REGULATION (EEC) No 3195/75 OF THE COMMISSION

of 2 December 1975

laying down provisions for the implementation of Council Regulation (EEC) No 1798/75 on the importation free of Common Customs Tariff duties of educational, scientific or cultural materials

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation (EEC) No 1798/75 [1] of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific or cultural materials, and in particular Article 9 (1) thereof;

Whereas the importation free of Common Customs Tariff duties of educational, scientific or cultural materials pursuant to Article 2 (1), Article 3 (1) and (2) and Article 5 of Regulation (EEC) No 1798/75 must be subject to the completion of certain administrative formalities enabling the competent authorities to check that the goods in question properly satisfy the conditions laid down in that Regulation, and that they will in fact be used for the purposes for which duty free admission is granted;

Whereas, when the competent authority in a Member State is unable, with the information at its disposal, to assess whether there is currently manufactured in the Community an instrument or apparatus of a scientific value equivalent to that of the instrument or apparatus for which duty free admission has been requested, it is necessary to initiate a Community procedure in the form of consultation among experts from all the Member States to enable a decision to be taken on the matter; whereas the same procedure must also be followed whenever doubt arises as to the scientific nature of an instrument or apparatus in respect of which duty free admission has been requested;

Whereas, in order that the Commission and the Member States may be properly informed as to the nature, number and value of scientific instruments and apparatus imported duty free throughout the Community pursuant to Article 3 (1) and Article 5 of Regulation (EEC) No 1798/75, provision must be made for each Member State to forward to the Commission a list of scientific instruments and apparatus of a value exceeding 2 000 units of account for which duty free admission has been granted by the competent authority of that Member State during a specified period;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Committee on Duty Free Arrangements,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

The duty free arrangements for educational, scientific or cultural materials under the provisions of Article 2 (1), Article 3 (1) and (2) and Article 5 of Regulation (EEC) No 1798/75 shall be conditional on the production to the competent authorities of a statement signed by the head of the establishment or organization to which the goods are consigned, or by his authorized representative, certifying that such goods:

— will be dispatched directly to the declared destination;

— will be accounted for in the stock records of the establishment or organization to which they are consigned;

— will be used exclusively for non-commercial purposes under the control and responsibility of the person to whom they are consigned.

In addition, this statement must show that the signatory understands that the products imported:

— may be subjected to any verification which the competent authorities consider necessary, either at the time of importation or at a later date, in order to ensure that the conditions described above are satisfied, or remain satisfied;

— may not be lent out or transferred, whether for a consideration or free of charge, without the prior consent of the competent authorities.

[1] OJ No L 184, 15. 7. 1975, p. 1.

Article 2

Where the provisions of the first subparagraph of Article 6 (2) of Regulation (EEC) No 1798/75 are applied, the establishment or organization to which the goods are lent, hired or transferred shall furnish the competent authority with a declaration giving a full description of the educational, scientific or cultural materials concerned and including all the information specified in Article 1.

TITLE II

Special provisions relating to the duty free importation of scientific instruments or apparatus under Article 3 (1) of Regulation (EEC) No 1798/75

Article 3

1. In order to obtain duty free admission of scientific instruments or apparatus under the provisions of Article 3 (1) of Regulation (EEC) No 1798/75 the head of the establishment or organization, or his authorized representative, must submit an application to the competent authority of the Member State in which the establishment or organization is situated.

2. The application referred to in paragraph 1 must contain the following information relating to the instrument or apparatus in question :

(a) the commercial description of the instrument or apparatus and its presumed Common Customs Tariff classification ;

(b) the name or business name and address of the manufacturer and, where appropriate, of the supplier, and the country of origin of the instrument or apparatus ;

(c) the intended destination of the instrument or apparatus and the use to which it will be put ;

(d) the price of the instrument or apparatus, or, if known, its value for customs purposes ;

(e) the estimated delivery period ;

(f) if if the instrument or apparatus has already been ordered, the date of such order ;

(g) the name or business name and address of the Community firm or firms which have been approached with a view to the supply of an instrument or apparatus of a scientific value equivalent to that for which duty free admission is requested, the outcome of these approaches and where appropriate the reasons why an instrument or apparatus which is available in the Community would not be suitable for the particular research to be undertaken.

Documentary evidence providing all relevant information on the characteristics and technical specifications of the instrument or apparatus shall be furnished with the application.

Article 4

1. The competent authority of the Member State in which is situated the establishment or organization to which such articles are consigned shall give a direct decision on applications under Article 3 in all cases where the information at its disposal after any necessary consultation within the trade sources concerned, enables it to assess whether or not there exist instruments or apparatus of equivalent scientific value which are currently manufactured in the Community.

2. Where the competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned is unable to take a decision as provided in paragraph 1, the application, together with the relevant technical documents, shall be forwarded to the Commission in order to enable it to take action under the procedure prescribed in paragraphs 3 to 7 below. Such application shall be accompanied by a short explanation of the reasons why the competent authority has been unable to take a decision as to the granting or refusal of exemption.

While awaiting the outcome of action taken under that procedure, the competent authority may authorize the provisional duty free importation of the instrument or apparatus concerned, subject to an undertaking by the importing organization to make payment of the relevant customs duties should duty free admission not be granted.

The competent authority may require that such undertaking be supported by a guarantee on terms to be laid down by it.

3. Within 15 days of the date of receipt of the application, the Commission shall dispatch a copy to each of the other Member States.

