Dock dues scheme in the French outermost regions

2021/0051(CNS) - 03/03/2021 - Legislative proposal

PURPOSE: to establish the legal framework for dock dues applicable after 30 June 2021.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the dock dues tax is an indirect tax in force only in the French outermost regions of Martinique, Guadeloupe, French Guiana, Réunion and Mayotte.

EU law does not generally allow for different taxation of local products and products imported from mainland France or other Member States. However, Article 349 TFEU envisages the possibility of introducing specific measures to take account of the permanent constraints of the outermost regions, in particular as regards taxation.

Council Decision No 940/2014/EU thus authorises France to apply, until 31 December 2020, exemptions or reductions to dock dues in respect of certain products for which local production exists, significant importations of goods could jeopardise the continuation of local production and additional costs increase the cost price of local production in comparison with products produced elsewhere.

The difference between the taxation of locally produced products and that of other products may not exceed 10, 20 or 30 percentage points, depending on the product.

On 1 March 2019, the French authorities asked the Commission to extend the dock dues scheme beyond 31 December 2020. On the basis of an external study assessing the current arrangements, the Commission considers it justified to grant the requested extension, subject to some changes to the existing arrangements.

CONTENT: the proposal establishes the legal framework for dock dues applicable after 30 June 2021 by:

- establishing for the period from 1 January 2022 to 31 December 2027 new derogation arrangements, with a revision of the current provisions aimed at making the scheme more flexible and transparent;

- extending Decision No 940/2014/EU for six months, until 31 December 2021, to give France time to transpose the new arrangements applicable between 1 January 2022 and 31 December 2027 into its national law.

The proposed changes to the current scheme are as follows:

Identification of criteria for the selection of products eligible for a tax differential

Where local production has a market share of less than 5% or where its market share is greater than 90%, additional justification has been requested as proof of all or some of the following circumstances:

- labour-intensive production;

- new or complementary production designed to diversify a company’s product range;

- production that is strategic for local development (e.g. in areas relating to circular-economy sectors such as wood processing, or harnessing biodiversity or environmental protection);

- innovative or high-added-value production;

- production for which the disruption of supply from elsewhere could jeopardise the local economy or population, such as building materials or foodstuffs;

- production which can only exist if it is dominant on the market as a result of the small size of the markets in the outermost regions;

- production of medical products and personal protective equipment required to tackle public health crises.

Maximum rate of differentiation

The proposal introduces only two differential ceilings of 20% and 30% are introduced in place of the current three. Nevertheless, the authorised tax differential should not exceed the proven additional costs.

Threshold for liability

The threshold for liability for dock dues is raised to EUR 550 000. Under the proposed arrangements, operators whose annual turnover is below that threshold would not be subject to dock dues. However, they would not be able to deduct the amount of this tax borne upstream. The purpose is to exempt production by small enterprises, to reduce their administrative burden and to support their growth.

Report

France should submit an evaluation report to the Commission by 30 September 2025 at the latest, enabling it to determine whether the grounds for applying the tax arrangements still apply.

Products covered

Most of the products listed in the Annex are the same as those in the Annex to Council Decision No 940 /2014/EU. However, a complete overhaul of the lists has resulted in the removal of numerous products for which a tax differential was no longer justified. By contrast, some products not included in Decision No 940/2014/EU for which production has started or developed have been added.

Lastly, some products have been kept on the lists but the authorised tax differential has been modified upwards or downwards to take account of changes in the additional costs.