COUNCIL REGULATION (EEC) No 2780/78

of 27 November 1978

amending Regulation (EEC) No 950/68 as regards the preliminary provisions of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Section II (B) of the preliminary provisions of the Common Customs Tariff set out in the Annex to Council Regulation (EEC) No 950/68 of 28 June 1968 on the Common Customs Tariff (4), as last amended by Regulation (EEC) No 2500/77 (5), provides that customs duty shall be charged at the flat rate of 10 % *ad valorem* on goods sent in small consignments to private individuals, provided that such importations are not of a commercial nature; whereas Council Regulation (EEC) No 3539/73 of 18 December 1973 on the rate of import charges collected on small non-commercial consignments of agricultural products and goods coming under Regulation (EEC) No 1059/69 (6) provides that this flat rate charge shall be collected in place of the import charges as laid down within the framework of the common agricultural policy and of those provided for in relation to goods in Regulation (EEC) No 1059/69;

Whereas Article 5 of Council Regulation (EEC) No 1544/69 of 23 July 1969 on the tariff applicable to goods contained in travellers' personal luggage (7) also provides for the application, where the tariff exemptions referred to in Articles 1 and 2 of that Regulation are exhausted, of a standard *ad valorem* customs duty of 10 % on imports of goods contained in travellers' personal luggage in excess of the exemption limits set in Articles 1 and 2 thereof, where such imports have no commercial character; whereas Article 1 (2) of Council Regulation (EEC) No 1818/75 of 10 July 1975 on the agricultural levies, compensatory amounts and other import charges applicable to agricultural products and to certain goods resulting from their processing, contained in travellers' personal baggage (8) extended the application of the flat rate *ad valorem* customs duty of 10 % to cover goods contained in the personal baggage of travellers and liable to agricultural levies or other import charges provided for under the common agricultural policy, or under special arrangements laid down under Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products;

Whereas, in each case, the flat rate customs duty applies only to goods whose total value does not exceed a certain fixed sum expressed in units of account;

Whereas, with effect from 1 January 1979, all sums expressed in units of account in legal acts adopted in the customs sphere must be expressed in European units of account;

Whereas such an adjustment should not cause any reduction in the amounts expressed in national currencies which are at present eligible for the application of the standard *ad valorem* customs duty of 10 %;

Whereas, in the interests of consistency and clarity, all measures relating to the application of a flat rate customs duty to imports of a non-commercial nature should be consolidated in the preliminary provisions of the Common Customs Tariff,

HAS ADOPTED THIS REGULATION:

Article 1

Section II (B) of the preliminary provisions of the Common Customs Tariff set out in the Annex to Regulation (EEC) No 950/68 shall be replaced by the following:

(1) OJ No C 162, 8. 7. 1978, p. 7.
(2) OJ No C 261, 6. 11. 1978, p. 45.
(3) Opinion delivered on 19 October 1978 (not yet published in the Official Journal).
(4) OJ No L 172, 22. 7. 1968, p. 1.
(5) OJ No L 289, 14. 11. 1977, p. 1.
(6) OJ No L 361, 29. 12. 1973, p. 8.
(7) OJ No L 191, 5. 8. 1969, p. 1.
(8) OJ No L 185, 16. 7. 1975, p. 3.

'B. **Standard rate of duty**

1. Customs duty shall be charged at the flat rate of 10 % *ad valorem* on goods:

   — sent in small consignments to private individuals

   or

   — contained in travellers' personal luggage,

   provided that such importations are not of a commercial nature and that the total value of such goods does not exceed 100 European units of account per consignment or per traveller.

   Such flat rate assessment shall not apply to goods falling within Chapter 24.

2. An importation shall be treated as not being of a commercial nature if:

   — it is occasional;

   — it consists solely of goods for personal or family use by the consignee or, in the case of travellers, imported goods intended as gifts: such goods shall be of such kind or quality that there is no indication that they are being imported for any commercial purpose.

3. The flat rate charge shall apply independently of the duty-free admission granted in respect of goods contained in travellers' personal luggage, in accordance with Article 1 or 2 (1) of Regulation (EEC) No 1544/69.

4. The flat rate of customs duty shall not apply to goods imported under the conditions set out above if the person entitled has, before the said flat rate is applied to them, requested that they be subject to the customs duties appropriate to them. All the goods making up the consignment shall then be subject to the import duties which are appropriate to them, without prejudice to the duty-free admission under Article 1 or 2 (1) of Regulation (EEC) No 1544/69.

   For the purposes of the first subparagraph, import duties shall mean both customs duties and charges having equivalent effect and agricultural levies and other import charges provided for under the common agricultural policy or under specific arrangements laid down, under Article 235 of the Treaty, for certain goods resulting from the processing of agricultural products.

5. Member States may round off the amount in national currency resulting from the conversion of the sum of 100 European units of acccount.

6. Member States may maintain unchanged the equivalent in national currency of the sum of 100 European units of account if, at the time of the annual adjustment provided for in the first paragraph of Article 2 (2) of Council Regulation (EEC) No 2779/78, the conversion of this amount, before rounding off provided for in paragraph 5, results in a change of less than 5 % in the equivalent in national currency.'

Article 2

Articles 5 and 6 of Regulation (EEC) No 1544/69 and Article 1 (2) of Regulation (EEC) No 1818/75 together with Regulation (EEC) No 3539/73 are hereby repealed.

Article 3

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels, 27 November 1978.

For the Council

The President

H. EHRENBERG