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COMMISSION REGULATION (EEC) No 2289/83

of 29 July 1983

laying down provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No 918/83 establishing a Community system of duty-free arrangements

(OJ L 220, 11.8.1983, p. 15)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EEC) No 1746/85 of 26 June 1985	L 167	23	27.6.1985
►**M2**	Commission Regulation (EEC) No 3399/85 of 28 November 1985	L 322	10	3.12.1985

Amended by:

►**A1**	Act of Accession of Spain and Portugal	L 302	23	15.11.1985

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of 29 July 1983

laying down provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No 918/83 establishing a Community system of duty-free arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 918/83 of 28 March 1983 establishing a Community system of duty-free arrangements [1], and in particular Article 143 thereof,

Whereas Regulation (EEC) No 918/83 replaced, by Articles 70 to 78 thereof, Council Regulation (EEC) No 1028/79 of 8 May 1979 on the importation free of Common Customs Tariff duties of articles for the use of handicapped persons [2]; whereas it is therefore necessary to substitute for Commission Regulation (EEC) No 2783/79 of 12 December 1979 laying down provisions for the implementation of Regulation (EEC) No 1028/79 [3] a new Regulation laying down provisions for the implementation of Articles 70 to 78 of Regulation (EEC) No 918/83;

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:

Article 1

This Regulation lays down provisions for the implementation of Articles 70 to 78 of Regulation (EEC) No 918/83, hereinafter called 'basic Regulation'.

CHAPTER I

PROVISIONS APPLICABLE TO IMPORTATIONS CARRIED OUT BY INSTITUTIONS OR ORGANIZATIONS

TITLE I

GENERAL PROVISIONS

A. Obligations on the part of the institution or organization to which the articles are consigned

Article 2

1. The admission free of import duties of articles referred to in Articles 71, 72 (1) and (2) and 74 of the basic Regulation shall entail the following obligations on the part of the institution or organization to which they are consigned:

— to dispatch the articles in question directly to the declared place of destination,

— to account for them in its inventory,

— to use them exclusively for the purposes specified in the said Articles,

— to facilitate any verification which the competent authorities consider necessary in order to ensure that the conditions for granting admission free of import duties are satisfied, or remain satisfied.

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[1] OJ No L 105, 23. 4. 1983, p. 1.
[2] OJ No L 134, 31. 5. 1979, p. 8.
[3] OJ No L 318, 13. 12. 1979, p. 27.

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2. The head of the institution or organization to which the articles are consigned, or his authorized representative shall furnish the competent authorities with a statement declaring that he is aware of the various obligations listed in paragraph 1 and including an undertaking to comply with them.

The competent authorities may require that the statement referred to in the preceding subparagraph be produced for each import, or for several imports or for all the imports to be carried out by the institution or organization to which the articles are consigned.

B. **Provisions to be applied where the articles are lent, hired out or transferred**

Article 3

1. Where the provisions of the first sentence of the second subparagraph of Article 77 (2) of the basic Regulation are applied, the institution or organization to which an article for the use of handicapped persons is lent, hired out or transferred shall, from the date of receipt of the article, comply with the same obligations as those set out in Article 2.

▼M1

2. Where the institution or organization to which an article is lent, hired out or transferred is situated in a Member State other than that in which the institution or organization that lent, hired out or transferred the article is situated, upon the dispatch of such article the competent customs office of the Member State of dispatch shall issue a Control Copy T No 5 in accordance with the rules laid down in Regulation (EEC) No 223/77 in order to ensure that such article is put to a use entitling it to continue to qualify for admission free of import duties. For this purpose, the said control copy shall include, in box 104 under the heading 'other', one of the following entries:

— 'Genstand til handicappede personer: Fortsat fritagelse betinget af overholdelse af artikel 77, stk. 2, andet afsnit, i forordning (EØF) nr. 918/83';

— 'Gegenstand für Behinderte: Weitergewährung der Zollbefreiung abhängig von der Voraussetzung des Artikels 77 Absatz 2 zweiter Unterabsatz der Verordnung (EWG) Nr. 918/83';

