

National Assembly of Portugal

Mr José Manuel Durão Barroso

President of the European Commission

Brussels

Subject: Process of parliamentary scrutiny of European initiatives

Opinion – COM (2010) 73

Opinion – COM (2010) 552

Dear Mr Barroso,

Please find attached the opinions drawn up by the Portuguese Assembly's European Affairs Committee, and the report drawn up by the relevant parliamentary committee, namely the Committee for Economic Affairs, Innovation and Energy, as part of the process of parliamentary scrutiny of European initiatives, concerning:

- COM (2010) (73) – Draft Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters;

- COM (2010) 552 – Proposal for a Regulation of the European Parliament and of the Council introducing emergency autonomous trade preferences for Pakistan.

We would also inform you that this concludes the process of scrutiny of the abovementioned initiatives by the Portuguese Assembly.

The documents in question were also today sent to the President of the European Parliament and the President of the Council of the European Union.

Yours sincerely,

JAIME GAMA, PRESIDENT OF THE PORTUGUESE ASSEMBLY

[signature]

Lisbon, 23 December 2010

Reference

581/PAR/10/hr

PORTUGUESE ASSEMBLY

EUROPEAN AFFAIRS COMMITTEE

OPINION

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL INTRODUCING EMERGENCY AUTONOMOUS TRADE PREFERENCES FOR PAKISTAN

COM (2010) 552

Pursuant to Law No 43/2006 of 25 August 2006, on monitoring, evaluation and contribution of opinions by the Portuguese Assembly in the context of the construction of the European Union, the European Affairs Committee has drafted an opinion on the Proposal for a Regulation of the European Parliament and of the Council introducing emergency autonomous trade preferences for Pakistan.

1. Procedure

Pursuant to Article 7(1) of Law No 43/2006 of 25 August 2006, the initiative entitled "Proposal for a Regulation of the European Parliament and of the Council introducing emergency autonomous trade preferences for Pakistan" was submitted to the Committee for Economic Affairs, Innovation and Energy, and distributed, on 15 October, and that Committee subsequently drew up a report.

2. Background

Following the severe floods that have hit Pakistan, the European Commission, in this Draft Regulation, put forward a series of measures to contribute to that country's recovery and development. Those measures involve the unilateral suspension of duties on the import of certain products from Pakistan.

3. Subject matter

3.1 Grounds

1. The relationship between the European Union and the Islamic Republic of Pakistan builds on a 2004 agreement aimed at promoting and developing trade between them.
2. In July and August of this year, Pakistan was struck by "devastating floods", which affected some 20 million people across 20% of the country. It should be pointed out that the European Union has been at the forefront of the humanitarian aid efforts.
3. According to the Draft Regulation, "it will be important to use all available means to support Pakistan's recovery from this emergency and progress towards future development". With this in mind, the European Council has instructed ministers to agree on a package of trade measures to support the country.

3.2 Description

1. The purpose of this Draft Regulation is to afford Pakistan greater access to the European Union market in view of the floods that have devastated the country "while taking into account sensitivities of industries in the EU, as well as other WTO members, and in particular those of least developed countries." Against this backdrop, the European Council has proposed a rapid reduction in duties on most goods imported from Pakistan.
2. The main products proposed for liberalisation are textiles and clothing, as they account for some 60% of exports from Pakistan to the European Union, though agricultural and industrial products are also covered so as to enable Pakistan to diversify its exports.
3. In total, 75 dutiable products from Pakistan are included, which, for the EU, corresponds to some EUR 900 million in terms of imports, accounting for around 27% of the total value of the imported products.
4. Pakistan's entitlement to autonomous trade preferences is subject to compliance with the rules on the origin of products and those relating to administrative cooperation with the EU, in order to prevent any risk of fraud. Failure to comply may result in the suspension of those trade preferences.
5. The EU's decision to grant trade preferences to Pakistan violates the most-favoured nation (MFN) principle pursuant to Article I:1 of the GATT, as these preferences will not be granted to other WTO members, and is in breach of Article XIII on the non-discriminatory administration of quantitative restrictions. The EU will therefore have to request from the WTO a waiver from GATT Articles I and XIII. This request will have to be adopted by the WTO General Council in accordance with Article IX of the Agreement establishing the WTO.
6. Given the urgency of the situation in Pakistan, the Regulation should apply as of 1 January 2011, and remain in force until 31 December 2013, provided the WTO has approved the request [for a waiver].

