



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.06.1999
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99/0111 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

**amending Regulation (EEC) No 1911/91 on the application of the provisions of
Community law to the Canary Islands**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Under Article 5(1) of Council Regulation (EEC) No 1911 of 26 June 1991¹, the tax on production and imports ('arbitrio sobre la producción y sobre las importaciones' - APIM) is no longer to be applied in the Canary Islands after 31 December 2000. In accordance with that Regulation and with Commission Decision 96/34/EC of 20 December 1995², the Spanish Government has accordingly taken the necessary measures gradually to reduce the tax, by 20% per year starting from 31 December 1996, with a view to eliminating it completely on 31 December 2000. The Canary Islands are at the same time being integrated into the Community's customs territory and customs duties are being phased in so as to apply fully from 1 January 2001.
2. The economic repercussions, particularly in terms of employment, of elimination of the APIM prompted the Spanish authorities to submit, in December 1996, a request for extension. The report drawn up by the Commission in 1995, which examined the impact of the tax on the economy of the Canary Islands and the consequences of its elimination, already found that certain sectors would be heavily affected by its disappearance. It estimated that output and employment in the textile industry were liable to disappear altogether (-100%) and that there would be serious output and job losses in the following other sectors: other manufactured goods (-26.6%), timber (-23.8%), metalworking industries (-19.2%) and mining (-16%).
3. The Spanish authorities have, for their part, presented a report on the economic outlook for Canary Islands industry from the standpoint of disappearance of the APIM which is based on more recent figures than those used in the Commission report.
4. The data supplied by the Spanish Government broadly confirm the findings of the Commission report but show that the Commission had been optimistic as to the consequences of disappearance of the APIM for four other sectors. Therefore, in addition to the sectors identified in the Commission report, the Spanish authorities have requested that phasing-out of the APIM be suspended in other areas of the economy also: chemicals, paper, soft drinks, construction materials, miscellaneous foodstuffs and tobacco.
5. The Commission has examined all these sectors with the Spanish authorities and has come to the conclusion that some of them could to some extent be threatened by elimination of the APIM. The sectors affected are:

¹ Council Regulation (EEC) No 1911/91 of 26 June 1991, OJ L 171, 29.6.1991, p. 1.

² Commission Decision 96/34/EC of 20 December 1995, OJ L 10, 13.1.1996, p. 38.

- chemicals, which in the new classifications used by Spain includes some of the products examined under the heading of mining in the Commission report;
- paper;
- miscellaneous foodstuffs;
- tobacco.

6. The Commission took advantage of this examination to identify, within each of these different sectors, which products would be genuinely affected by disappearance of the APIM. The products concerned are listed, in the order of their classification in the Common Customs Tariff, in the Annex to this proposal.

- The tobacco sector, which is limited to the production of cigars (CCT subheading 2402 10 00) and cigarettes (subheading 2402 20), is the main exporting industry in the region and a source of outside finance. All the Islands' tobacco production is used on the spot for local manufacture. The Commission's analysis in its report was not detailed enough to assess the situation of the tobacco sector with greater precision, as a result of which it underestimated the consequences of eliminating the APIM. For example, of the six largest firms operating in 1980 (each employing over 100 people), one is expected to go out of business this year. Part of the output of cigars and cigarettes, and particularly cigars, comes from traditional family businesses, largely to meet orders by the large brands. These businesses would risk being the first to suffer from the adverse effects of disappearance of the APIM and the resulting increase in imports.
- The Spanish authorities estimate that, between 1996 and 1997, output dropped by 25% and imports rose by 30%.
- This sector provides work for 2 664 people. Elimination of the APIM could result in some 10% of those jobs being lost. It should also be noted that the paper sector (see below) and the inter-island maritime transport business depend heavily on turnover generated by the tobacco sector.