— 'Αντικείμενα προοριζόμενα για μειονεκτούντα άτομα: Διατήρηση της ατέλειας εξαρτώμενη από την τήρηση του άρθρου 77 παράγραφος 2 δεύτερο εδάφιο του κανονισμού (ΕΟΚ) αριθ. 918/83';

— 'Article for the handicapped: continuation of relief subject to compliance with the second subparagraph of Article 77 (2) of Regulation (EEC) No 918/83';

▼M2

— 'Objeto para personas minusválidas: se mantiene la franquicia subordinada al respeto del artículo 77, apartado 2, segundo párrafo, del Reglamento (CEE) nº 918/83';

▼M1

— 'Objet pour personnes handicapées: maintien de la franchise subordonné au respect de l'article 77 paragraphe 2 deuxième alinéa du règlement (CEE) nº 918/83';

— 'Oggetto per persone minorate: la franchigia è mantenuta a condizione che venga rispettato l'articolo 77 paragrafo 2, secondo comma del regolamento (CEE) n. 918/83';

— 'Voorwerp voor gehandicapten: handhaving van de paragrafo is afhankelijk van de nakoming van artikel 77, lid 2, tweede alinea van Verordening (EEG) nr. 918/83';

▼M2

— 'Objectos destinados à pessoas deficientes: é mantida a fraquia desde que seja respeitatdo o nº 2, segundo parágrafo do artigo 77º do Regulamento (CEE) nº 918/83'.

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3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to the loan, hire or transfer of spare parts, components or accessories specifically for articles for the use of handicapped persons and to tools for the maintenance, control, calibration or repair of the said articles which have been admitted free of import duties under the second subparagraph of Articles 71 and 72 (2) of the basic Regulation.

TITLE II

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF ARTICLES REFERRED TO IN THE FIRST SUBPARAGRAPH OF ARTICLE 71 OF THE BASIC REGULATION

Article 4

1. In order to obtain admission free of import duties of an article for the use of the blind in accordance with the first subparagraph of Article 71 of the basic Regulation, the head of the institution or organization to which the article is consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the institution or organization is situated.

Such application must be accompanied by all information which the competent authority considers necessary for the purpose of determining whether the conditions laid down for granting admission free of import duties are fulfilled.

2. The competent authority of the Member State where the institution or organization to which the article is consigned is situated shall give a direct ruling on the application referred to in paragraph 1.

TITLE III

SPECIFIC PROVISIONS RELATING TO THE IMPORTATION FREE OF IMPORT DUTIES OF ARTICLES REFERRED TO IN ARTICLE 72 (1) OF THE BASIC REGULATION

Article 5

For as long as it has not been established by a Commission decision adopted in accordance with the procedure laid down in Article 8 (3) and (4) that the admission free of import duties of articles referred to in Article 72 (1) of the basic Regulation is liable to prejudice production of equivalent articles within the Community, admission shall be granted free of import duties without checking whether the condition laid down in Article 72 (1) (b) of that Regulation is fulfilled.

Article 6

1. In order to obtain admission free of import duties of an article for the use of handicapped persons under the provisions of Article 72 (1) of the basic Regulation the head of the institution or organization to which the article is consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the institution or organization is situated.

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

(a) the precise trade description of the article used by the manufacturer, its presumed Common Customs Tariff classification and the objective technical characteristics indicating that it was specially designed for the education, employment or social advancement of handicapped persons;

(b) the name or business name and address of the manufacturer and, if available, of the supplier;

(c) the country of origin of the article;

(d) the place of destination of the article;

(e) the use for which the article is intended;

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(f) the price of the article or its value for customs purposes;

(g) the quantity of the article in question;

(h) the estimated delivery period;

(i) the date when the article was ordered if it has already been ordered.

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

Article 7

Without prejudice to the provisions of Article 9, the competent authority of the Member State in which the institution or organization to which the articles are consigned is situated, shall take a direct decision on applications under Article 6.