3.3. Portugal's perspective

1. Portugal feels a deep sense of solidarity with the people of Pakistan following the recent floods that have devastated that country and argues that international aid measures must be implemented as a matter of urgency to minimise damage to the social infrastructure.
2. As regards the range of measures to contribute towards Pakistan's recovery and development, Portugal argued at the European Council's meeting of 16 September 2010 that the measures must apply exclusively to Pakistan and must be time limited.
3. It should further be noted that Portugal has a significant textiles sector in terms of exports, employment and wealth creation for the country, but that sector is currently having to contend with the increasing liberalisation of the international markets, which poses constant challenges.

4. Legal context

1. The Regulation under consideration was drawn up pursuant to Article 207(2) of the Treaty on the Functioning of the European Union.
2. For the purposes of defining the concept of originating products, certificates of origin and administrative cooperation procedures, 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 will apply.

5. Compliance with the subsidiarity principle

Not applicable to this initiative.

6. Compliance with the proportionality principle

Not applicable to this initiative.

7. Rapporteur's opinion

1. "Having regard to the decisions taken at the European Union Council's meeting of 16 September 2010, which mandated EU ministers to agree 'a comprehensive package of short, medium and longer-term measures' including 'a commitment to grant exclusively to Pakistan increased market access to the EU through the immediate and time-limited reduction of duties on key imports from Pakistan';

2. Recognising that, in that European Council Declaration, its members call on the European Commission 'to present its finalised proposal in October taking account of the industrial sensitivities in the EU';

3. Mindful that Portugal argued in the abovementioned European Council meeting that the measures must be applied 'exclusively to Pakistan' and must be 'time limited';

4. Taking account of the fact that Pakistan plays an important geopolitical role in its region;

5. Mindful that the recent floods have devastated the country, causing serious damage to social infrastructure, we feel a sense of solidarity with the people of Pakistan and believe that it is essential to implement international aid measures that actually reach the communities in need; yet we cannot accept the granting of such aid at the expense of a sector that, in Portugal too, is experiencing great difficulties. The proposal to reduce customs duties on textile products from Pakistan is not, in our view, an appropriate solution to the terrible problems afflicting that country.

6. The Portuguese textile and clothing industry is experiencing serious difficulties. Quite apart from the problems of the international markets, domestic consumption is in crisis and corporate financing is experiencing difficulties. Employment has been affected especially in those regions in which the textiles and clothing sector is strong and the initiative under consideration will increase the competition that Portuguese companies will have to contend with on the European markets.

7. The Portuguese textiles sector is mainly an exporting sector. It accounts for a major proportion – around 11% – of our goods exports. What Portugal needs are measures that increase exports, not measures of this nature that put such exports at risk."

8. Accordingly, we take the view that: "Portugal's position to be adopted at the General Affairs Council regarding the temporary exemption granted by the European Union to Pakistan following the European Council's decision, is that:

a) the measure should be applied exclusively to Pakistan;

- b) the abovementioned transitional period should be no longer than strictly necessary;
- c) the range of products covered by the exemption should be limited and rigorously enforced, so that its impact on Portuguese industry can be kept to a minimum, and should under no circumstances be subsequently extended;
- d) we would ask the European Commission carry out a study into the impact of the exemption in all Member States;
- e) a study should be carried out into the impact of the measure on Portuguese industry in socio-economic factors and employment terms;
- f) it should assess how this decision is being implemented and enforced by the European institutions responsible and keep the Portuguese National Assembly informed; its implementation should be duly monitored;
- g) steps should be taken to minimise the effects of the measure on Portugal's textiles industry, with compensation mechanisms put in place to enable companies in the sector to enter new markets, specifically: government monitoring of their corporate missions; promotion of companies in the textiles sector in official State publications; promotion of Portuguese brands, participation in trade fairs and other such events; publication of information in support of companies in the sector in their strategy of entering new markets," **(Extract from the Resolution approved unanimously by Plenary).**

8. Conclusions

1. The European Affairs Committee acknowledges the importance of humanitarian aid to Pakistan, yet cannot accept a proposal that will exacerbate the problems facing the textiles sector in Portugal.