4. If, on the expiry of a period of two months from the date of such dispatch no Member State has sent an unfavourable reply to the Commission concerning the duty free importation of the instrument or apparatus under consideration, the condition laid down in Article 3 (1) (b) of Regulation (EEC) No 1798/75 for duty free admission of such instrument or apparatus shall be deemed to be fulfilled. Notification of this circumstance shall be made by the Commission to the Member State concerned within 15 days following the expiry of the period as aforesaid.

5. If, within the period of two months laid down in paragraph 4, a Member State which considers that instruments or apparatus of equivalent scientific value are currently manufactured in the Community has sent to the Commission an unfavourable reply regarding the duty free importation of the instrument or apparatus under consideration, the Commission shall as soon as possible notify a group of experts composed of representatives of all Member States, who shall meet within the framework of the Committee on Duty Free Arrangements in order to examine the matter.

Where an unfavourable reply as referred to in the preceding subparagraph is given, reasons must be stated, and in particular it must include the name or business name and address of a Community firm which is able to supply instruments and apparatus of a scientific value equivalent to those for which duty free admission has been requested. Such reply shall be sent for information purposes to the experts at least 30 days before the meeting.

6. Where the examination undertaken by the Commission in accordance of paragraph 5 shows that instruments or apparatus of equivalent scientific value to that of the instrument or apparatus under consideration are currently manufactured in the Community, the Commission shall give a decision declaring that the condition specified in Article 3 (1) (b) of Regulation (EEC) No 1798/75 for duty free admission of the said instrument or apparatus is not fulfilled; in the reverse case, it shall give a decision declaring that such condition is fulfilled.

All Member States shall be notified within 15 days of the decisions of the Commission.

7. If, on the expiry of a period of six months from the date on which the application was forwarded to the Commission, the latter has not taken any decision under paragraph 6, the condition laid down in Article 3 (1) (b) of Regulation (EEC) No 1798/75 for duty free admission of the instrument or apparatus under consideration shall be deemed to be fulfilled.

Article 5

The provisions of paragraphs 2 to 7 of Article 4 shall apply, *mutatis mutandis,* in cases where the competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned is unable to determine whether or not the instrument or apparatus which is the subject of an application as referred to in Article 3 should be considered to be a scientific instrument or apparatus.

Article 6

Authorizations for duty free admission shall be valid for a period of six months.

The competent authorities may however set a longer period in the light of the particular circumstances of each case.

TITLE III

Special provisions relating to the duty free admission of scientific instruments or apparatus under Article 5 of Regulation (EEC) No 1798/75

Article 7

1. In order to obtain duty free admission of scientific instruments or apparatus under the provisions of Article 5 of Regulation (EEC) No 1798/75 the head of the establishment or organization concerned, or his authorized representative, must submit an application to the competent authority of the Member State in which the establishment or organization is situated.

2. Such application must contain the information specified in Article 3 (2) (a), (b) and (c) and must be accompanied by a document or documents giving all relevant information on the characteristics and technical specifications of the instrument or apparatus concerned.

It must also include:

(a) the name or business name and address of the donor;

(b) a statement of the reasons given by the donor for making the gift;

(c) a declaration by the signatory that the instruments or apparatus for which duty free admission is requested are in fact being offered to the establishment or organization concerned without a reciprocal concession of any kind, in particular without any publicity being involved.

Article 8

The competent authority of the Member State in which is situated the establishment or organization to which such articles are consigned shall give a direct decision on applications under Article 7.

The competent authority shall authorize duty free admission of the instruments or apparatus under consideration only if it has been established to its entire satisfaction that no commercial considerations whatsoever attach on the part of the donor to the gift to the establishment or organization to which the goods are consigned.

TITLE IV

Communication of information to the Commission and to the Member States

Article 9

1. Each Member State shall send to the Commission a list of the instruments or apparatus of which the price or the value for customs purposes as shown in applications under Article 3 (1) exceeds 2 000 units of account, and for which it has authorized duty free admission under Article 4 (1). This list shall contain the commercial descriptions of the instruments or apparatus in question, together with their Common Customs Tariff heading or subheading numbers as shown in the applications as aforesaid. The list shall also include details of the manufacturer or manufacturers of such instruments or apparatus and of their country or countries of origin.

2. The lists referred to in paragraph 1 shall be sent during the first and third quarters of each year and shall contain particulars of the instruments or apparatus covered by authorizations for duty free admission issued during the previous six months.

3. The Commission shall forward these lists to the other Member States.

Article 10

1. Each Member State shall also send to the Commission a list of the instruments or apparatus for which it has authorized duty free admission under Article 8 of this Regulation.

This list shall contain the commercial descriptions of the instruments or apparatus in question, together with their Common Customs Tariff heading or subheading numbers as shown in the application for duty free admission.

2. The lists referred to in paragraph 1 shall be sent during the first and third quarters of each year and shall contain particulars of the instruments or apparatus covered by authorizations for duty free admission issued during the previous six months.

3. The Commission shall forward these lists to the other Member States.

Article 11

The lists forwarded pursuant to Articles 9 and 10 shall be subject to periodic examination by the Committee on Duty Free Arrangements.

Article 12

This Regulation shall enter into force on 1 January 1976.

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

Done at Brussels, 2 December 1975.

For the Commission

Finn GUNDELACH

Member of the Commission