COMMISSION REGULATION (EEC) No 2290/83

of 29 July 1983

laying down provisions for the implementation of Articles 50 to 59 of Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty

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 setting up a Community system of reliefs from customs duty (1), and in particular Article 143 thereof,

Whereas Regulation (EEC) No 918/83 replaced, by its Articles 50 to 59, Council Regulation (EEC) No 1798/75 of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific and cultural materials (2); whereas it is therefore necessary to replace Commission Regulation (EEC) No 2784/79 of 12 December 1979 laying down provisions for the implementation of Regulation (EEC) No 1798/75 (3) by a new Regulation laying down provisions for the implementation of Articles 50 to 59 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 50 to 59 of Regulation (EEC) No 918/83, hereinafter referred to as the 'basic Regulation'.

TITLE I

GENERAL PROVISIONS

A. Obligations on the part of the establishment or organization to which the goods are consigned

Article 2

1. The admission free of import duties of educational, scientific and cultural materials referred to in Articles 51, 52 (1), 53 and 56 of the basic Regulation, hereinafter referred to as 'goods', shall entail the following obligations on the part of the establishment or organization to which the goods are consigned:

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

— to account for them in its inventory,

— to use them exclusively for non-commercial purposes within the meaning of the second indent of Article 54 of the basic Regulation,

— 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.

2. The head of the establishment or organization to which the goods 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 establishment or organization to which the goods are consigned.

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

Article 3

1. Where the provisions of the first subparagraph of Article 57 (2) of the basic Regulation are applied, the establishment or organization to which goods are lent, hired out or transferred shall, from the date of receipt of the goods, comply with the same obligations as those set out in Article 2.

2. Where the establishment or organization to which goods are lent, hired out or transferred is situated in a Member State other than that in which the establishment that lent, hired out or transferred the goods is situated, upon the dispatch of such goods to that Member State 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 goods are put to a use entitling them to continue to qualify for admission free of import duties.

(1) OJ No L 105, 23. 4. 1983, p. 1.
(2) OJ No L 184, 15. 7. 1975, p. 1.
(3) OJ No L 318, 13. 12. 1979, p. 32.

For this purpose, the said control copy shall include, in box 104 under the heading 'other', one of the following entries :

— 'Goods admitted free of import duties (Unesco).
Implementation of Article 57 (2) of Regulation (EEC) No 918/83',

— 'Importafgiftsfrit indførte varrer (Unesco).
Anvendelse af artikel 57, stk. 2, i forordning (EØF) nr. 918/83',

— 'Abgabenfreie Ware (Unesco).
Anwendung von Artikel 57 Absatz 2 der Verordnung (EWG) Nr. 918/83',

— 'Objet en franchise des droits à l'importation (Unesco).
Application de l'article 57 paragraphe 2, du règlement (CEE) n° 918/83',

— 'Είδη εισαγόμενα ατελώς από τους εισαγωγικούς δασμούς (UNESCO).
Εφαρμογή του άρθρου 57 παράγραφος 2 δεύτερο εδάφιο του κανονισμού (ΕΟΚ) αριθ. 918/83',

— 'Oggetto in franchigia dai dazi all'importazione (UNESCO).
Applicazione dell'articolo 57, paragrafo 2, del regolamento (CEE) n. 918/83',

— 'Voorwerp met vrijstelling van rechten bij invoer (Unesco).
Toepassing van artikel 57, lid 2, van Verordening (EEG) nr. 918/83'.

3. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to the loan, hire or transfer of spare parts, components or specific accessories for scientific instruments or apparatus, and to tools for the maintenance, control, calibration or repair of scientific instruments or apparatus, which have been admitted free of import duties under Article 53 of the basic Regulation.

TITLE II

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF EDUCATIONAL, SCIENTIFIC OR CULTURAL MATERIALS IN ACCORDANCE WITH ARTICLE 51 OF THE BASIC REGULATION

Article 4

In order to obtain admission free of import duties of goods in accordance with Article 51 of the basic Regulation, the head of the establishment or organization to which the goods are consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the establishment 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.