2. Accordingly, the Committee considers that, in order to minimise the effects of the Regulation, the following proposals should be taken into account:

- a) the measures should be applied exclusively to Pakistan;
- b) the period of the proposed measures should be transitional and time limited;
- c) the range of products covered by the exemption should be limited and rigorously enforced and should under no circumstances be subsequently extended;
- d) the European Commission should be called on to carry out an impact study on the exemption in all Member States;

9. Opinion

The European Affairs Committee is of the opinion that the process of scrutiny, pursuant to Law No 43/2006 of 25 August, in relation to the abovementioned Regulation is hereby concluded.

São Bento Palace, 20 December 2010.

Author of the opinion
[signature]

António Gameiro

Chair of the Committee [signature]

Vitalino Canas

PORTUGUESE ASSEMBLY

Committee for Economic Affairs, Innovation and Energy

OPINION (to be submitted to the Parliamentary European Affairs Committee)

(Rapporteur: Mr Miguel Laranjeiro (Portuguese Socialist Party))

Committee for Economic Affairs, Innovation and Energy

Contents

1. Procedure
2. Background
3. Subject matter
 - 3.1. Grounds
 - 3.2. Description
 - 3.3. Portugal's perspective
4. Legal context
5. Compliance with the subsidiarity principle
6. Compliance with the proportionality principle
7. Rapporteur's opinion
8. Conclusions
9. Opinion

PORTUGUESE ASSEMBLY

Committee for Economic Affairs, Innovation and Energy

1. Procedure

Pursuant to Article 7(1) of Law No 43/2006 of 25 August 2006, the initiative entitled "Proposal for a Regulation of the European Parliament and of the Council introducing emergency autonomous trade preferences for Pakistan" was submitted to the Committee for Economic Affairs, Innovation and Energy, and distributed, on 15 October, and that Committee subsequently drew up a report.

2. Background

Following the severe floods that hit Pakistan, the European Commission, in this Draft Regulation, put forward a series of measures to contribute to that country's recovery and development. Those measures involve the unilateral suspension of duties on the import of certain products from Pakistan.

3. Subject matter

3.1 Grounds

1. The relationship between the European Union and the Islamic Republic of Pakistan builds on a 2004 agreement aimed at promoting and developing trade between them.
2. In July and August of this year, Pakistan was struck by "devastating floods", which affected some 20 million people across 20% of the country. It should be pointed out that the European Union has been at the forefront of humanitarian aid efforts.
3. According to the draft proposal, "it will be important to use all available means to support Pakistan's recovery from this emergency and progress towards future development". With this in mind, the European Council has instructed ministers to agree on a package of trade measures to support the country.

3.2 Description

1. The purpose of this Draft Regulation is to afford Pakistan greater access to the European Union market in view of the floods that have devastated the country "while taking into account sensitivities of industries in the EU, as well as other WTO members, and in particular those of least developed countries." Against this backdrop, the European Council has proposed a rapid reduction in duties on most goods imported from Pakistan.
2. The main products proposed for liberalisation are textiles and clothing, as they account for some 60% of exports from Pakistan to the European Union, though agricultural and industrial products are also covered so as to enable Pakistan to diversify its exports.
3. In total, 75 dutiable products from Pakistan are included, which, for the EU, corresponds to some EUR 900 million in terms of imports, accounting for around 27% of the total value of the imported products.

4. Pakistan's entitlement to autonomous trade preferences is subject to compliance with the rules on the origin of products and those relating to administrative cooperation with the EU, in order to prevent any risk of fraud. Failure to comply may result in the suspension of those trade preferences.

5. The EU's decision to grant trade preferences to Pakistan violates the most-favoured nation (MFN) principle pursuant to Article I:1 of the GATT, because such preferences would not be granted to other WTO members, and is in breach of Article XIII on the non-discriminatory administration of quantitative restrictions. The EU will therefore have to request from the WTO a waiver from GATT Articles I and XIII. This request will have to be adopted by the WTO General Council in accordance with Article IX of the Agreement establishing the WTO.

