COMMISSION REGULATION (EEC) No 3712/92

of 21 December 1992

of amending Regulation (EEC) No 1214/92 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit (1), and in particular Article 44 thereof,

Whereas Commission Regulation (EEC) No 1214/92 contains, *inter alia*, specific provisions relating to guarantees (2);

Whereas it is appropriate, on the one hand, to adapt these provisions to take account of recent developments in the transport of certain categories of goods presenting increased risks to duties and other charges which may due on importation either by forbidding the use of the comprehensive guarantee or by increasing the level of that guarantee and, on the other hand, to amend them in order to make them more binding;

Whereas for legal reasons, it is appropriate to amend the period during which Member States can reply to an application for a simplified Community transit procedure requested by airline or shipping companies;

Whereas the guarantee waiver may not be applied where the use of the comprehensive guarantee is forbidden;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Community transit,

HAS ADOPTED THIS REGULATION:

Article 1

Title IV 'Provisions applying to external and internal community transit' of Regulation (EEC) No 1214/92 is hereby amended as follows:

1. The following text is inserted in Chapter II after 'Section 2: Comprehensive Guarantee':

'Use of the comprehensive guarantee

Article 34 (A)

When external Community transit operations comprising goods imported to the Community from third countries having been or which must be made the subject of specific information, notably by application of the provisions of Regulation (EEC) No 1468/81, present increased risk of fraud, Member States shall, by agreement with the Commission, take specific measures with a view to temporarily forbidding the use of the comprehensive guarantee.

The decision to forbid the use of the comprehensive guarantee by a Member State shall apply with regard to other Member States.

The Member States shall keep each other and the Commission informed of decisions taken under this Article.

After six months the Commission shall determine whether or not the measures taken need to be continued.

Amount of the guarantee

Article 34 (B)

Without prejudice to the provisions of Article 34 (a) of this Regulation the level of the comprehensive guarantee shall be determined as follows:

1. The amount of the guarantee shall be set at least at 30 % of the duties, levies and taxes payable according to the procedures laid down in paragraph 4 below.

2. The comprehensive guarantee shall be fixed at a level equal to the full amount of duties, levies and taxes payable, under the provisions of paragraph 4 below, when it is intended to cover external community transit operations concerning goods:

   — imported into the Community,

   — listed in Annex VIII A of this Regulation and

   — having been the subject of specific information of the Commission concerning transit operations presenting increased risks of fraud, in particular pursuant to the provisions of Regulation (EEC) No 1468/81.

   However, the competent authorities of the Member States may set the amount of the guarantee at 50 % of the duties, levies and taxes payable:

(1) OJ No L 262, 26. 9. 1990, p. 1.
(2) OJ No L 132, 16. 5. 1992, p. 1.

for persons :

— who are established in the Member State where the guarantee is furnished ;

— who are regular users of the Community transit system ;

— whose financial situation is such that they can meet their commitments ; and

— who have not committed any serious infringement of customs or tax laws.

If this subparagraph is applied, the office of guarantee shall enter in box 7 of the certificate of guarantee provided for in Article 12 one of the following statements :

— aplicación del segundo apartado del punto 2 del artículo 34 ter del Reglamento (CEE) nº 1214/92

— anvendelse af artikel 34b, stk. 2, andet afsnit, i forordning (EØF) nr. 1214/92

— Anwendung von Artikel 34b Absatz 2 zweiter Unterabsatz der Verordnung (EWG) Nr. 1214/92

— Εφαρμογή του άρθρου 34 b), σημείο 2, παράγραφος 2, δεύτερο εδάφιο του κανονισμού (ΕΟΚ) αριθ. 1214/92

— application of the second subparagraph of Article 34 B (2) of Regulation (EEC) No 1214/92

— application article 34 ter, paragraphe 2, deuxième alinéa, Règlement (CEE) nº 1214/92

— applicazione dell'articolo 34 ter, paragrafo 2, secondo comma del regolamento (CEE) n. 1214/92

— toepassing artikel 34 ter, lid 2, tweede alinea, van Verordening (EEG) nr. 1214/92

— aplicação do ponto 2, segundo parágrafo, do artigo 34º-B do Regulamento (CEE) nº 1214/92.

