COUNCIL REGULATION (EEC) No 289/84

of 31 January 1984

amending Regulation (EEC) No 2779/78 on the procedure for applying the ECU to legal acts adopted in the customs sphere

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the opinion of the Court of Auditors,

Whereas Regulation (EEC) No 2779/78 (4), in conjunction with Regulation (EEC, Euratom) No 3308/80 (5), lays down the detailed rules for applying the ECU to legal acts adopted in the customs sphere ;

Whereas Article 2 of Regulation (EEC) No 2779/78 provides that the value of the ECU in national currencies to be applied to legal acts adopted in the customs sphere shall be fixed once a year ; whereas the rates to be applied are those obtaining on the first working day of October, with effect from 1 January of the following calendar year ;

Whereas this annual system of converting the ECU into national currencies is designed to maintain the stability which is essential in the customs sphere ; whereas, however, it is necessary, when there is an adjustment in the bilateral central rate of one or more Community currencies during the course of the year, to change the rate to be used for converting the ECU into national currencies in such a way as to obviate too marked a departure from economic reality and the risks of disruption of trade-flows ; whereas, moreover, provision should be made in certain sectors of the customs sphere for the possibility of adopting specific solutions in order to deal with particular situations,

(1) OJ No C 302, 9. 11. 1982, p. 5.
(2) OJ No C 161, 20. 6. 1983, p. 170.
(3) OJ No C 77, 21. 3. 1983, p. 2.
(4) OJ No L 333, 30. 11. 1978, p. 5.
(5) OJ No L 345, 20. 12. 1980, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

Paragraphs 2, 3 and 4 of Article 2 of Regulation (EEC) No 2779/78 are hereby replaced by the following :

'2. The value of the ECU in national currencies to be applied to legal acts adopted in the customs sphere shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October, with effect from 1 January of the following calendar year. If a rate is not available for a particular national currency, the rate to be applied for that currency shall be that obtaining on the last day for which a rate was published in the *Official Journal of the European Communities.*

The rates to be used for each calendar year are set out in the preliminary provisions of the Annex to the annual Regulation amending Regulation (EEC) No 950/68 on the Common Customs Tariff.

3. However, where a change in the bilateral central rate of one or more national currencies occurs :

(a) during a calendar year, the amended rates shall be used for converting the ECU into national currencies for the purposes of determining the tariff classification of goods, the customs duties under the Common Customs Tariff, including anti-dumping duties or the countervailing duties. They shall take effect from the 10th day after the date on which these rates are available.

(b) after the first working day of October, the amended rates shall be used for converting the ECU into national currencies for the purposes of determining the tariff classification of goods, the customs duties under the Common Customs Tariff, including the anti-dumping duties or the countervailing duties, and shall be applicable, by way of derogation from paragraph 2, throughout the following calendar year, except where a change in the bilateral central rate occurs during that period, in which case the provisions of point (a) shall apply.

Amended rates mean the rates obtaining on the first day after a change in the bilateral central rate, where such rates are available for all Community currencies.

The rates resulting from the application of this paragraph shall be published as a special communication in the 'C' series of the *Official Journal of the European Communities,* with indication of the date on which they take effect.

4. The provisions of paragraph 2 do not derogate from the rules laid down for converting the ECU into national currencies in the context of the documentary evidence specified in certain preferential arrangements or in the agreements concluded with certain third countries.

5. By way of derogation from paragraphs 2 and 3, the rate to be used for the conversion into national currencies of the ECU in which the customs duty applicable to products falling under subheading 22.05 C of the Common Customs Tariff is expressed shall be the representative rate if such a rate is laid down under the common agricultural policy.'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 31 January 1984.

For the Council

The President

G. LENGAGNE