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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 678/85

of 18 February 1985

simplifying formalities in trade in goods within the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 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 at present the formalities which must be carried out by users in trade in goods between Member States are virtually identical to those required in trade with third countries; whereas such a situation is unjustified and incompatible with the objectives of the Treaty; whereas it is of immediate importance for trade in goods between Member States to move as closely as possible towards the conditions under which such trade takes place within a single Member State;

Whereas simplification of the formalities in this field will have a positive impact on the development of the trade concerned; whereas it will also provide an incentive for firms, particularly small firms, to view their activity in terms of the whole of the Community's internal market;

Whereas, in order to attain this objective, there should first of all be an overall simplification of the documents required, the effect of which would be to replace by a single administrative document the various Community or national forms currently used in the trade concerned for the dispatch, Community transit and entry of Community goods for home use or their entry under any other procedure in the Member State of destination; whereas such simplification must apply to all Community goods within the meaning of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community that are the subject of trade in goods between Member States; whereas the model single document must be adopted by the Council acting unanimously on a proposal from the Commission;

Whereas such simplification must not have the effect of calling into question the simplified procedures at present enjoyed by a number of users; whereas it must not hamper further simplification under agreements between two or more Member States; whereas it does not affect the rules applicable with regard to representation *vis-à-vis* the customs authorities or regarding the responsibility resulting from the type of representation that may be chosen; whereas it does not conflict with the principle of the use of modern techniques, notably computerized techniques, for the transmission and processing of data;

Whereas the introduction of a single administrative document constitutes an intermediate stage in the abolition of all administrative documentation in trade in goods between Member States; whereas the next stage in this abolition may be achieved by developing computerized techniques; whereas, however, administrative procedures, even when computerized, will only be justified for as long as administrative formalities remain necessary in the trade concerned, since the goal set by the Treaty is total abolition of these formalities;

(1) OJ No C 203, 6. 8. 1982, p. 5.
(2) OJ No C 42, 14. 2. 1983, p. 65.
(3) OJ No C 90, 5. 4. 1983, p. 16.

Whereas more flexible procedures should also be provided for in Community trade in goods between Member States because of the preferential framework within which such trade is carried on and the specific nature of the charges and arrangements applicable to it; whereas it is in particular necessary to ensure as far as possible that goods which are the subject of such trade are not held up more than necessary when the formalities required are being completed, particularly where the declaration lodged is incomplete; whereas extensive administrative cooperation should enable a rapid solution to be found to many problems;

Whereas it is important to ensure uniform implementation of the provisions of this Regulation and, for this purpose, to provide for a Community procedure that will allow the adoption within appropriate time limits of a number of implementing provisions; whereas it is necessary for close and effective cooperation between the Member States and the Commission to be organized for this purpose within a Committee;

Whereas such simplification is necessary in order to attain one of the objectives of the Community; whereas the Treaty has not provided the necessary powers specific for this purpose and this Regulation should therefore be based on Article 235 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to other Community provisions, this Regulation lays down measures to simplify formalities in trade in goods between the Member States, in particular by introducing a single document to be used for the dispatch, Community transit and entry for home use of Community goods or for their entry under any other procedure in the Member State of destination.

TITLE I

GENERAL PROVISIONS

Article 2

Scope

This Regulation shall apply to goods:

— which satisfy the requirements of Article 9 (2) of the Treaty establishing the European Economic Community,

— which are covered by the Treaty establishing the European Coal and Steel Community and are in free circulation in the Community in accordance with that Treaty,

hereinafter referred to as 'Community goods', and which are the subject of trade between two Member States.

Article 3

Definition

For the purposes of this Regulation, 'dispatch' means the procedure by which Community goods are consigned from one Member State to another Member State.

Article 4

Characteristics of the single document

1. Where Community goods are the subject of trade between two Member States, the formalities connected with such trade shall be completed using a single document, based on a declaration on a form, the specimen for which is to be adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament. This document or declaration shall, depending on the circumstances, serve as the document or declaration of dispatch, of internal Community transit, of entry for home use or of entry of the goods under any other procedure in the Member State of destination.

2. Apart from the document referred to in paragraph 1, Member States may not require any administrative documents other than those which are:

— expressly created by Community acts or provided for by such acts,

— required under the terms of international conventions compatible with the Treaty,

— required, with due regard for the provisions of the Treaty and in particular Articles 30 *et seq.*, for the implementation of national regulations which have not been harmonized and for the application of which the use of the document referred to in paragraph 1 alone would not suffice,

— required from operators to enable them to qualify, at their request, for an advantage or a specific facility.

3. The declaration must be drawn up in one of the official languages of the Community which is acceptable to the competent authorities of the Member State in which the dispatch formalities are completed. Where

necessary, the customs authority of the Member State of destination may require from the declarant or his representative in that Member State a translation of the said declaration into the official language or one of the official languages of the latter. This translation shall replace the corresponding particulars in the declaration in question.