3. Where the Community transit declaration includes other goods besides those covered by paragraph 2 of this Article the provisions relating to the amount of the guarantee shall be applied as if the two categories of goods were covered by separate declarations.

However, account shall not be taken of the presence of goods of either category if the quantity or value thereof is relatively insignificant.

4. In order to apply this Article an evaluation shall be made of :

— consignments made over a period of eight days,

— the duties, levies and taxes payable taking account of the highest level of taxation applicable in one of the countries concerned.

This evaluation shall be made on the basis of the commercial and accounting documentation of the person concerned in respect of goods transported during the past year, the amount obtained then being divided by 52.

In the case of new operators the office of guarantee shall in collaboration with the person concerned estimate the quantity, value and taxes applicable to the goods being transported over a given period based on data already available. The office of guarantee shall by extrapolation determine the likely value of and taxes on the goods to be transported during a period of 8 days.

Where the principal uses the comprehensive guarantee for the goods covered by Annex VIII A, the office of guarantee shall carry out an annual review of the amount of the comprehensive guarantee, in particular on the basis of information from the offices of departure, and shall if appropriate adjust the amount.'

2. The text of Article 41 (2) is replaced by the following :

'2. Where, owing to circumstances peculiar to it, a transport operation involves increased risks and the office of departure therefore considers that the guarantee of ECU 7 000 is insufficient, it may ask for a guarantee of a greater amount in multiples of ECU 7 000 in order to guarantee the duties relating to the total quantity of goods to be dispatched.'

Article 2

Article 47 is replaced by the following :

'Article 47

1. The guarantee waiver shall not apply, in accordance with Article 32 (3) of the basic Regulation, to goods :

(a) the total value of which exceeds ECU 100 000 for cargo ;

or

(b) which are listed in Annex XI as involving increased risks.

2. The guarantee waiver shall not apply where, in accordance with the provisions of Article 34 (A), the use of the comprehensive guarantee is forbidden.'

Article 3

In Article 52 (11) (a) third sub-paragraph and in Article 56 (2) second sub-paragraph and Article 56 (11) (a) third sub-paragraph, the term 'within two months' shall be replaced by the term 'within sixty days'.

Article 4

Annex VIII of Regulation (EEC) No 1214/92 is replaced by the text of Annex I of this Regulation.

Annex VIII A conforming to the text of Annex II of this Regulation shall be added to Regulation (EEC) No 1214/92.

Annex XI of Regulation (EEC) No 1214/92 is replaced by the text of Annex III of this Regulation.

Article 5

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 1993.

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

Done at Brussels, 21 December 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission

