

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 27 July 1989

Proposal for a
COUNCIL DIRECTIVE
amending Directive 79/695/EEC on the harmonization of procedures
for the release of goods for free circulation

(presented by the Commission)

Com 385f

EXPLANATORY MEMORANDUM

1. This proposal for a Directive amending the Council Directive of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation (79/695/EEC) forms part of the process of completing the internal market in as much as major differences currently exist in the application of simplified procedures for the release of goods for free circulation in trade with third countries. Whilst in some Member States up to 65 % of imports are covered by simplified procedures, application of the same procedures in other Member States is somewhat sporadic (e.g. limited in particular to perishable foodstuffs).
2. In view of the economic importance of these procedures, the lack of uniformity in their use might encourage deflections of trade and be a factor influencing decisions to invest in one Member State or another once the single market had been created.
3. When the Directive of 24 July 1979 was adopted, complete harmonization of the simplified procedures for release for free circulation was not considered possible. Articles 16-20 of the Directive merely laid down the criteria defining how far the Member States could go in simplifying procedures. A significant breakthrough was made at that time in that those Member States which already applied the said procedures are obliged to comply with minimum requirements when authorizing traders to use them. In contrast, those Member States which saw no need to apply the procedures are not so obliged under the 1979 Directive.
4. This situation will not be sustainable once the internal market has been completed if problems such as those referred to at point 2 above are to be avoided. Consequently, this proposal aims to supplement the Directive in question by amending Articles 16-20 thereof, laying down in so doing the conditions under which an importer is entitled to demand authorization to use a simplified procedure. Such a recognition of the entitlement of operators to use the simplified procedures also constitutes a better basis for the introduction of computer systems - this being a topic which, with a view to a close coordination and harmonisation among Member States, will be the subject of Commission implementing provisions as authorised in Article 26 of the basic Directive.

5. The Commission's proposal provides for two types of simplified procedure, i.e. :

- the procedure for clearance at a designated place, which allows goods to be released for free circulation at the premises of the person concerned or at other places that are authorized by the competent authorities (Articles 18-18 c);
- the simplified declaration procedure, which enables certain particulars of the declaration to be furnished or inserted at a later date in the form of supplementary declarations (Articles 19-20 a).

6. Use of these two types of procedure is subject to authorization, which must be granted on request if certain conditions are met.

Since it is the proposal's principal aim to make the application of simplified procedures in the Community more uniform, major importance is attached to defining these conditions, particularly those laid down in Articles 18a and 20. The Commission's proposal is based on the principle that these conditions must be as objective as possible without leaving any doubt as to the responsibility of the Member States' administrations for the proper conduct of operations. The said Articles are based in this respect on provisions already adopted by the Council in Council Regulation (EEC) No 3/84 of 19 December 1983 introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States (OJ No L 2, 4.1.1984).

7. Provided all the conditions are met, authorization to use the procedure for clearance at a designated place is to be granted on request to, inter alia, any authorized consignee under the Community transit procedure. It should be noted in this respect that where reference is made in Article 18(1) to the Community transit procedure, that term is used within the meaning of Article 1(2) of the Convention of 20 May 1987 on a common transit procedure (OJ No L 226, 13.8.1987).

8. In view of the importance of this proposal for the customs union and the internal market, its legal basis is Article 100a.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Title II of Council Directive 79/695/EEC¹, as last amended by Directive 81/853/EEC², contains the provisions concerning special procedures; whereas those provisions contained in Subtitles A, B and C relate, respectively, to exemption from written entries, the drawing up of general, periodic or recapitulative entries and release of goods before lodging of entry;

Whereas the said provisions laid down in what manner and under what conditions the competent authorities may authorize use of simplified procedures for the release of goods for free circulation;

Whereas the conditions under which importers are entitled to request authorization to use such a procedure should be defined as precisely as possible; whereas a distinction must be drawn between two types of procedure, namely the procedure for clearance at a designated place and the simplified declaration procedure;

Whereas specific Community provisions apply where goods previously placed under a customs procedure with economic impact are released for free circulation;

¹OJ No L 205, 13.8.1979, p. 19.
²OJ No L 319, 7.11.1981, p. 1.

