

Council Regulation (EU) No 1386/2011 of 19 December 2011
temporarily suspending autonomous Common Customs Tariff duties
on imports of certain industrial products into the Canary Islands

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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,

After transmission of the draft legislative act to the national Parliaments,

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) According to Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products and opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands⁽³⁾, the Common Customs Tariff duty suspension for certain capital goods for commercial or industrial use is to expire on 31 December 2011.
- (2) In September 2010, the government of Spain requested on behalf of the government of the Canary Islands, the prolongation of the suspension of the autonomous Common Customs Tariff duties for a number of products in accordance with Article 349 of the Treaty. The justification of their request was that in view of the remoteness of those islands, the economic operators suffer severe economic and commercial disadvantages which have negative effects on demographic trends, employment and social and economic developments.
- (3) The Canary Islands industrial sector, together with construction, has been severely affected by the recent economic crisis. The slump in building depressed all the auxiliary industry that depends on it. Unfavourable financial conditions had a serious impact on many areas of business. In addition, the sharp rise in unemployment in Spain aggravated the slump in domestic demand, including demand for industrial products.

Status: Point in time view as at 19/12/2011.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 1386/2011. (See end of Document for details)

- (4) Unemployment in the Canary Islands has been consistently exceeding the national average for Spain for the last 10 years and, since 2009, the Canary Islands have recorded the highest level throughout the country (Eurostat: Regional statistics — Unemployment rate, by NUTS 2 regions, 1999-2009). Moreover, more than half of the industrial production of the Canary Islands is consumed there, which is particularly serious since demand there has been hit harder.
- (5) Therefore, with the aim of giving a long-term perspective to investors and enabling economic operators to reach a level of industrial and commercial activities which stabilises the economic and social environment on the Canary Islands, it is appropriate to prolong in full the suspension of the Common Customs Tariff duties for certain goods as detailed in Annex II and Annex III to Regulation (EC) No 704/2002 for a period of 10 years.
- (6) In addition, in the same context the Spanish authorities have requested the suspension of the Common Customs Tariff duties for three new products falling within CN codes 3902 10, 3903 11 and 3906 10. This request was accepted as these suspensions would strengthen the economy of the Canary Islands.
- (7) In order to ensure that only economic operators located on the territory of the Canary Islands benefit from those 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 2913/92 establishing the Community Customs Code⁽⁵⁾.
- (8) In case of a deflection of trade and in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission allowing the Commission to temporarily withdraw the suspension. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers⁽⁶⁾.
- (9) Amendments to the Combined Nomenclature may not give rise to any substantive changes to the nature of the suspension of duties. The power to adopt acts in accordance with Article 290 of the Treaty should therefore be delegated to the Commission for the purpose of making necessary amendments and technical adaptations to the list of goods for which a suspension applies. The Commission, when preparing and drawing up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.
- (10) In order to ensure continuity with the measures set out in Regulation (EC) No 704/2002, it is necessary to apply the measures provided in this Regulation from 1 January 2012,

HAS ADOPTED THIS REGULATION:

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Article 1

From 1 January 2012 to 31 December 2021, the Common Customs Tariff duties applicable to imports into the Canary Islands of capital goods for commercial or industrial use falling under the CN codes listed in Annex I shall be suspended in full.

Those goods shall be used in accordance with the relevant provisions of Regulation (EEC) No 2913/92 and of 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 Canary Islands.

Article 2

From 1 January 2012 to 31 December 2021, the Common Customs Tariff duties applicable to imports into the Canary Islands of raw materials, parts and components falling under the CN codes listed in Annex II and used for industrial transformation or maintenance in the Canary Islands, shall be suspended in full.

Article 3

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 4

1 Where the Commission has reasons to believe that the suspensions laid down in this Regulation have led to a deflection of trade for a specific product, it may adopt implementing acts, temporarily withdrawing the suspension for a period not longer than 12 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8.

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 Canary Islands shall be conditional upon the provision of such guarantee.

