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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1911/91**of 26 June 1991****on the application of the provisions of Community law to the Canary Islands**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

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

Having regard to the amended proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, by virtue of Article 25 of the Act of Accession, the Treaties and the acts of the institutions of the European Communities apply to the Canary Islands, subject to the derogations set out in that Article, in Article 155 and in Protocol 2 to the said Act;

Whereas these arrangements exclude the Canary Islands in particular from the Community's customs territory and from application of the common commercial policy, the common agricultural policy and the common fisheries policy; whereas experience has however shown that the development of the Canary Islands would be better served by their full integration into the common policies and the process of completing the internal market; whereas the arrangements laid down in the Act of Accession should therefore be amended and the Canary Islands integrated into the Community's customs territory;

Whereas, pursuant to the first subparagraph of Article 25 (4) of the Act of Accession, the Council, at Spain's request, acting on a proposal from the Commission and after consulting the European Parliament, may decide unanimously to include the Canary Islands in the

customs territory of the Community and to define the appropriate measures aimed at extending to the Canary Islands the provisions of Community law in force; whereas Spain made such a request on 7 March 1990 pursuant to the aforementioned Article;

Whereas integration of the Canary Islands into all Community policies requires a gradual process over an appropriate transitional period, without prejudice to any special measures designed to take account of the specific constraints deriving from the remoteness of the Canary Islands, their island location and their historical economic and tax arrangements; whereas such measures will have to be the subject of a special programme of options specific to the remote and insular nature of the Canary Islands, to be adopted pursuant to this Regulation;

Whereas application of the common agricultural policy to the Canary Islands will make possible the free movement of products on the conditions applicable to mainland Spain (end of the transitional period: 31 December 1995) with the exception of the supplementary trade mechanisms as regards the supplying of the Canary Islands; whereas, in this framework, the free movement of products between the Canary Islands and the rest of Spain will be ensured; whereas full application of the common agricultural policy is subject to the entry into force of specific supply arrangements; whereas the application of this policy will have to be accompanied in addition by specific measures relating to the agricultural production of the Canary Islands; whereas it is therefore necessary to maintain the provisions of the Act of Accession relating to the application of the common agricultural policy to the Canary Islands until the entry into force of such supply arrangements with the exception of those governing the access of agricultural products originating in the Canary Islands to the other parts of the Community; whereas the provisions of Protocol 2 relating to bananas must remain in force;

Whereas it is necessary to apply the common fisheries policy to the Canary Islands on the entry into force of this Regulation on the conditions applicable to mainland

⁽¹⁾ OJ No C 67, 15. 3. 1991, p. 8.

⁽²⁾ OJ No C 158, 17. 6. 1991.

⁽³⁾ Opinion delivered on 30 May 1991 (not yet published in the Official Journal).

Spain (end of the transitional period : 31 December 1995), subject to specific measures to be determined under existing legislation ;

Whereas historical recognition of the Canaries' island status has been reflected in successive special economic and tax arrangements designed to compensate for the disadvantages deriving from the archipelago's geographical isolation ;

Whereas, in this context, the strengthening of the Canary Islands' integration into the Community is not incompatible with the maintenance of indirect taxation specific to these islands, especially the exclusion of the Canary Islands from the territorial field of application of the common VAT system pursuant to Article 26 in conjunction with Annex I, V, 2 to the Act of Accession, amending Article 3 (2) of the Sixth Directive 77/388/EEC (1) and the continuing exclusion of the Canary Islands from the territorial field of application of the Directives concerning manufactured tobacco pursuant to Article 26 in conjunction with Annex I, V, 3 and 4 to the Act of Accession ;

Whereas the Community takes favourable note of the aims of the reform initiated by Spain in respect of the tax aspects of the economic and tax arrangements for the Canary Islands ; whereas this reform provides for the gradual introduction of up-to-date indirect taxation as an instrument of economic and social development and the financing of local budgets, creating the conditions for total integration into the Community at the end of a transitional period not exceeding 10 years ;

Whereas, until 31 December 2000 at the latest, in two five-year stages as part of a dynamic process in conjunction with the gradual entry of the Canary Islands into the customs union, it is desirable to authorize a number of total or partial exemptions for local products from application of the new so-called 'arbitrio sur la production et sur les importations (APIM)' (tax on production and imports) tax, provided that these exemptions contribute to promotion of local activities ; whereas, however, application of this charge should be suspended for products coming under the common agricultural policy until the application of that policy, it being understood that, when these products are imported from non-member countries, the provisions in force in the Canary Islands in respect of trade with such countries shall be maintained until the same date ;