TITLE III

SPECIFIC PROVISIONS RELATING TO THE IMPORTATION FREE OF IMPORT DUTIES OF SCIENTIFIC INSTRUMENTS AND APPARATUS UNDER ARTICLES 52, 54 AND 55 OF THE BASIC REGULATION

Article 5

1. For the purposes of the first indent of Article 54 of the basic Regulation, the objective technical characteristics of a scientific instrument or apparatus shall be understood to mean those characteristics resulting from the construction of that instrument or apparatus or from adjustments to a standard instrument or apparatus which make it possible to obtain high-level performances above those normally required for industrial or commercial use.

Where it is not possible to establish clearly on the basis of its objective technical characteristics whether an instrument or apparatus is to be regarded as a scientific instrument or apparatus, reference shall be made to the general uses in the Community of instruments or apparatus of the type for which admission free of import duties is requested. If this examination shows that the instrument or apparatus in question is used mainly for scientific purposes, it shall be deemed to be of a scientific nature.

2. In making the comparison provided for in the third indent of Article 54 of the basic Regulation, only such technical characteristics as have a decisive influence on the outcome of the specific work planned may be regarded as 'essential'.

The following, in particular, shall not be taken into account in making this comparison :

— the technical conception of an instrument or apparatus,
— the fact that an instrument or apparatus is able to achieve performances superior to those which are necessary for a proper execution of the specific work to be carried out,
— the external appearance of an instrument or apparatus,
— its commercial value,
— the servicing intervals,
— any after-sales service that may be provided.

Article 6

1. In order to obtain admission free of import duties of a scientific instrument or apparatus under the provisions of Article 52 (1) of the basic Regulation, the head of the establishment or organization to which the goods are consigned, 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 precise trade description of the instrument or apparatus used by the manufacturer, its presumed Common Customs Tariff classification and the objective technical characteristics on the basis of which the instrument or apparatus is considered to be scientific;

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

(c) the country of origin of the instrument or apparatus;

(d) the place where the instrument or apparatus is to be used;

(e) the use for which the instrument or apparatus is intended;

(f) a detailed description of the project for which the instrument or apparatus is to be used;

(g) the price of the instrument or apparatus or its value for customs purposes;

(h) the estimated delivery period;

(i) the date when the instrument or apparatus was ordered if it has already been ordered;

(j) 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 admission free of import duties is requested, the outcome of these approaches and, where appropriate, detailed reasons why an instrument or apparatus which is available in the Community would not be suitable for the particular scientific work to be undertaken.

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

Article 7

1. The competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned shall take a direct decision on applications under Article 6 in all cases where the information at its disposal, if necessary after consultation with the trade circles concerned, enables it to assess whether or not the instrument or apparatus is scientific and 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, with the relevant technical documents, shall be forwarded to the Commission in order to enable the latter to commence the procedure prescribed in paragraphs 3 to 7.

Pending the completion of that procedure, the competent authority may authorize the provisional importation free of import duties of the instrument or apparatus concerned, subject to an undertaking by the establishment or organization to which the goods are consigned to pay the relevant import 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.

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

4. If, on 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 instrument or apparatus under consideration, the said instrument or apparatus shall be deemed to fulfil the conditions required for admission free of import duties. The Commission shall notify the Member State concerned of this decision within two weeks following the expiry of the aforesaid period. 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.

5. If, within the period of three months laid down in paragraph 4, a Member State has sent the Commission objections regarding the importation free of import duties of the instrument or apparatus 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 either why the instrument or apparatus concerned should not be regarded as being scientific, or should indicate precisely the instruments or apparatus manufactured in the Community which are regarded as having a scientific value equal to that for which admission free of import duties is requested, with the name or business name and address of the Community firm or firms who can supply them. In the latter case, the technical literature relating to the instruments or apparatus under consideration manufactured in the Community should be forwarded to the Commission as soon as possible.

The Commission shall transmit this information to the Member States as soon as it is received.

6. Where the examination undertaken in accordance with paragraph 5 shows that the instrument or apparatus for which admission free of import duties has been requested must be regarded as being scientific and that instruments or apparatus of equivalent scientific value are currently not manufactured in the Community, the Commission shall adopt a decision declaring that the said instrument or apparatus fulfils the conditions required for admission free of import duties.

