

COM/915

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 691 final

Brussels, 5 December 1978

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Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 222/77 on Community transit

(submitted to the Council by the Commission)

COM(78) 691 final.



EXPLANATORY MEMORANDUM

This proposal to amend Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit (1) relates to the flat-rate guarantee system and to the provisions applicable to goods carried by travellers or contained in their luggage:

1. Flat-rate guarantee system (Article 32 of the Regulation).

The application of the European unit of account (E.U.A.) to legal measures of the Institutions of the European Communities makes it necessary to convert into E.U.A. the flat-rate amount expressed in units of account in Regulation (EEC) No 222/77 and in Annex III of that Regulation.

In addition it is advisable to take the opportunity provided by this change to bring up to date the amount of 5000 U.A. which is the present maximum liability of the guarantor. In view of the rate of inflation since 1969 it is considered reasonable to increase the amount from 5000 U. A to 7000 E.U.A.

To avoid frequent changes in the working of the system and to make its operation by both customs administrations and its users as simple as possible it is proposed, as in the case of the application of the E.U.A. to the C.C.T., to calculate its equivalent in national currencies only once per year.

2. Special provisions applying to goods carried by travellers or contained in their luggage (Article 49 of the Regulation).

The proposal seeks to simplify the formalities when travellers cross internal frontiers of the Community by abolishing completely the ceiling of 300 U.A. above which they are required to prove the Community status of goods which they are carrying by presenting an internal Community transit document (T2L). This ceiling cause difficulties for both customs and travellers and in future goods will be accepted as having Community status when they have been so declared and there is no reason to doubt the accuracy of the declaration.

(1) OJ No L 38, 9.2.1977, p.1

PROPOSAL
for
Council Regulation (EEC)
amending Regulation (EEC) No 222/77 on
Community transit

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,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas Article 2(4) of Council Regulation (EEC) No 2779/78 of 23 November 1978 on the procedure for applying the European unit of account (EUA) to legal acts adopted in the customs sphere⁽³⁾ provides for the adjustment of amounts expressed in units of account in certain provisions relating to customs to be the subject of special provisions;

Whereas the provisions relating to Community transit are among those covered by the aforementioned Article 2(4) and whereas Council Regulation (EEC) No 222/77⁽⁴⁾ provides for amounts expressed in units of account, both in the rules relating to the flat-rate guarantee and in those applicable to goods carried by travellers or contained in their luggage;

Whereas the amount of the flat-rate guarantee expressed in units of account must be replaced by an amount expressed in EUA; whereas, in order to simplify

(1) OJ No C, , p.

(2) OJ No C, , p.

(3) OJ No L 333, 30.11.1978, p. 5.

(4) OJ No L 38, 9.2.1977, p. 1.

the work of users and of customs authorities and to maintain some degree of stability in the flat-rate guarantee system, the exchange value of the EUA in national currencies should be established only once a year; whereas, since it was fixed in 1969, the maximum amount of the flat-rate guarantee is now outdated, in view in particular of the effect of inflation on the value of goods; whereas the maximum amount of the flat-rate guarantee should therefore be adjusted;

Whereas the ceiling figure above which the production of an internal Community transit document is required in order to establish the Community status of goods carried by travellers or contained in their luggage may, in the light of experience and with a view to simplifying the formalities required of travellers crossing internal frontiers, be abolished;

Whereas it is therefore appropriate to amend Articles 32, 49 and Specimen III of the Annex to the aforementioned Regulation (EEC) No 222/77,

HAS ADOPTED THIS REGULATION:

Article 1

Council Regulation (EEC) No 222/77 is hereby amended as follows:

1. Article 32 is amended to read as follows:

" Article 32

1. Each Member State may accept that the natural or legal third person standing as guarantor under the conditions laid down in Articles 27 and 28 guarantees, by a single guarantee and for a flat-rate amount of 7 000 European units of account in respect of each declaration, payment of duties and other charges which may become chargeable in the course of a Community transit operation carried out under his responsibility, whoever the principal may be. If carriage of the goods presents increased risks, having regard in particular to the amount of duties and other charges to which they are liable in one or more Member States, the flat-rate amount shall be fixed by the office of departure at a higher level.