Whereas the dismantling of this charge will have to be accompanied by the gradual adoption of the common customs tariff as from the entry into force of this Regulation and for the same transitional period, so as to ensure

the complete integration of the Canary Islands into the customs union by 31 December 2000 ;

Whereas, however, as regards products coming under the common agricultural policy, application of the Common Customs Tariff and other import duties is dependent on the entry into force of the specific measures to supply the Canary Islands with essential agricultural products ; whereas at all events the gradual application of the Common Customs Tariff to the Canary Islands may be accompanied, where appropriate, by specific tariff measures or derogations from the common commercial policy for certain sensitive products ; whereas such measures may also be taken in respect of the arrangements applicable to free zones ;

Whereas the charge known as the 'arbitrio insular — tarifa especial' applicable to products supplied by other parts of the Community on the terms set out in Article 6 (3) of Protocol 2 shall not be extended beyond 31 December 1992 except as applied on a case-by-case basis, until 31 December 2000 at the latest, to be decided upon by the Council ; whereas the levying of this charge on products imported into the Canary Islands from non-Community countries will have to be phased out from 1 January 1996 so that it is completely eliminated by 31 December 2000, without prejudice to obligations under existing arrangements ;

Whereas provision should be made for the possibility of applying safeguard measures until 31 December 1999 at the latest,

HAS ADOPTED THIS REGULATION :

Article 1

The provisions of the Treaties and the acts of the institutions of the European Communities in respect of which the Act of Accession provided for derogations shall apply to the Canary Islands on the terms set out in this Regulation.

Article 2

1. On the entry into force of the specific arrangements referred to in paragraph 2, the common agricultural policy shall apply to the Canary Islands on the terms laid down for mainland Spain. However :

- the supplementary trade mechanism provided for in the Act of Accession shall not apply to the entry into the Canary Islands of the products in question,
- the rules in force for mainland Spain shall apply to products originating in the Canary Islands and sent to other parts of the Community upon entry into force of this Regulation.

(1) OJ No L 145, 13. 6. 1977, p. 1.

2. Application of the common agricultural policy shall be accompanied by specific supply arrangements.

3. Application of the common agricultural policy shall take account of the special features of Canary Islands production.

Article 3

The common fisheries policy shall apply to the Canary Islands on the terms laid down for mainland Spain, as from the entry into force of this Regulation. Application of the common fisheries policy shall be accompanied by specific measures designed to take account, where necessary, of the special features of Canary Islands production.

Article 4

1. Pursuant to Article 26 in conjunction with Annex I, V, 2 to the Act of Accession amending Article 3(2) of the Sixth Directive 77/388/EEC, the territory of the Canary Islands shall remain outside the field of application of the common VAT system.

2. Pursuant to Article 26 in conjunction with Annex I, V, 3 and 4 to the Act of Accession, Spain may refrain from applying the provisions of Directives 72/464/EEC⁽¹⁾ and 79/32/EEC⁽²⁾ to the Canary Islands.

Article 5

1. For a transitional period which shall not extend beyond 31 December 2000, the Spanish authorities are hereby authorized to impose a tax on production and imports (APIM) on all products entering or produced in the Canary Islands. However, in respect of products coming under the common agricultural policy this possibility may not be implemented until the entry into force of the specific supply arrangements referred to in Article 2(2).

2. By 31 December 1995, the rates for the tax shall be set in conformity with paragraph 3. As from 1 January 1996, these rates shall be reduced by 20 % each year so that the tax will disappear by the end of the period laid down in paragraph 1.

3. The rates applicable may vary depending on the category of product between 0,1 and 5 %; these rates may, however, rise to 15 % in the case of manufactured tobacco (CN codes 2402 10 00 and 2402 20 00). They may under no circumstances be increased by more than 15 % of the initial rate. This variation in rates must in no case

be such as to give rise to discrimination against products of Community origin.

4. During the transitional period referred to in paragraph 1, in view of the specific situation of the Canary Islands and the prospect of their full integration into the customs union, exemptions from the tax, partial or total, depending on economic requirements, may be authorized for local products up to 31 December 1995. Such exemptions must form part of the strategy for the economic and social development of the Canary Islands, taking account of the Community support framework, and help to promote local activities, though they must not be such as to change trading conditions to an extent contrary to the common interest.