Where this examination shows that the instrument or apparatus for which admission free of import duties has been requested is not to be regarded as scientific, or that there is an instrument, or apparatus of equivalent scientific value currently manufactured in the Community, the Commission shall adopt a decision declaring that the said instrument or apparatus does not fulfil the conditions required for admission free of import duties.

The Commission decision shall be notified to the Member State concerned 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.

7. 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 6, the instrument or apparatus in question shall be deemed to fulfil the conditions required for admission free of import duties.

Article 8

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 SCIENTIFIC INSTRUMENTS OR APPARATUS UNDER ARTICLE 56 OF THE BASIC REGULATION

Article 9

1. In order to obtain admission free of import duties of scientific instruments or apparatus under the provisions of Article 56 of the basic Regulation, the head of the establishment or organization to which the goods are consigned 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 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 instrument or apparatus concerned.

It must also include :

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

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

Article 10

1. The competent authority of the Member State in which is situated the establishment or organization to which such goods are consigned shall take a direct decision on applications under Article 9.

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

3. 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 decide on the basis of information at its disposal whether or not the instrument or apparatus for which admission free of import duties has been requested should be regarded as scientific, the procedure laid down in Article 7 (2) to (7) shall apply.

Article 11

The provisions of Articles 9 and 10 shall apply *mutatis mutandis* to tools for the maintenance, control, calibration and repair of scientific instruments or apparatus which have been admitted free of import duties under Article 56 of the basic Regulation.

TITLE V

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF SPARE PARTS, COMPONENTS, SPECIFIC ACCESSORIES AND TOOLS UNDER ARTICLE 53 OF THE BASIC REGULATION

Article 12

For the purpose of Article 53 (a) of the basic Regulation specific accessories means those articles specially designed for use with a specific scientific instrument or apparatus for the purpose of improving its performance and scope.

Article 13

In order to obtain admission free of import duties under Article 53 of the basic Regulation, either of spare parts, components or specific accessories, or of tools, the head of the establishment or organization to which the goods are consigned, or his authorized representative, must submit an application to the competent authority of the Member State in which the establishment 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 Article 53 of the basic Regulation are fulfilled.

Article 14

1. Subject to the provisions of paragraph 2, the competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned shall take a direct decision in respect of the application referred to in Article 13.

2. The procedure set out in Article 7 (2) to (7) 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 for which are intended the spare parts, components, specific accessories or tools forming the subject of an application as referred to in Article 13 would qualify for admission free of import duties if it were itself currently imported into the Community,

— tools equivalent to those for which admission free of import duties is requested are currently manufactured within the Community.

Article 15

The provisions of Article 8 shall apply to authorizations for admission free of import duties issued under Article 53 of the basic Regulation.

TITLE VI

COMMUNICATION OF INFORMATION TO THE COMMISSION AND THE MEMBER STATES

Article 16

1. Each Member State shall send the Commission a list of the instruments, apparatus, spare parts, components, accessories and tools of which the price or the value for customs purposes exceeds 3 000 ECU and for which it has authorized admission free of import duties under Article 7 (1) or 14 (1).

The list shall give the precise trade description of the goods referred to in the preceding paragraph and the Common Customs Tariff heading or subheading indicated in the application. It shall also include the name of the manufacturer or manufacturers, the country or countries of origin and the price or customs value of the goods concerned.

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 those goods whose admission free of import duties has been authorized during the preceding six months. However, Member States may forward this information for shorter periods.

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

Article 17

1. Each Member State shall also send the Commission a list of the instruments and apparatus for which it has authorized admission free of import duties under Article 10. The list shall contain the name or business name and address of the manufacturer, the exact trade descriptions of the goods in question, and their Common Customs Tariff heading or subheading as given in the application for admission free of import duties.

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 those goods whose admission free of import duties has been authorized during the preceding six months. However, Member States may forward this information for shorter periods.

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

Article 18

The lists referred to in Articles 16 and 17 shall be examined periodically by the Committee on Duty-Free Arrangements.

TITLE VII

FINAL PROVISIONS

Article 19

Regulation (EEC) No 2784/79 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.

Done at Brussels, 29 July 1983.

For the Commission

Karl-Heinz NARJES

Member of the Commission