The guarantee referred to in the first subparagraph shall conform to Specimen III in the Annex.

2. The exchange values in national currencies of the European unit of account (EUA) to be applied to the provisions for Community transit shall be calculated once a year.

3. The following shall be determined under the procedure laid down in Article 57:

- (a) movements of goods which may give rise to an increase in the flat-rate amount, and the conditions under which such an increase shall apply;
- (b) the conditions under which the guarantee referred to in paragraph 1 shall apply to any particular Community transit operation;
- (c) the detailed rules for applying the exchange values in national currencies of the European unit of account."

2. Article 49 is amended to read as follows:

Article 49

"1. The Community transit procedure shall not be compulsory for the carriage of goods accompanying travellers or contained in their luggage, if the goods concerned are not intended for commercial use.

*2. The provisions of the Treaty establishing the European Economic Community which relate to the free movement of goods shall apply to goods which, by virtue of paragraph 1, are not carried under the Community transit procedure:

- (a) if they are declared as Community goods and there is no doubt as to the accuracy of that declaration;
- (b) in other cases, if an internal Community transit document issued to establish the Community status of the goods is produced."

3. Specimen III of the guarantee shown in the Annex is replaced by Specimen III annexed hereto.

Article 2

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

However, the provisions of Article 1 regarding the change in the amount of the flat-rate guarantee shall apply only to Community transit operations covered by declarations registered after 31 December 1979.

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

Done at Brussels,

For the Council

The President

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ANNEX

SPECIMEN III

COMMUNITY TRANSIT GUARANTEE

(FLAT-RATE GUARANTEE SYSTEM)

I. UNDERTAKING BY THE GUARANTOR

1. The undersigned (1)
resident at (2)
hereby jointly and severally guarantees, at the office of guarantee of

in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland,

any amount for which a principal may become liable to the abovementioned Member States of the European Communities by reason of infringements or irregularities committed in the course of a Community transit operation including duties, taxes, agricultural levies and other charges—with the exception of pecuniary penalties—as regards principal or further liabilities, expenses and incidental charges with regard to which the undersigned has agreed to be responsible by the issue of guarantee vouchers up to a maximum amount of 7000 European Units of account per voucher.

2. The undersigned undertakes to pay forthwith, upon the first application in writing by the competent authorities of the Member States, the sums requested up to an amount of 7000 European units of account per voucher.
3. This undertaking shall be valid from the day of its acceptance by the office of guarantee. This guarantee may be cancelled at any time by the undersigned, or by the Member State in the territory of which the office of guarantee is situated.

The cancellation shall take effect on the 16th day after notification thereof to the other party.

The undersigned shall remain responsible for payment of the sums which become payable in respect of Community transit operations covered by this undertaking which began before the date on which the cancellation took effect, even if the demand for payment is made after that date.

4. (3) For the purpose of this undertaking, the undersigned gives his address for service as (4) and, in each of the other Member States, as care of

(1) Surname and forenames, or name of firm.

(2) Full address.

(3) If, in the law of a Member State, there is no provision for giving addresses for service, the guarantor shall appoint, in each of the Member States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the first subparagraph of paragraph 4 must be made to correspond.

Member State	Surname and forenames, or name of firm, and full address
1.
2.
3.
4.
5.
6.
7.
8.

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to, or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his address for service, or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at On

.....
(Signature (*)

II. ACCEPTANCE BY THE OFFICE OF GUARANTEE

Office of guarantee

Guarantor's undertaking accepted on

.....
(Stamp and signature)

(*) The signature must be preceded by the following in the signatory's own handwriting: "Guarantee for the amount of in words."