- The paper sector (for example, corrugated paper and board of heading No 4808, cartons, boxes and bags of heading No 4819, labels of heading No 4821) is highly fragmented. Small firms operate on each of the islands in order to cater for businesses that need to have a supplier close at hand. Disappearance of this local production would have knock-on effects on downstream businesses, which would be forced to build up stocks in order to maintain continuity of production. Businesses in the paper sector are only marginally profitable and are therefore highly sensitive to outside competition. The Spanish authorities estimate that, if the APIM were to disappear, output could fall by 22.35% and 119 jobs could be lost out of a present total workforce of 536 in this sector.
- The chemicals sector covers for example the following products: nitrogen and oxygen (CCT subheadings 2804 30 and 40), paints (heading No 3208) and soap (heading No 3401). According to the Spanish authorities, the chemicals sector would lose 163 jobs (out of a total workforce of 1 704) and 9.57% of its output as a result of disappearance of the APIM. The sector is made up of companies that manufacture in very small series a range of products that is too wide to allow competitive economies of scale.
- The miscellaneous foodstuffs sector, which is limited to production of the most vulnerable food products such as yoghurt (subheading 0403 10), eggs (subheading 0407 00 90), coffee substitutes (subheading 0901 90 90), boiled sweets (subheading 1704 90 71), pasta (heading No 1902) and ice cream (heading No 2105), is composed of a number of small firms engaged in labour-intensive activities, notably the packaging of local agricultural produce. The Spanish authorities estimate that disappearance of the APIM would result in a drop in output of around 8% and a loss of 939 jobs (out of a total of 11 199). The upstream sectors which depend on processing by this sector would also be affected and could lose at least as many jobs.

7. The Commission acknowledges, in the light of the above findings, that elimination of the APIM as provided for by Regulation (EEC) No 1911/91 could have adverse effects on the Canary Islands economy, contrary to the aims of that instrument, which are to integrate the region gradually into the Community and to overcome the economic disadvantages due to its situation. It should also be borne in mind, on the other hand, that Regulation (EEC) No 1911/91 provides for the elimination of the APIM. Any measure derogating from the principles laid down in the Regulation must therefore form part of the process of integrating the Canary Islands into the Community and can be aimed only at mitigating the effects of the economic adjustments that will have to take place, without jeopardising the ultimate objective of doing away with the APIM altogether and applying the Common Customs Tariff.

8. Accordingly, this proposal, which is confined to suspending until 30 June 2000 the phasing-out of the APIM for a very small number of sensitive products, will provide an initial response to the difficulties encountered by businesses in the Canary Islands. Nevertheless, since the APIM is to disappear on 31 December 2000, the Commission will have to examine before that date the impact of phasing out the tax on the sectors concerned, and more particularly on the products covered by this measure. In the light of the findings of that study, which will be conducted in cooperation with the Spanish authorities, it will, if necessary, present to the Council a proposal for maintaining special measures in favour of the sectors concerned so as to achieve the objective of eliminating the tax without jeopardising the existence of certain local production activities that are particularly vulnerable.
9. The Commission also wishes to stress that the proposed measure will have very limited consequences as regards distortion of competition since it will apply to only some 10% (in value terms) of total imports into the Canary Islands and will be confined to goods for which the maintenance of local production in the region is desirable.

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COUNCIL REGULATION (EC)

**amending Regulation (EEC) No 1911/91 on the application of the provisions of
Community law to the Canary Islands**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular the first paragraph of Article 25(4) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

- (1) Whereas, by virtue of Article 25 of the Act of Accession of Spain and Portugal, the Treaties and the acts of the institutions of the Communities apply to the Canary Islands, subject to the derogations set out in that Article and in Protocol 2 to that Act;
- (2) Whereas, on account of their geographical situation, the Canary Islands are faced with special difficulties due in particular to their remoteness, their island status, their volcanic terrain unpropitious to the development of agricultural and industrial production and their lack of natural resources; whereas the Council has accordingly adopted a number of measures to integrate the region more fully into the Community and the customs union in particular;

