COMMISSION REGULATION (EEC) No 734/92

of 25 March 1992

amending Regulation (EEC) No 2290/83 laying down provisions for the implementation of Articles 50 to 59b and Articles 63a and 63b of Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty (1), as last amended by Regulation (EEC) No 3357/91 (2), and in particular Article 143 thereof,

Whereas the abovementioned Regulation (EEC) No 3357/91 provided, *inter alia,* for the revision of Articles 52 to 56 and 63a and 63b of Regulation (EEC) No 918/83 in order to remove the condition of non-equivalence of Community products;

Whereas it is therefore necessary to modify accordingly the implementing provisions laid down in Commission Regulation (EEC) No 2290/83 (3), as last amended by Commission Regulation (EEC) No 1843/89 (4), and to remove all references to the condition of non-equivalence of Community products;

Whereas to follow the line of the revision of Regulation (EEC) No 918/83 it seems essential to abolish as far as possible the expensive and complicated procedure involving in certain instances a decision by the Commission after consultation of a group of experts of all the Member States, meeting within the framework of the Committee on Duty Free Arrangements;

Whereas all references to a decision by the Commission should therefore be deleted and all decisions should be taken at national level;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Duty Free Arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2290/83 is hereby amended as follows:

1. Article 2 (1) is replaced by the following:

'1. The admission free of import duties of educational, scientific and cultural materials referred to in Article 51, 52 (1) and 53 of the basic Regulation, hereinafter referred to as "goods", shall entail the following obligations on the part of the establishment or organization to which the goods are consigned:

— to dispatch the goods in question directly to the declared place of destination,

— to account for them in its inventory,

— to facilitate any verification which the competent authorities consider necessary in order to ensure that the conditions for granting admission free of import duties are satisfied, or remain satisfied.

In addition, in the case of goods referred to in Articles 52 (1) and 53 and the basic Regulation, it shall entail the obligation on the part of the establishment or organization to which the goods are consigned to use the abovementioned goods exclusively for non-commercial purposes within the meaning of the second indent of Article 54 of the basic Regulation'.

2. The first subparagraph of Article 3 (2) is replaced by the following:

'2. Where the establishment or organization to which the goods are lent, hired out or transferred is situated in a Member State other than that in which the establishment that lent, hired out or transferred the goods is situated, upon the dispatch of such goods the competent customs office of the Member State of dispatch shall issue a control Copy T 5 in accordance with the rules laid down in Regulation (EEC) No 2823/87 in order to ensure that such goods are put to a use entitling them to continue to qualify for admission free of import duties.'

3. The title of Title III is amended to read as follows:

'TITLE III

SPECIFIC PROVISIONS RELATING TO THE IMPORTATION FREE OF IMPORT DUTIES OF SCIENTIFIC INSTRUMENTS AND APPARATUS UNDER ARTICLES 52 AND 54 OF THE BASIC REGULATION.'

4. Article 5 is replaced by the following:

'Article 5

For the purposes of the first indent of Article 54 of the basic Regulation, the objective technical characteristics of a scientific instrument or apparatus shall be understood to mean those characteristics resulting from the construction of that instrument or apparatus

(1) OJ No L 105, 23. 4. 1983, p. 1.
(2) OJ No L 318, 20. 11. 1991, p. 3.
(3) OJ No L 220, 11. 8. 1983, p. 20.
(4) OJ No L 180, 27. 6. 1989, p. 22.

or from adjustments to a standard instrument or apparatus which make it possible to obtain high-level performances above those normally required for industrial or commercial use.

Where is is not possible to establish clearly on the basics of its objective technical characteristics whether an instrument or apparatus is to be regarded as a scientific instrument or apparatus, reference shall be made to the use of the instrument or apparatus for which admission free of import duties is requested. If this examination shows that the instrument or apparatus in question is used for scientific purposes, it shall be deemed to be of a scientific nature.'

5. Article 6 (2) is replaced by the following:

'2. The application referred to in paragraph 1 must contain the following information relating to the instrument or apparatus in question:

(a) the precise trade description of the instrument or apparatus used by the manufacturer, its presumed combined nomenclature classification and the objective technical characteristics on the basis of which the instrument or apparatus is considered to be scientific;

(b) the name or business name and address of the manufacturer and, if available, of the supplier;

(c) the country of origin of the instrument or apparatus;

(d) the place where the instrument or apparatus is to be used;

(e) the precise use for which the instrument or apparatus is intended;

(f) the price of the instrument or apparatus or its value for customs purposes;

(g) the quantity of the instrument or apparatus in question.

Documentary evidence providing all relevant information on the characteristics and technical specifications of the instrument or apparatus must be furnished with the application.'

6. Article 7 is replaced by the following:

'Article 7

The competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned shall take a direct decision on applications under Article 6 in all cases.'

7. Article 14 is replaced by the following:

'Article 14

The competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned shall take a direct decision in respect of the application referred to in Article 13.'

8. Article 15a (2) (a) is replaced by the following:

'(a) the precise trade description of the instrument or apparatus used by the manufacturer, and its presumed classification in the combined nomenclature.'

9. Article 15c is replaced by the following:

'Article 15c

The competent authority of the Member State in which is situated the establishment or organization to which the goods are consigned shall take a direct decision on applications in all cases.'

10. Article 15d is replaced by the following:

'Article 15d

The provisions of Articles 15a and 15c shall apply *mutatis mutandis* to spare parts, components, specific accessories and tools to be used for the maintenance, checking, calibration or repair of instruments of apparatus admitted duty-free pursuant to Article 63a (2) (a) and (b) of the basic Regulation.'

11. Article 16 is replaced by the following:

'Article 16

1. Each Member State shall send the Commission a list of the instruments, apparatus, spare parts, components, accessories and tools of which the price or the value for customs purposes exceeds ECU 5 000 and in respect of which it has authorized or refused admission free of import duties under Articles 7, 14 or 15c.

The list shall give the precise trade description of the goods referred to in the first subparagraph and the eight-figure combined nomenclature code. It shall also include the name of the manufacturer or manufacturers, the country or countries of origin and the price or customs value of the goods concerned.

2. The lists referred to in paragraph 1 shall be sent during the first and third quarters of each year and shall contain particulars of those goods whose admission free of import duties has been authorized or refused during the preceding six months.

3. The Commission shall forward these lists to the other Member States.'

12. Article 18 is replaced by the following:

'Article 18

In order to ensure the uniform application of Community provisions, the lists referred to in Article 16 shall be examined periodically by the Committee on Duty Free Arrangements.'

13. Article 18a (2) (b) is replaced by the following:

'(b) the the precise trade description of the equipment as well as the quantity and value thereof and, where appropriate, its presumed classification in the combined nomenclature.'

14. Article 18c is replaced by the following:

'Article 18c

The provisions of Article 8 shall apply *mutatis mutandis.'*

15. Title IV, Articles 9, 10, 15b and 17 are 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 with effect from 1 January 1992.

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

Done at Brussels, 25 March 1992.

For the Commission

Christiane SCRIVENER

Member of the Commission