ANNEX I

'ANNEX VIII

LIST OF GOODS WHICH WHEN TRANSPORTED GIVE RISE TO AN INCREASE IN THE FLAT RATE GUARANTEE

1	2	3
HS code	Description	Quantity corresponding to the standard amount of ECU 7 000
ex 01.02	Live bovine animals, other than pure bred breeding animals	4 000 kg
ex 01.03	Live pigs, other than pure bred breeding animals	5 000 kg
ex 01.04	Live sheep or goats, other than pure bred breeding animals	6 000 kg
02.01	Meat of bovine animals, fresh or chilled	2 000 kg
02.02	Meat of bovine animals, frozen	3 000 kg
02.03	Meat of pigs, fresh, chilled or frozen	4 000 kg
02.04	Meat of sheep or goats, fresh, chilled or frozen	3 000 kg
ex 02.10	Meat of bovine animals, salted, in brine, dried or smoked	3 000 kg
04.02	Milk and cream, concentrated or containing added sugar or other sweetening matter	5 000 kg
04.05	Butter and other fats and oils derived from milk	3 000 kg
04.06	Cheese and curd	3 500 kg
ex 09.01	Coffee, not roasted, whether or not decaffeinated	3 000 kg
ex 09.01	Coffee, roasted, whether or not decaffeinated	2 000 kg
09.02	Tea	3 000 kg
10.01	Cereals (wheat) and (meslin)	900 kg
10.02	Rye	1 000 kg
10.03	Barley	1 000 kg
10.04	Oats	850 kg
ex 16.01	Sausages and similar products of meat, meat offal or blood, of domestic swine	4 000 kg
ex 16.02	Other prepared or preserved meat, meat offal or blood, of domestic swine	4 000 kg
ex 16.02	Other prepared or preserved meat, meat offal or blood of bovine animals	3 000 kg
ex 21.01	Extracts, essences and concentrates, of coffee	1 000 kg
ex 21.01	Extracts, essences and concentrates of tea	1 000 kg
ex 21.06	Food preparations not elswhere specified or included, containing 18 % or more by weight or milkfats	3 000 kg
22.04	Wine of fresh grapes, including fortified wines, grape must other than that of heading No 20.09	15 hl
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	15 hl

1	2	3
HS code	Description	Quantity corresponding to the standard amount of ECU 7 000
ex 22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher	3 hl
ex 22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol	3 hl
ex 22.08	Spirits, liqueurs and other spirituous beverages	5 hl
ex 24.02	Cigarettes	70 000 items
ex 24.02	Cigarillos	60 000 items
ex 24.02	Cigars	25 000 items
ex 24.03	Smoking tobacco	100 kg
ex 27.10	Light and medium petroleum oils and gas oils	200 hl
33.03	Perfumes and toilet waters	5 hl'

ANNEX II

'ANNEX VIIIa

LIST OF GOODS WHICH WHEN TRANSPORTED GIVE RISE TO AN INCREASE IN THE COMPREHENSIVE GUARANTEE

ex 01.02	Live bovine animals, other than pure-bred breeding animals
ex 01.03	Live swine, other than pure-bred breeding animals
ex 01.04	Live sheep or goats, other than pure-bred breeding animals
02.01	Meat of bovine animals, fresh or chilled
02.02	Meat of bovine animals, frozen
02.03	Meat of swine, fresh, chilled or frozen
02.04	Meat of sheep or goats, fresh, chilled or frozen
10.01	Wheat and meslin
10.02	Rye
10.03	Barley
10.04	Oats'

ANNEX III

'ANNEX XI'

LIST OF GOODS PRESENTING INCREASED RISKS TO WHICH THE GUARANTEE WAIVER DOES NOT APPLY

ex 01.02	Live bovine animals, other than pure-bred breeding animals
ex 01.03	Live swine, other than pure-bred breeding animals
ex 01.04	Live sheep or goats, other than pure-bred breeding animals
02.01	Meat of bovine animals, fresh or chilled
02.02	Meat of bovine animals, frozen
02.03	Meat of swine, fresh, chilled or frozen
02.04	Meat of sheep or goats, fresh, chilled or frozen
ex 09.01	Coffee, not roasted, whether or not decaffeinated
ex 09.01	Coffee, roasted, whether or not decaffeinated
09.02	Tea
10.01	Wheat and meslin
10.02	Rye
10.03	Barley
10.04	Oats
ex 21.01	Extracts, essences and concentrates, of coffee
ex 21.01	Extracts, essences and concentrates, of tea
22.04	Wine of fresh grapes, incluiding fortified wines, grape must other than that of heading No 20.09
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances
ex 22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher
ex 22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol
ex 22.08	Spirits, liqueurs and other spirituous beverages
ex 24.02	Cigarettes
ex 24.02	Cigarillos
ex 24.02	Cigars
ex 24.03	Smoking tobacco
ex 27.10	Light and medium petroleum oils and gas oils
33.03	Perfumes and toilet waters'