¹ OJC
² OJC
³ OJC

- (3) Whereas, in this context, existing indirect taxation arrangements intended in particular to compensate for the region's island status and geographical isolation needed gradual reform and modernisation in accordance with Community legislation; whereas, to that end and among other measures adopted, Council Regulation (EEC) No 1911/91⁴, as amended by Regulation (EEC) No 284/92⁵, allowed a new tax on production and imports (the 'arbitrio sobre la producción y sobre las importaciones' - APIM) to be applied in the Canary Islands until 31 December 2000;
- (4) Whereas this temporary tax is intended to enable local production to adjust to the requirements of the single market through a system of exemptions; whereas certain total or partial exemptions from the tax are accordingly granted in respect of locally produced goods, according to economic needs and on condition that such exemptions contribute to the promotion of local activities without being liable to affect trading conditions to an extent contrary to the common interest;
- (5) Whereas, pursuant to Article 5(6) of Regulation (EEC) No 1911/91, the Commission has examined the impact of the measures taken in the context of the APIM on the economy of the Canary Islands and the prospects for integration of the region into the Community's customs territory; whereas that examination has found that the impact of eliminating the APIM is broadly positive as regards prices and negative as far as output and employment are concerned;
- (6) Whereas the negative impact on output and employment nevertheless varies greatly according to the sector concerned; whereas, although the time that has elapsed has allowed most sectors to adjust, this is not the case for certain products in sensitive sectors; whereas the Commission has, at the request of the Spanish authorities, accordingly studied the most vulnerable sectors and identified the sensitive products, and has concluded that such vulnerability could in some cases lead to the virtual disappearance of the sector concerned;
- (7) Whereas, after consultation with the Spanish authorities, it has become clear that the phasing-out of the tax should be suspended until 30 June 2000 in the case of certain sensitive products, in order to facilitate their adjustment to market conditions before the tax disappears; whereas this suspension does not call into question the objectives of introducing the Common Customs Tariff and eliminating the APIM, but is confined solely to mitigating the effects of the economic adjustments which are necessary in order to arrive at abolition of the tax;

⁴ OJ L 171, 29.6.1991, p. 1.

⁵ OJ L 31, 7.2.1992, p. 6.

- (8) Whereas Regulation (EEC) No 1911/91 should therefore be amended accordingly;
- (9) Whereas the APIM should disappear on 31 December 2000; whereas, before that date, the Commission will nevertheless examine with the Spanish authorities the impact of suspending the phasing-out of the tax on the economic sectors concerned, and more particularly on the products covered by this Regulation; whereas, in the light of the conclusions of that examination, the Commission will, if necessary, present to the Council a proposal concerning the measures to be taken under the Treaty to avoid jeopardising the existence of certain local production activities that are particularly vulnerable, whilst still ultimately achieving the objective of eliminating the tax,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1911/91 is hereby amended as follows:

1. The following subparagraph is added to Article 5(2):

"By way of derogation from the provisions of the preceding paragraph, the reduction in the rates of the tax shall be suspended from 1 January 1999 until 30 June 2000 in the case of the products listed in the Annex to this Regulation."

2. An Annex as shown in the Annex hereto is added.

Article 2

This Regulation shall enter into force on the twentieth day following that of 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,

For the Council
The President

"ANNEX

**List of products, referred to in the second subparagraph of Article 5(2),
classified according to the nomenclature of the Common Customs Tariff (CCT)**

Miscellaneous foodstuffs: 0403 10, 0407 00 90, 0701 90, 0702, 0703, 0803, 0901 21, 0901 90 90, 1101, 1601, 1602, 1704 90 71, 1806 (except 1806 20 95), 1901 90 99, 1902, 1904 10 10, 1905 10 00, 1905 20, 1905 30, 1905 40, 1905 90, 2002 10 90, 2002 90 91, 2007 91 10, 2007 99 39, 2008 99 61, 2008 99 68, 2101, 2103, 2105, 2106 90 98, 2309.

Tobacco: 2402 10 00, 2402 20.

Chemicals: 2804 30 00, 2804 40 00, 2851 00 30, 3208, 3209, 3213, 3401, 3402 (except 3402 11 00, 3402 12 00 and 3402 13 00), 3809 91 00.

Paper: 4808, 4818 10, 4818 20, 4818 30, 4818 40, 4819, 4821, 4823 59 10, 4909, 4910, 4911, 5601 22 10, 5601 22 99.

Textiles: 6112 31, 6112 41, 6213, 6302, 6303.

Metalworking industries I: 7308, 7309 00 (except 7309 00 90), 7317, 7325, 7604, 7608, 7610, 9406 00 31.

Other manufactured goods: 3923 10 00, 3923 21 00, 3923 30 10, 3924 10 00, 4012 10, 4418, 4601, 4602, 6802, 7010, 8544 59 10, 9401, 9403, 9404."

FINANCIAL STATEMENT

This proposal will not have any consequences for the Community's own resources.

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