By way of derogation from the first subparagraph, the declaration shall be drawn up in the official language or one of the official languages of the Member State of destination in all cases where the declaration in the latter Member State is made on copies of the declaration form other than those initially presented to the customs authority of the Member State of dispatch.

TITLE II

FORMALITIES

A. Principles

Article 5

Dispatch

Without prejudice to Articles 12 and 14, dispatch shall be conditional on the lodging with a competent customs office of the copies of the declaration necessary for the purposes of dispatch, duly completed to that end, to which must be attached the copies of the declaration which will be used to complete the formalities:

— for Community transit, where appropriate, and

— for entry for home use or entry under any other procedure in the Member State of destination.

The declaration used for dispatch formalities must be signed by the declarant or his representative in accordance with the provisions in force in the Member State of dispatch.

Article 6

Transit

1. Without prejudice to the simplification provided for in respect of certain modes of transport, an internal Community transit declaration shall consist of the copies of the declaration duly completed to that end and signed by the principal, as defined in Article 11 (a) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit [1].

2. The transit of Community goods within the Community shall be effected in accordance with the provisions of Regulation (EEC) No 222/77. In particular, the principal's responsibility shall only be engaged in respect of the particulars required under the said Regulation (EEC) No 222/77.

3. Where goods are not being moved under the internal Community transit procedure, the Community character of the goods shall be certified by the single document provided for in Article 4, stamped by the customs authority of the Member State of dispatch.

Article 7

Arrival

Without prejudice to Articles 12 and 14, entry for home use or entry under any other procedure in a Member State of destination of Community goods dispatched from another Member State shall be conditional upon the lodging with a competent customs office of the copies of the declaration necessary for the entry of goods under the procedure in question.

These copies shall:

— indicate the procedure applied for,

— be duly completed and more especially contain all the particulars necessary for entry of the goods under that procedure,

— be signed by the declarant or his representative in accordance with the provisions in force in the Member State of destination.

B. COMMON PROVISIONS

Article 8

Lodging of the declaration

1. The declarations must be accompanied, within the limits laid down in Article 4 (2), by the documents necessary for entry of the goods in question under the procedure requested.

2. The lodging with a customs office of a declaration signed by the declarant or his representative shall indicate that the person concerned is declaring the goods in question for the procedure applied for and, without prejudice to the possible application of penal provisions, shall be equivalent to the engagement of responsibility, under the provisions in force in the Member States, in respect of:

— the accuracy of the information given in the declaration,

[1] OJ No L 38, 9. 2. 1977, p. 1.

— the authenticity of the documents attached, and

— the observance of all the obligations inherent in the entry of the goods in question under the procedure concerned.

Article 9

Acceptance of the declaration

1. Declarations which satisfy the requirements laid down in Articles 5, 7 and 8 (1) shall be accepted forthwith by the customs authority when the relevant goods are presented to it.

The date of acceptance of each declaration shall be the date to be taken into consideration for the application of measures governing, respectively, the dispatch of the goods in question, their entry for home use or their entry for any other procedure applied for in the Member State of destination.

2. By way of derogation from paragraph 1, and at the request of the declarant or his representative, the customs authority may, and in particular in order to protect trade secrets, accept a declaration which does not contain all the particulars required or which is not accompanied by some of the documents that have to be produced. The customs authority shall lay down the conditions under which the missing particulars and documents must be produced.

In any case, the details necessary for identification of the goods to which the declaration relates must be included in the latter. Similarly, at least the documents to the presentation of which entry of the goods in question under the procedure concerned is subject must be attached.

Acceptance of such a declaration may not have the effect of preventing or delaying authorization to dispatch or dispose of the goods in question where there is no other objection to that being done.

Article 10

Cancellation or correction of the declaration

1. The declarant or his representative may cancel or correct the declaration under the conditions set in paragraphs 2 and 3. In all cases, cancellation or correction of the declaration shall be subject to authorization by the customs authority.

2. In respect of cancellation, the authorization referred to in paragraph 1 shall be granted:

(a) for dispatch formalities, only if:

— the person concerned proves, to the satisfaction of the competent authorities, that the goods in question have not left the territory of the Member State concerned,

— if necessary, the person concerned fulfils, in accordance with current provisions, the obligations which may be required to regularize the situation of the goods;

(b) for formalities at the destination, only if the customs authority has not yet authorized release of the goods.

In all cases, where the customs authority has notified the person concerned of its intention of carrying out an examination of the goods which are the subject of the declaration, the request for cancellation may not be taken into account until such examination has taken place.

