

REGULATIONS

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 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.

(¹) Opinions of 1 January 2010 and of 7 September 2010 (not yet published in the Official Journal).

(²) Opinion of 17 December 2009 (OJ C 225, 22.9.2010, p. 59).

(³) OJ L 158, 30.6.1993, p. 1.

(⁴) OJ L 302, 19.10.1992, p. 1.

(⁵) OJ L 253, 11.10.1993, p. 1.

- (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.

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

- 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.

- 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.

- 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

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

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

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

Article 8

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

- 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.

- 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

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

- 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.

- 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⁽¹⁾ 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.

Done at Luxembourg, 25 October 2010.

For the Council

The President

S. VANACKERE

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

ANNEX I

Finished goods for agricultural, commercial or industrial use

CN code (⁽¹⁾)			
4016 94 00	8418 50	8501 10 91	9015 80 91
4415 10 10	8422 30 00	8501 20 00	9015 80 93
5608	8423 89 00	8501 61 20	9015 80 99
6203 31 00	8424 30 90	8501 64 00	9016 00 10
6203 39 19	8427 20 11	8502 39	9017 30 10
6204 11 00	8440 10 90	8504 32 80	9020 00 00
6205 90 80	8442 50 23	8504 33 00	9023 00 10
6506 99	8442 50 29	8504 40 90	9023 00 80
7309 00 59	8450 11 90	8510 30 00	9024 10
7310 10 00	8450 12 00	8515 19 00	9024 80
7310 29 10	8450 20 00	8515 39 13	9025 19 20
7311 00	8451 21 90	8515 80 91	9025 80 40
7321 81 90	8451 29 00	8516 29 99	9025 80 80
7323 93 90	8451 80 80	8516 80 80	9027 10 10
7326 20 80	8452 10 19	8518 30 95	9030 31 00
7612 90 98	8452 29 00	8523 21 00	9032 10 20
8405 10 00	8458 11 80	8526 91 80	9032 10 81
8412 29 89	8464 90	8531 10 95	9032 89 00
8412 80 80	8465 10 90	8543 20 00	9107 00 00
8413 81 00	8465 92 00	8543 70 30	9201 90 00
8413 82 00	8465 93 00	8543 70 90	9202 90 30
8414 40 90	8465 99 90	8546 90 90	9506 91 90
8414 60 00	8467 11 10	9008 10 00	9506 99 90
8414 80 80	8467 19 00	9011 80 00	9507 10 00
8415 10 90	8467 22 30	9014 80 00	9507 20 90
8415 82 00	8467 22 90	9015 80 11	9507 30 00
8418 30 20	8479 89 97	9015 80 19	9507 90 00

(¹) CN codes applicable on 1 January 2009, adopted by Commission Regulation (EC) No 1031/2008 of 19 September 2008 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and the Common Customs Tariff (OJ L 291, 31.10.2008, p. 1).

ANNEX II

Raw materials, parts and components used for agricultural purposes, industrial transformation or maintenance

CN code ⁽¹⁾			
3102 40 10	7318 22 00	8414 90 00	8514 90 00
3105 20 10	7320 20 89	8415 90 00	8529 10 31
4008 29 00	7323 99 99	8421 23 00	8529 10 39
4009 42 00	7324 90 00	8421 29 00	8529 10 80
4010 12 00	7326 90 98	8421 31 00	8529 10 95
4015 90 00	7412 20 00	8421 99 00	
4016 93 00	7415 21 00	8440 90 00	8529 90 65
4016 99 97	7415 29 00	8442 40 00	8529 90 97
5401 10 90	7415 33 00	8450 90 00	8531 90 85
5407 42 00	7419 91 00	8451 90 00	8539 31 90
5407 72 00	7606 11 91	8452 90 00	8543 70 90
5601 21 90	7606 11 93	8478 90 00	8544 20 00
5608	7606 11 99	8481 20 10	8544 42 90
5806 32 90	7616 10 00	8481 30 99	
5901 90 00	7907 00	8481 40	8544 49 93
5905 00 90	8207 90 99	8481 80 99	9005 90 00
6217 90 00	8302 42 00	8482 10 90	9011 90 90
6406 20 90	8302 49 00	8482 80 00	9014 90 00
7303 00 90	8308 90 00	8483 40 90	9015 90 00
7315 12 00	8406 90 90	8483 60 80	9024 90 00
7315 89 00	8409 91 00	8484 10 00	9029 20 31
7318 14 91	8409 99 00	8503 00 99	
7318 15 69	8411 99 00	8509 90 00	9209 91 00
7318 15 90	8412 90 40	8511 80 00	9209 92 00
7318 16 91	8413 30 80	8511 90 00	9209 94 00
7318 19 00	8413 70 89	8513 90 00	9506 70 90

(¹) CN codes applicable on 1 January 2009, adopted by Commission Regulation (EC) No 1031/2008 of 19 September 2008 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and the Common Customs Tariff (OJ L 291, 31.10.2008, p. 1).