Article 8

1. The competent authorities of the Member States shall provide the Commission, on their own initiative or at the latter's request, with any information at their disposal, including the relevant technical documents, so that it can assess whether the admission free of import duties of a given article is liable to prejudice production of equivalent articles within the Community.

2. Where the Commission is of the opinion, in the light of the information at its disposal, that the admission free of import duties of an article is liable to prejudice the production of equivalent articles within the Community, it shall as soon as possible notify a group of experts composed of representatives of all the Member States, who shall meet within the framework of the Committee on Duty-Free Arrangements in order to examine the matter or matters concerned.

The information at the Commission's disposal shall be communicated to the experts as soon as possible.

3. Where the examination undertaken in accordance with paragraph 2 shows that the importation free of import duties of an article is liable to prejudice the production of equivalent articles within the Community, the Commission shall adopt a decision establishing that the conditions for admission free of import duties of the said article are not fulfilled.

4. In urgent cases the Commission may adopt the decision referred to in paragraph 3 without waiting for consultation of the exports from the Member States as provided for in paragraph 2.

Such decision shall be provisional and must be confirmed or revoked by the Commission once the examination provided for in paragraph 2 has taken place.

Pending the completion of that procedure, the competent authorities may authorize the provisional duty-free importation of the article concerned subject to an undertaking by the institution or organization to which the article is consigned to pay the relevant import duties should the Commission's decision be confirmed.

The competent authorities may make such provisional importation free of import duties conditional on the provision of security on terms to be laid down by it.

5. The Commission shall notify the Member State concerned of its decisions as soon as they have been taken. This notification shall, as soon as possible, be published where necessary in an abbreviated form, in the *Official Journal of the European Communities,* C series.

6. At least once each year, the Commission shall, on the basis of information supplied by the Member States concerned, examine the situation in depth with the group of experts referred to in paragraph 2 in order to determine whether it is necessary to revoke all or part of the decisions excluding certain articles from admission free of import duties.

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Article 9

1. Where the competent authority of the Member State in which is situated the institution or organization to which the articles are consigned is unable to determine whether the article for which the application under Article 6 was made should be regarded as being specially designed for the education, employment or social advancement of handicapped persons, the application, with the relevant technical documents, shall be forwarded to the Commission in order to enable the latter to initiate the procedure laid down in paragraphs 2 to 6 below.

Pending the completion of that procedure, the competent authority may authorize the provisional importation free of import duties of the article subject to an undertaking by the institution or organization to which the article is consigned to pay the relevant customs duties should admission free of import duties not be granted.

The competent authority may make such provisional importation free of import duties conditional on the provision of security on terms to be laid down by it.

2. Within two weeks of the date of receipt of the application, the Commission shall dispatch a copy to each of the other Member States with the relevant documentation.

3. If, at the expiry of a period of three months from the date of such dispatch no Member State has sent the Commission objections concerning the admission free of import duties of the article under consideration, the said article shall be declared to fulfil the conditions required for importation free of import duties. The Commission shall notify the Member State concerned of its decision within two weeks following the expiry of the aforesaid period. This notification shall, as soon as possible, be published if necessary in abbreviated form, in the *Official Journal of the European Communities,* C series.

4. If, within the period of three months laid down in paragraph 3, a Member State has sent the Commission objections regarding the importation free of import duties of the article under consideration, the Commission shall as soon as possible notify a group of experts composed of representatives of all the Member States, who shall meet within the framework of the Committee on Duty-Free Arrangements in order to examine the matter.

The objections referred to in the preceding subparagraph must include a statement of the grounds therefor. Such grounds must indicate why the article concerned should not be regarded as being specially designed for the education, employment or social advancement of handicapped persons.

The Commission shall transmit these objections to the Member States as soon as they are received.

5. Where the examination undertaken in accordance with paragraph 4 shows that the article for which admission free of import duties has been requested must be regarded as being specially designed for the education, employment or social advancement of handicapped persons, the Commission shall adopt a decision declaring that the said article fulfils the conditions required for admission free of import duties.

In the contrary case the Commission shall adopt a decision declaring that the said article does not fulfil the conditions required for admission free of import duties.