3. In respect of correction, the authorization referred to in paragraph 1 shall be granted only subject to the following conditions:

(a) the correction must have been requested:

— in the case of dispatch formalities, before the goods left the customs office, unless the request concerns factors whose accuracy the customs authority is able to check even in the absence of the goods,

— in the case of formalities at the destination, before the customs authority has authorized release of the goods;

(b) the correction may not be allowed when the request is made after the customs authority has notified the person concerned of its intention of carrying out an examination of the goods or has ascertained the inaccuracy of the particulars concerned;

(c) the correction must not have the effect of making the declaration refer to goods other than those which were initially its subject.

The customs authority may allow or require that the corrections referred to in paragraph 1 be carried out by lodging a new declaration intended to replace the original declaration.

4. The cancellation or correction of the declaration shall not hamper in any way the implementation of penal provisions in force in the event of any offence having been committed by the person concerned.

Article 11

Conclusive force of the findings

The findings of the competent authorities of a Member State in the course of application of this Regulation may be invoked by the competent authorities of the other Member States. In such cases, they shall have the same conclusive force as the findings of the competent authorities of each of those Member States.

Article 12

Separation of formalities

1. By way of derogation from the first paragraph of Article 5 and the first paragraph of Article 7, the persons concerned may, for each stage of an operation involving trade in goods between two Member States, use the copies of the declaration necessary for completion of the formalities relating to that stage alone, to which may be attached, where appropriate, the copies necessary for completion of the formalities relating to one or other of the subsequent stages of that operation.

2. The benefit of the provisions of paragraph 1 shall not be subject to compliance with any special condition imposed by the competent authorities.

However, the authorities referred to in the first paragraph may lay down that formalities relating to dispatch and Community transit operations should be completed on the same form by means of copies corresponding to these formalities.

Article 13

Agreement

In the cases referred to in Article 12, the competent authorities shall satisfy themselves that the particulars given in the copies of the declaration drawn up in the course of the various stages of the operations in question all agree.

Article 14

Simplification and computerized procedures

1. The benefit of simplified procedures, whether or not based on the use of computers, may be granted to a consignor or a consignee, in particular to allow him not to have to present to a customs office either the Community goods in question or the declaration relating to them, or to allow him to draw up an incomplete declaration. In such cases, a declaration, which, if the competent authorities agree, may be a general periodic declaration, must be submitted subsequently within the time limits laid down by those authorities.

In the cases referred to in the first subparagraph, the customs authority may authorize the persons concerned to use commercial documents in the place of the single document provided for in Article 4 (1).

Where the single document is used, the persons concerned may, on authorization by the competent authorities, attach to it commercial schedules describing the goods, for the purpose of completing formalities for dispatch, entry for home use or entry under any other procedure in the Member State of destination.

2. This Regulation shall not preclude:

— the possibility for Member States of dispensing with the single document referred to in Article 4 (1) in the event of application of the special provisions laid down with regard to consignments by letter or parcel-post,

— the written declaration laid down in certain cases for the dispatch or entry for home use being dispensed with,

— the possibility for Member States of dispensing with the single document referred to in Article 4 (1) in the case of agreements or arrangements concluded or to be concluded between two or more Member States with a view to greater simplification of formalities in all or part of the trade between those States,

— the possibility for the persons concerned of using loading lists for the completion of Community transit formalities in the case of consignments composed of several kinds of Community goods,

— the making of declarations, where appropriate on plain paper, by means of public or private computers on conditions fixed by the Member States,

— the possibility for the Member States of requiring the data necessary for completing the formalities in question to be entered in their computerized declaration-processing systems, where necessary without a written declaration being required by the Member State concerned,

— the possibility for the Member States, should a computerized declaration-processing system be used, of providing that the declaration within the meaning of Article 4 (1) shall be constituted either by the single document produced by that system or

by entry of the data in the computer if such a document is not produced.

3. Facilities supplementary to those provided for in this Regulation may be adopted in accordance with the procedure laid down in Article 17 (2) and (3).

TITLE III

FINAL PROVISIONS

Article 15

1. A Committee on the Movement of Goods (hereinafter referred to as 'the Committee') is hereby set up, composed of representatives of the Member States with a representative of the Commission as chairman.

2. The Committee shall adopt its own rules of procedure.

Article 16

The Committee may examine any question relating to the application of this Regulation submitted to it by its chairman either on his own initiative or at the request of a representative of a Member State.

Article 17

1. The provisions necessary for the application of this Regulation shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.

2. The Commission representative shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be adopted by a 45-vote majority, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the intended measures when they are in accordance with the Committee's opinion.

When the intended measures are not in accordance with the Committee's opinion or in the absence of such an opinion, the Commission shall forthwith submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, within three months following the date on which the matter was referred to it, the Council has not acted, the Commission shall adopt the proposed measures.

Article 18

Each Member State shall inform the Commission of the measures it takes to apply this Regulation.

The Commission shall communicate this information to the other Member States.

Article 19

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

It shall apply from 1 January 1988.

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

Done at Brussels, 18 February 1985.

For the Council

The President

G. ANDREOTTI