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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1147/86

of 17 April 1986

amending Regulation (EEC) No 754/76 on the customs treatment applicable to goods returned to the customs territory of the Community

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 Article 2 (1) (a) of Regulation (EEC) No 754/76 (4) stipulates that goods exported from the customs territory of the Community under outward processing arrangements shall not be considered to be returned goods ; whereas, nevertheless, the customs treatment to be applied to such goods on re-importation in the unaltered state is determined in the same manner as prescribed in that Regulation, pursuant to Commission Directive 78/206/EEC of 7 February 1978 on the customs treatment of goods re-imported in the unaltered state under outward processing arrangements (5) ; whereas this matter should be dealt with in a single instrument and Article 2 (1) (a) of Regulation (EEC) No 754/76 amended accordingly ;

Whereas, under Article 2 (1) (b) of Regulation (EEC) No 754/76 in conjunction with Article 2 (2) thereof, goods on which, at the time of their exportation from the customs territory of the Community, refunds or other amounts granted within the framework of the common agricultural policy are payable qualify upon re-importation for the customs treatment provided for in that Regulation only where certain conditions are met ; whereas the same does not apply to goods on which, in consequence of their exportation, a financial advantage other than the granting of refunds or other amounts has been obtained even though their re-importation into the customs territory of the Community may have the same repercussions where financial advantages paid without justification are concerned ; whereas Article 2 (1) (b) and (2) of Regulation (EEC) No 754/76 should be supplemented accordingly ;

Whereas experience acquired since the entry into force of Regulation (EEC) No 754/76 has shown that the six-month time limit laid down in Article 8 (2) within which certain goods must be re-imported in order to benefit from the customs treatment provided for in that Regulation may be a source of difficulties, especially where goods have been held back in the country of destination for health control or where transporting them takes a very long time ; whereas the six-month time limit has proved highly inadequate, in particular, in the case of products processed from agricultural products and listed in Annex II to the Treaty which are marketed under the same conditions as industrial products, for which Article 8 (1) of the said Regulation stipulates a three-year limit ; whereas the time limit concerned should be extended to 12 months from the date of acceptance of the export declaration ;

Whereas Article 9 of Regulation (EEC) No 754/76 stipulates that the said Regulation is to apply to returned goods only where they are returned by or at the instance of the previous exporter but that, where circumstances so warrant, the competent authorities may permit derogations from this rule ; whereas the charging of import duties on goods which, upon exportation, satisfied the conditions of Article 9 (2) of the Treaty, for the sole reason that the aforementioned condition is not met, is not economically justified ; whereas derogations granted by Member States may produce distortions of treatment as between economic operators ; whereas dispensing with the condition laid down in Article 9 ought not to create any particular difficulties ; whereas that Article may, therefore, be deleted,

(1) OJ No C 87, 29. 3. 1984, p. 3.
(2) OJ No C 172, 2. 7. 1984, p. 143.
(3) OJ No C 307, 19. 11. 1984, p. 9.
(4) OJ No L 89, 2. 4. 1976, p. 1.
(5) OJ No L 62, 4. 3. 1978, p. 40.

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 754/76 is hereby amended as follows :

1. Article 2 (1) shall be replaced by the following :

'1. The following shall not be considered to be returned goods :

(a) goods exported from the customs territory of the Community under outward processing arrangements unless such goods are still in the state in which they were exported ;

(b) goods :

— for which, on their exportation from the customs territory of the Community, the customs export formalities for the grant of refunds or other amounts on export provided for within the framework of the common agricultural policy have been completed,

or

— for which a financial advantage other than such refunds or other amounts has been granted within the framework of the common agricultural policy, with the requirement that the said goods be exported.'

2. The introductory section of Article 2 (2) shall be replaced by the following :

'2. Notwithstanding paragraph 1 (b), provided it is established, as the case may be, that the refunds or other amounts paid have been repaid or that all measures have been taken by the competent authorities for such refunds or other amounts to be withheld, or that any other financial advantages granted have been cancelled, goods referred to in the said paragraph shall be considered to be returned goods if they :

3. Article 8 (2) shall be replaced by the following :

'2. Notwithstanding paragraph 1, the goods referred to in Articles 2 and 5 must, in order to benefit under this Regulation, be entered for free circulation in the customs territory of the Community within 12 months of the date of completion of the customs formalities relating to their exportation.'

4. Article 9 shall be deleted.

Article 2

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

It shall apply to goods entered for free circulation in the customs territory of the Community from the date of its entry into force. However, Article 1 (3) shall apply from 1 January 1985.

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

Done at Luxembourg, 17 April 1986.

For the Council

The President

E. M. SCHOO