COMMISSION REGULATION (EEC) No 3716/90

of 19 December 1990

laying down provisions for the implementation of Council Regulation (EEC) No 4046/89 on the security to be given to ensure payment of a customs debt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 4046/89 of 21 December 1989 on the security to be given to ensure payment of a customs debt (1), hereinafter referred to as the basic Regulation, and in particular Article 15 thereof,

Whereas the guarantor's undertaking as referred to in Article 9 of the basic Regulation should be given in writing;

Whereas Article 10 (2) of the basic Regulation provides for the acceptance of types of security other than cash deposits or guarantors and of cash deposits and the submission of securities even if they do not comply with the conditions laid down in Article 8 (1) of the basic Regulation, where they provide equivalent assurance that the customs debt will be paid;

Whereas as long as customs debts are paid in the prescribed manner, the widest possible range of types of security should be available to enable traders to use those which are least costly;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on General Customs Rules,

HAS ADOPTED THIS REGULATION:

Article 1

The guarantor's undertaking referred to in Article 9 of the basic Regulation shall be given in writing.

Article 2

1. The types of security other than cash deposits or guarantors, within the meaning of Articles 7 to 9 of Regulation (EEC) No 4046/89, and the cash deposit or the submission of securities for which Member States may opt even if they do not comply with the conditions laid down in Article 8 (1), shall be as follows:

(a) the creation of a mortgage, a charge on land, an antichresis or other right deemed equivalent to a right pertaining to immovable property;

(b) the cession of a claim, the pledging, with or without surrendering possession, of goods, securities or claims or, in particular, a savings bank book or entry in the national debt register;

(c) the assumption of joint contractual liability for the full amount of the debt by a third party approved for that purpose by the customs authorities and, in particular, the lodging of a bill of exchange the payment of which is guaranteed by such third party;

(d) a cash deposit or security deemed equivalent thereto in a currency other than that of the Member State in which the security is given;

(e) participation, subject to payment of a contribution, in a general guarantee scheme administered by the customs authorities.

2. The circumstances in which and the conditions under which recourse may be had to the types of security referred to in paragraph 1 shall be determined by the customs authorities.

Article 3

Where security is given by making a cash deposit, no interest thereon shall be payable by the customs authorities.

Article 4

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 1991.

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

Done at Brussels, 19 December 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

(1) OJ No L 388, 30. 12. 1989, p. 24.