goods entitled to the said tariff treatment should be granted in accordance with the Community provisions on end use; whereas, moreover, the Community rules on the origin of goods are the most appropriate for determining the amount of processing required; whereas they lay down that goods may not be consumed or used in free zones;

Whereas the granting of tariff treatment is of a temporary nature linked to the economic lift-off of the free zones of Madeira and the Azores; whereas the relief should nevertheless be available over a period long enough to enable economic operators to plan their activities and make adequate investment; whereas this objective could be achieved if the measure in question is applicable for a minimum of 10 years;

Whereas the granting of favourable tariff treatment should be considered product by product on the basis of requests made by the Portuguese authorities; whereas the

⁽¹⁾ OJ No L 171, 29. 6. 1991, p. 10.

Commission, assisted by the Committee referred to in Article 247 of Regulation (EEC) No 2913/92⁽¹⁾, should examine these requests and ensure that favourable tariff treatment is not granted to the detriment of other sectors of activity in the archipelagos,

HAS ADOPTED THIS REGULATION :

Article 1

1. The customs duties applicable to goods released for free circulation in the free zones of Madeira and the Azores may be reduced by up to 100 % on condition that :

- the goods are to be processed at least to the extent required by Article 24 of Regulation (EEC) No 2913/92 and by Articles 35 to 46 of Commission Regulation (EEC) No 2454/93⁽²⁾,
- the processing is wholly carried out in the geographical confines of the free zones of Madeira and the Azores.

2. Agricultural products within the meaning of Article 38 of the Treaty and listed in Annex II to the Treaty and the products not contained in Annex II obtained from agricultural products or those that incorporate such products shall be excluded from the field of application of the ruling provided for in paragraph 1. This exclusion does not include the products of the fishing sector, except those which benefit from the Community system of compensation for surcharges generated for remoter regions as provided for in Decision 91/315/EEC.

3. Goods shall be eligible for favourable tariff treatment in accordance with Articles 291 to 304 of Regulation (EEC) No 2454/93. However, the authorizations required for the granting of such treatment shall be accorded only to persons established in the Community.

Article 2

The list of goods admitted with the tariff treatment provided for under this Regulation and the reduced rates of the customs duties shall be established by the Commission in accordance with the procedure provided for in Article 3 (2), on the basis of requests made by the Portuguese authorities.

The other implementing provisions for this Regulation shall be adopted by the same procedure.

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ No L 302, 19. 10. 1992, p. 1). Regulation as amended by the 1994 Act of Accession.

⁽²⁾ OJ No L 253, 11. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 1762/95 (OJ No L 171, 21. 7. 1995, p. 8).

Article 3

1. The Commission shall be assisted by the Customs Code Committee set up pursuant to Article 247 of Regulation (EEC) No 2913/92.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event, the Commission shall defer application of the measures which it has decided for three months from the date of notification.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous subparagraph.

3. The Committee may examine any matter concerning the implementation of this Regulation which is raised by its chairman on his own initiative or at the request of a Member State.

Article 4

Goods released for free circulation with the tariff treatment provided for in this Regulation shall remain under customs surveillance in accordance with the procedure set out in Article 82 of Regulation (EEC) No 2913/92.

Article 5

The competent Portuguese authorities shall notify the Commission before 30 January each year of the volume of imports admitted in the previous year with the tariff treatment provided for in this Regulation.

Article 6

Should the volume or price of imports of products admitted with the tariff treatment provided for in this Regulation be such as to cause or threaten to cause injury to Community producers of like or directly competing products, the relevant duties may be reimposed in full or in part on the products in question, in accordance with the procedure provided for in Article 3 (2). Such measures may also be taken where there is serious injury or the threat of serious injury to a single region of the Community.

Article 7

The tariff treatment provided for in this Regulation shall be applicable until 31 December 2005.

After consultations with the competent Portuguese authorities, the Commission shall, in the course of the year 2000, study the effects of this measure on the economies

of the two archipelagos. On the basis of its findings, it shall, if appropriate, present suitable proposals to the Council for the remaining period.

Article 8

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

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

Done at Brussels, 22 January 1996.

For the Council

The President

L. DINI