6. Given the urgency of the situation in Pakistan, the Regulation should apply as of 1 January 2011, and remain in force until 31 December 2013, provided the WTO has approved the request [for a waiver].

3.3. Portugal's perspective

1. Portugal feels a deep sense of solidarity with the people of Pakistan following the recent floods that have devastated that country and argues that international aid measures must be implemented as a matter of urgency to minimise damage to the social infrastructure.

2. As regards the range of measures to contribute towards Pakistan's recovery and development, Portugal argued at the European Council's meeting of 16 September 2010 that the measures must apply exclusively to Pakistan and must be time limited.

It should further be noted that Portugal has a significant textiles sector in terms of exports, employment and wealth creation for the country, but that sector is currently having to contend with the increasing liberalisation of the international markets, which poses constant challenges.

4. Legal context

1. The Regulation under consideration was drawn up pursuant to Article 207(2) of the Treaty on the Functioning of the European Union.

2. For the purposes of defining the concept of originating products, certificates of origin and administrative cooperation procedures, 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 will apply.

5. Compliance with the subsidiarity principle

Not applicable to this initiative.

6. Compliance with the proportionality principle

Not applicable to this initiative.

7. Rapporteur's opinion

1. The rapporteur refers in his opinion to the preamble to Draft Resolution No 292/XI/2a (PS, PSD, CDS-PP, BE and PCP), underwritten by various Members of the Committee for Economic Affairs, Innovation and Energy:
2. "Having regard to the decisions taken at the European Union Council's meeting of 16 September 2010, which mandated EU ministers to agree 'a comprehensive package of short, medium and longer-term measures' including 'a commitment to grant exclusively to Pakistan increased market access to the EU through the immediate and time-limited reduction of duties on key imports from Pakistan'.
3. Recognising that, in that European Council Declaration, its members call on the European Commission 'to present its finalised proposal in October taking account of the industrial sensitivities in the EU';
4. Mindful that Portugal argued in the abovementioned European Council meeting that the measures must be applied 'exclusively to Pakistan' and must be "time limited";
5. Taking account of the fact that Pakistan plays an important geopolitical role in its region;
6. Mindful that the recent floods have devastated the country, causing serious damage to social infrastructure, we feel a sense of solidarity with the people of Pakistan and take the view that it is essential to implement international aid arrangements that actually reach the affected communities;
7. The members of the Committee for Economic Affairs, Innovation and Energy underwriting this Draft Resolution cannot accept the granting of such aid at the expense of a sector that, in Portugal too, is experiencing great difficulties. The proposal to reduce customs duties on textile products from Pakistan is not, in our view, an appropriate solution to the terrible problems afflicting that country.
8. The Portuguese textile and clothing industry is experiencing serious difficulties. Quite apart from the problems of the international markets, domestic consumption is in crisis and corporate financing is experiencing difficulties. Employment has been affected especially in those regions in which the textiles and clothing sector is strong and the initiative before us will increase the competition that Portuguese companies will have to face on the European markets.
9. The Portuguese textiles sector is mainly an exporting sector. It accounts for a major proportion – around 11% – of our goods exports. What Portugal needs are measures that increase exports, not measures of this nature that put such exports at risk."

8. Conclusions

1. The Committee for Economic Affairs, Innovation and Eenergy acknowledges the importance of humanitarian aid to Pakistan yet cannot accept a proposal that will exacerbate the problems facing the textiles sector in Portugal.
2. Accordingly, the Committee is of the opinion that the Regulation under consideration should, in order to minimise its effects, take account of the following proposals:
 - a) the measures should be applied exclusively to Pakistan;

- b) the period of the proposed measures should be transitional and time limited;
- c) the range of products covered by the exemption should be limited and rigorously enforced and should under no circumstances be subsequently extended;
- d) we would ask the European Commission carry out a study into the impact of the exemption in all Member States;

9. Opinion

In the light of these conclusions as detailed in subparagraphs a), b), c) and d) above, the parliamentary Committee for Economic Affairs, Innovation and Energy hereby submits this report to the European Affairs Committee pursuant to Law No 43/2006 of 25 August 2006.

São Bento Palace, 30 November 2010.

Assistant Rapporteur

[signature]

Miguel Laranjeiro

Chair of the Committee [signature]

António José Seguro