AIEM tax applicable in the Canary Islands

2020/0163(CNS) - 04/08/2020 - Legislative proposal

PURPOSE: to establish the legal framework for the AIEM tax applicable in the Canary Islands from 1 January 2020 to 31 December 2027.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: Council Decision No 377/2014/EU authorises Spain, to apply exemptions from or reductions in the 'Arbitrio sobre Importaciones y Entregas de Mercancías en las Islas Canarias' ('AIEM') to certain products produced locally in the Canary Islands until 31 December 2020. The Annex to that Decision contains a list of products to which tax exemptions and reductions may be applied.

The rationale of the AIEM special regime is to support local products by reducing the competitiveness gap of local products against goods produced outside the islands caused by additional production costs as a result of the permanent constraints affecting the Canary Islands.

On 24 April 2019, Spain submitted a request to the Commission to extend the period of application of Decision No 377/2014/EU. Based on that study, the Commission considers that it is justified to grant the requested extension, with some amendments to the existing regime.

CONTENT: the proposal concerns a Council Decision to replace the current Council Decision No 377 /2014/EU. It authorises the Spanish authorities to provide, until 31 December 2027 and in respect of products falling within the categories listed in Annex I of the Decision and manufactured locally in the Canary Islands, total exemptions or partial reductions of the tax known as AIEM. These exemptions must form part of the economic and social development strategy of the Canary Islands and must contribute to the promotion of local activities.

Revision of criteria for the identification of eligible products

The proposed Decision indicates only the eligible product categories (CN4), while specific products (CN8 or higher) are detailed by national authorities in their legal and administrative frameworks. The Spanish authorities have requested that 99 product categories of the Harmonized System (HS) Headings, according to the four digits of the Combined Nomenclature, should benefit from this measure. The Commission agrees with the list in Annex I as these products categories comply with the eligibility criteria.

The products are selected based on the following criteria:

- that local production exists and its share of the local market accounts for no less than 5%;

- that significant importation of goods (including from mainland Spain and other Member States) exists that could jeopardise the continuation of local production, and its share of the local market accounts for at least 10%;

- that additional costs exist which increase the cost price of local production in comparison with products produced elsewhere, compromising the competitiveness of products produced locally.

The market share thresholds can be derogated from in duly justified circumstances, which include: (i) labour-intensive production; (ii) production otherwise strategic for local development; (iii) production subject to periodical fluctuations; (iv) production located in particularly disadvantaged areas; (v) production of medical products and personal protective equipment required to address health crises.

Revision of the mechanisms to establish the maximum permitted differential

The revised regime intends to simplify the arrangements regarding the establishment of tax differential, replacing the current four different product lists with only one list. The maximum differential rate, which may be applied to the industrial products in question, is 15 %. In keeping with the principle of subsidiarity, the Spanish authorities shall decide upon the appropriate percentage for each product. The authorised tax differential shall not exceed the proven additional costs. Nevertheless, this fiscal advantage shall apply subject to a limit of EUR 150 million per annum, save in duly justifiable cases.

Monitoring and evaluation

No later than 1 January 2021, the Spanish authorities shall communicate to the Commission the initial list of products to which exemptions or reductions apply.

In order to enable the Commission to assess whether the conditions justifying the authorisation continue to be fulfilled, Spain shall submit a follow-up report to the Commission by 30 September 2025 at the latest.

This report shall include the following elements: (i) information on additional costs involved in the production; (ii) economic distortions and market impacts; (iii) information to assess effectiveness, efficiency and coherence with other EU policies; (iv) information on the continued relevance and EU added value of the legislation.