



**COMMISSION OF THE EUROPEAN COMMUNITIES**

**Brussels, 06.11.1995  
COM(95) 524 final**

**Proposal for a**

**COUNCIL REGULATION (EC)**

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

**(presented by the Commission)**



## EXPLANATORY MEMORANDUM

1. In a letter from its Permanent Representative's Office dated 7 February 1994, the Portuguese government requested a reduction in the customs duties levied on raw materials released for free circulation in Madeira for processing in the free zone.

Among the arguments marshalled in support of its request, the Portuguese government underlined the economic and social situation of the archipelago: it believes that a diversification of production could help boost Madeira's industrial development.

2. By Decision 91/315/EEC of 26 June 1991, the Council set up a programme of options specific to Madeira and the Azores (POSEIMA). Two of this programme's measures are customs measures. The first, of general scope, provides that processing activities in the free zones of the outermost regions are not subject to the economic conditions attached to the inward processing procedure. The second is the temporary suspension of customs duties levied on capital goods for the free zones of Madeira and the Azores.

3. The Commission departments have studied Portugal's request in respect of the Azores as well as Madeira since the two archipelagos have similar social and economic features.

They found that POSEIMA's objectives had not been fully achieved and that supplementary Community action would be desirable. Of these objectives, procurement of raw materials is one of the most important in that it is a prerequisite for any diversification and upgrading of local production. There are many obstacles to supplies at present, one of them being the remoteness of the archipelagos.

For these reasons Portugal's request should be acceded to, and a measure adopted to give favourable tariff treatment for the raw materials referred to above.

4. The draft Regulation merely creates a general framework for according favourable tariff treatment. The actual rules are those laid down by the Customs Code and its implementing provisions, in particular the provisions concerning release for free circulation of goods accorded favourable tariff treatment by reason of their end use.

The draft Regulation also authorizes the Commission to examine requests presented by the Portuguese authorities and to establish lists of goods eligible for favourable tariff treatment and the tariff reductions applicable to the goods in question. Other implementing provisions will also be adopted by the Commission, which will be assisted by the Customs Code Committee, working according to its rules of procedures, and by the management committees.

This is the purpose of the attached proposal.

**Attached:** Proposal for a Council Regulation.

Proposal for a Council Regulation (EC) No /95  
of

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<sup>1</sup>,

Whereas Council Decision 91/315/EEC set up a programme of options specific to Madeira and the Azores (POSEIMA)<sup>2</sup>; 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 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 POSEIMA in 1992-93, 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, measure 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 GNP being less than half the Community average and their trade balance 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 cannot be surmounted without diversifying and upgrading production;

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2 OJ L 171, 29.6.1991, p. 10.

Whereas supplying the archipelagos with raw materials is likely to stimulate sustainable processing activities and so satisfy requirements; whereas, in order to facilitate the marketing of the products of such processing activities, provision should be made for favourable tariff treatment of imports into Madeira and the Azores of 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 with entitlement 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 appropriate for determining the amount of processing required; whereas they lay down that goods may not be consumed or used in free zones;

Whereas favourable tariff treatment will be granted on a temporary basis 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 ten 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 Commission, assisted by the Committee referred to in Article 247 of Regulation (EEC) No 2913/92 of 12 October 1992<sup>3</sup>, 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 Council Regulation (EEC) No 2913/92 and by Articles 35 to 46 of Commission Regulation (EEC) No 2454/93;<sup>4</sup>
  - the processing is wholly carried out in the geographical confines of the free zones of Madeira and the Azores.
2. Excluded from the field of application of this ruling are the agricultural products in the sense of Article 38 of the Treaty and the products not contained in Annex II obtained from agricultural products or those that incorporate such products. 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 Council decision n° 91/315/CEE instituting the POSEIMA programme.

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<sup>3</sup> OJ L 302, 19.10.1992, p. 1.

<sup>4</sup> OJ L 253, 11.10.1993, p. 1.

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 application of such tariff treatment shall be accorded only to persons established in the Community.

#### *Article 2*

The list of goods eligible 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.

#### *Article 3*

1. The Commission shall be assisted by the Customs Code Committee set up under Article 247 of Regulation (EEC) No 2913/92.
2. The representative of the Commission shall submit to the Committee a draft of the measure to be adopted. 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. In the case of decisions that the Council is required to adopt on a proposal from the Commission, the opinion shall be delivered by a majority of votes, in accordance with Article 148 (2) of the Treaty. The votes of representatives of the Member States on 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 adopted for three months from the date of notification.

The Council, acting by a qualified majority, may take a different decision within the period laid down above.

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 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 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 shall be reimposed in full or in part on the products in question, in accordance with the procedure provided for in the second paragraph of Article 3. 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 necessary, present suitable proposals to the Council for the remaining period.

*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.

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

**Done at Brussels,**

**For the Council  
The President**

## FINANCIAL STATEMENT

1. Budget heading concerned: Chapter 12, Article 120
2. Legal basis: Article 28 of the Treaty
3. Title of the measure: Proposal for a Council Regulation establishing favourable tariff treatment for imports of certain goods into the free zones of Madeira and the Azores by reason of their end use
4. Objective: Ensure favourable conditions for the procurement of a number of raw materials for release for free circulation in the free zones of Madeira and the Azores for the purpose of processing them there
5. Method of calculation

CN codes: 3921.90; 3923.21; 3926.20  
4805.60; 4811.29; 4821.90  
5208.31; 5209.31; 5209.39; 5407.52; 5408.31  
9006.90; 9617.19

Duties to be levied: exempt

CCT duties: various

6. The 1993 data on inward processing operations in the Madeira free zone by enterprises working suggest an annual loss of revenue of ECU 42 415. Note that the arrangements provide for the exemption of such goods from customs duties.



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# DOCUMENTS

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