2 When the Council decides, in accordance with the procedure laid down in the Treaty, within a 12-month period, that the suspension should definitively be withdrawn, the amounts of duties secured by guarantees shall be collected definitively.

3 If no definitive decision has been adopted within the 12-month period in accordance with paragraph 2, the securities shall be released.

Article 5

The Commission shall be empowered to adopt delegated acts in accordance with Article 6 concerning amendments and technical adaptations to Annexes I and II as are required as a consequence of amendments to the Combined Nomenclature.

Article 6

1 The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt the delegated acts referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time as from 1 January 2012.

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3 The delegation of power referred to in Article 5 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

5 A delegated act adopted pursuant to Article 5 shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object.

Article 7

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 8

1 The Commission shall be assisted by the Customs Code Committee, established by Article 247a(1) of Regulation (EEC) No 2913/92. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 9

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 January 2012.

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

Done at Brussels, 19 December 2011.

For the Council

The President

M. KOROLEC

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ANNEX I

Capital goods for commercial or industrial use falling within CN codes⁽⁷⁾

4011 20	8450 20	8522 90 80	9006 53 80
4011 30	8450 90	8523 21	9006 59
4011 61	8469 00 91		9007 10
4011 62	8472	8523 29 39	9007 20
4011 63		8523 29 90	9008 50
4011 69		8523 49 99	
4011 92		8523 51 99	
4011 93	8473	8523 59 99	
4011 94		8523 80 99	
4011 99	8501	8525 50	9010 10
5608		8525 80 11	9010 50
6403 40		8525 80 19	9011
6403 51 05		8526	
6403 59 05			
6403 91 05			
6403 99 05			9012
8415			
			9030 10
		8701	
			9030 31
			9030 33
		8702	9106
		8704 21 31	9107
8418 30 80		8704 21 39	9207
8418 40 80		8704 21 91	
8418 50		8704 21 99	9506 91 90
8418 61		8704 22	9507 10
8418 69		8704 23	9507 20 90
8418 91		8704 31 31	9507 30
8418 99		8704 31 39	
8427		8704 31 91	

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8431 20		8704 31 99	
8443 31			
		8704 32	
8443 32	8518 40 30	8704 90	
8443 39 10			
8443 39 39	8518 90	8705	
	8519 20	9006 10	
8450 11 90	8519 81 51		
8450 12	8521 10 95	9006 30	
8450 19	8522 90 49	9006 52	

ANNEX II

**Raw materials, parts and components used for agricultural purposes,
industrial transformation or maintenance falling within CN codes⁽⁸⁾**

3901		5501	
3902 10		5502	
3903 11		5503	8706
3904 10		5504	8707
3906 10		5505	8708
4407 21			8714
		5506	
4407 22		5507	
	5108	5508 10 10	
4407 25	5110	5508 20 10	
	5111	5509	
		5510	
4407 26		5512	
		5513	
		5514	9002 90
4407 29		5515	9006 91
		5516	9007 91
		6001	9007 92
		6002	9008 90

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	5112		9010 90
		6217 90	9104
4407 99		6305	9108
4410			9109
4412			
	5205		
	5208		9110
	5209		
	5210		
	5212	6309	
	5401 10 12	6406	
	5401 10 14	7601	9111
	5401 20 10		9112
	5402	8529 10 80	9114
	5403	8529 10 95	
	5404 11	8529 90	
	5404 90		
	5407		
	5408		

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- (1) Opinion of 15 November 2011 (not yet published in the Official Journal).
- (2) Opinion of 22 September 2011 (not yet published in the Official Journal).
- (3) [OJ L 111, 26.4.2002, p. 1.](#)
- (4) [OJ L 302, 19.10.1992, p. 1.](#)
- (5) [OJ L 253, 11.10.1993, p. 1.](#)
- (6) [OJ L 55, 28.2.2011, p. 13.](#)
- (7) As defined in Commission Implementing Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ([OJ L 282, 28.10.2011, p. 1.](#)).
- (8) As defined in Commission Implementing Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ([OJ L 282, 28.10.2011, p. 1.](#)).

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