The Commission shall notify the Member State concerned of its decision within two weeks. This decision shall, as soon as possible, be published if necessary in abbreviated form, in the *Official Journal of the European Communities,* C series.

6. If, on the expiry of a period of six months from the date on which the application was received by the Commission, the latter has not adopted any decision under paragraph 5, the article in question shall be deemed to fulfil the conditions required for admission free of import duties.

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Article 10

Authorizations for admission free of import duties 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 IV

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF ARTICLES REFERRED TO IN ARTICLE 74 OF THE BASIC REGULATION

Article 11

1. In order to obtain admission free of import duties of an article for the use of handicapped persons under the provisions of Article 74 of the basic Regulation, the head of the institution or organization to which the article is consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the institution or organization is situated.

2. Such application must contain the information specified in Article 6 (2) (a) to (e) and must be accompanied by a document or documents giving all relevant information on the characteristics and technical specifications of the article concerned.

It must also include:

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

(b) a declaration by the applicant that the articles for which admission free of import duties is requested are in fact being offered to the institution or organization concerned without a reciprocal commercial concession of any kind, in particular without any publicity being involved.

Article 12

1. The competent authority of the Member State in which is situated the institution or organization to which such articles are consigned shall take a direct decision on applications under Article 11.

2. The competent authority shall authorize admission of that article free of import duties only if it has been established that the donor is not deriving any direct or indirect commercial advantage from his gift to the institution or organization to which the article is consigned.

3. Where the competent authority of the Member State in which is situated the institution or organization to which an article is consigned is unable to decide on the basis of information at his disposal whether the article for which admission free of import duties has been requested should be regarded as being specially designed for the education, employment or social advancement of handicapped persons, the procedure laid down in Article 9 shall apply.

TITLE V

SPECIAL PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF SPARE PARTS, COMPONENTS, SPECIFIC ACCESSORIES OR TOOLS UNDER THE SECOND SUBPARAGRAPH OF ARTICLE 71 AND ARTICLE 72 (2) OF THE BASIC REGULATION

Article 13

For the purposes of the second subparagraph of Articles 71 and 72 (2) of the basic Regulation, ‘specific accessories’ means items specially designed for use with a specific article for the purpose of improving its performance and scope.

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Article 14

In order to obtain admission free of import duties of spare parts, components specific accessories or tools under the second subparagraph of Article 71 or 72 (2) of the basic Regulation, the head of the institution or organization to which the articles are consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the institution or organization is situated.

This application must be accompanied by all data deemed necessary by the competent authority for the purpose of determining whether the conditions laid down in the second subparagraph of Article 71 or in Article 72 (2) of the basic Regulation are fulfilled.

Article 15

The competent authority of the Member State in which is situated the institution or organization to which such articles are consigned shall give a direct decision on applications under Article 14.

CHAPTER II

PROVISIONS APPLICABLE TO IMPORTATIONS CARRIED OUT BY BLIND PERSONS AND OTHER HANDICAPPED PERSONS

Article 16

Articles 4, 13, 14 and 15 shall apply *mutatis mutandis* to exemption from import duties of the articles referred to in the first and second subparagraphs of Article 71 of the basic Regulation imported by blind persons themselves for their own use.

Article 17

The following shall apply *mutatis mutandis* to exemption from import duties of articles imported by handicapped persons themselves for their own use:

— Articles 5 to 10 in the case of articles referred to in Article 72 (1) of the basic Regulation,

— Articles 11 and 12 in the case of articles referred to in Article 74 of the basic Regulation.

— Articles 13, 14 and 15 in the case of articles referred to in Article 72 (2) of the basic Regulation.

Article 18

The competent authorities may allow the application provided for in Articles 4, 6 and 11 to be made in a simplified form, where it relates to items imported under the conditions referred to in Articles 16 and 17.

CHAPTER III

FINAL PROVISIONS

Article 19

Regulation (EEC) No 2783/79 is hereby repealed.

Article 20

This Regulation shall enter into force on 1 July 1984.

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