5. The arrangements for exemptions adopted by the competent authorities pursuant to paragraph 4 shall be notified to the Commission, which shall inform the Member States thereof and have two months to assess their conformity with the aims defined in that paragraph. If the Commission has made no comment within that period, the arrangement shall be deemed to have been approved.

6. During 1995, the Commission, after consulting the Spanish authorities, shall examine the impact of the measures taken on the economy of the Canary Islands and the prospects for their integration into the Community's customs territory. On the basis of this examination, the Spanish authorities may be authorized, in accordance with the criteria in paragraph 4 and the procedure in paragraph 5, to maintain the exemptions in force, in whole or in part, until 31 December 2000 at the latest.

Article 6

1. For a transitional period, which shall not extend beyond 31 December 2000, the Common Customs Tariff (CCT) shall be progressively introduced in accordance with the following timetable;

— up to 31 December 1992, the rates of duty applicable shall be equal to 30 % of the CCT rates; from 1 January 1993, these rates shall be equal to 35 % of the CCT rates, and shall rise to 40 % of the CCT rates from 1 January 1994 and to 50 % thereof from 1 January 1995;

— from 1 January 1996 onwards, these rates shall be increased by 10 % per year so that the CCT shall apply in full to the Canary Islands at the end of the transitional period.

2. However, application of the CCT and other import duties applicable under the common agricultural policy shall be suspended until the entry into force of the specific supply arrangements referred to in Article 2(2).

⁽¹⁾ OJ No L 303, 31. 12. 1972, p. 1.

⁽²⁾ OJ No L 10, 16. 1. 1979, p. 8.

3. Application of the CCT to the Canary Islands shall be without prejudice to any specific tariff measures or derogations from the common commercial policy, should the need arise, in respect of certain sensitive products. Customs measures may also be taken in respect of the arrangements applicable to free zones.

4. The charge known as the 'arbitrio insular — tarifa especial' of the Canary Islands shall be applied to products supplied by other parts of the Community on the terms laid down in Article 6(3) of Protocol 2 to the Act of Accession, though it may not be continued beyond 31 December 1992. On a case-by-case basis, however, the Council may, at Spain's request and in accordance with the procedure referred to in Article 6(3) of Protocol 2, authorize the application of this charge to certain sensitive products until 31 December 2000 at the latest. Without prejudice to obligations arising out of existing agreements, the levying of this charge on imported products originating in non-Community countries shall be phased out from 1 January 1996 so as to be completely eliminated by 31 December 2000.

5. Where it is found that application of the first paragraph leads to a deflection of trade, the Commission may decide that the difference in import duties shall be levied on goods in free circulation in the Canary Islands when these are introduced into the other parts of the Community's customs territory.

Article 7

The common commercial policy shall apply to the Canary Islands on the terms laid down for Spain in the Act of Accession without prejudice to the specific measures referred to in Articles 2(2), 6(3) and 10(3) of this Regulation.

Article 8

The Commission shall adopt appropriate measures to prevent any speculative movement or deflection of trade

resulting from the amendment of the trade arrangements applicable to the Canary Islands.

Article 9

The Council, on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt a programme of options specific to the remote and insular nature of the Canary Islands. This programme shall include the specific measures referred to in Article 2(2) and (3), Article 3 and Article 6(3). This multi-sector programme of operations comprising legislative measures and financial commitments relating to the application of the common policies to reflect constraints specific to the Canary Islands, shall be given effect before 31 December 1992 by the adoption by the Council or the Commission, as the case may be, of the necessary legal acts, in accordance with the provisions of the Treaty.

Article 10

1. This Regulation shall enter into force on 1 July 1991.

2. The provisions of this Regulation concerning the application of the common agricultural policy shall apply from the entry into force of the specific supply arrangements provided for in Article 2(2). Those arrangements shall enter into force no later than 1 January 1992. However, the provisions of Protocol 2 to the Act of Accession on access for products originating in the Canary Islands to the rest of the Community shall expire on the entry into force of this Regulation, subject to paragraph 3.

3. The provisions of Protocol 2 to the Act of Accession relating to bananas shall continue to apply.

Article 11

The safeguard measures provided for in Article 379 of the Act of Accession shall apply, in the eventualities provided for in that Article, to any sector affected by the new arrangements integrating the Canary Islands into the Community, but only until 31 December 1999.

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

Done at Luxembourg, 26 June 1991.

For the Council

The President

R. STEICHEN