Whereas the simplified procedures for the release of goods for free circulation are of considerable economic importance to the customs union and the internal market; whereas in a single market importers must be able to enjoy the same facilities irrespective of where goods are released for free circulation;

Whereas the rules currently applicable should accordingly be amended by replacing Articles 16 to 20 of Directive 79/695/EEC,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Directive 79/695/EEC is hereby amended as follows :

1. Articles 16 to 20 are replaced by the provisions below.

"Article 16

Except where Articles 16a to 22 provide otherwise, Title I shall apply to the special procedures laid down in those Articles.

Article 16a

Without prejudice to the special provisions laid down in respect of consignments sent by parcel or letter post, and with the exception of cases where an import licence has to be presented, the competent authorities may specify that a written entry is unnecessary for goods imported for non-commercial purposes or goods of low value.

Article 17

1. The procedure for clearance at a designated place shall enable goods to be released for free circulation at the premises of the person concerned or at other places authorized by the competent authorities.

The simplified declaration procedure shall enable certain particulars of the declaration to be furnished or inserted at a later date in the form of supplementary declarations of a general, periodic or recapitulative nature.

2. In the framework of the procedures laid down in paragraph 1, release shall be granted without the goods in question having first been the subject, at the competent customs office, of the declaration provided for in Article 3 of the present Directive.
3. These procedures shall be applied in accordance with Articles 18 to 20a and do not preclude the exercise by the customs services of any checks they deem necessary to ensure the proper conduct of operations.

PROCEDURE FOR CLEARANCE AT A DESIGNATED PLACE

Article 18

1. Authorization to use the procedure for clearance at a designated place shall be granted, upon request, in accordance with the conditions and in the manner laid down in Articles 18a to 18c where a person is authorized to use simplified procedures under either the Community transit procedure, to be carried out at the office of destination in accordance with Articles 71 to 77 of Commission Regulation (EEC) No 1062/87^{*}, or a national transit procedure, as the case may be.
2. Without prejudice to the specific provisions applicable thereto, use of the procedure for clearance at a designated place shall also be authorized, upon request, where goods previously placed under a customs procedure with economic impact are released for free circulation.

* OJ No L 107, 22.4.1987, p. 1.

Use of the procedure for clearance at a designated place shall also be authorized, upon request, where goods to be released for free circulation at the premises of the person concerned or at other places authorised by the competent authorities are brought into the customs territory of the Community exempt from the requirement that they be presented to customs pursuant to Article 6(b) of Council Regulation (EEC) No 4151/88^{**}.

Article 18a

1. The authorization referred to in Article 18(1) shall be granted on condition that :
 - the applicant has not committed a serious infringement or repeated infringements of legislation concerning trade in goods;
 - the applicant's records enable the customs authorities to carry out an effective check, including checks at a later date;
 - it is possible to guarantee an effective check on import prohibitions or restrictions or any other provisions governing release for free circulation.
2. The authorization may be refused where the applicant declares goods for release for free circulation only occasionally.

^{**} OJ No L 367, 31.12.1988, p. 1.

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3. The authorization shall be revoked where one of the conditions referred to in paragraph 1 ceases to be fulfilled. It may be revoked where the situation referred to in paragraph 2 exists.
4. The customs authorities shall set out the grounds for decisions refusing or revoking authorisation.

Article 18b

1. To enable the competent authorities to satisfy themselves as to the proper conduct of operations, the authorized person referred to in Article 18(1) shall, upon arrival of the goods at the place designated for that purpose :
 - (a) duly notify the competent authorities of such arrival in the form and manner specified by them for the purpose of obtaining release of the goods;
 - (b) enter the said goods in his records. Such entry may be replaced by any other formality laid down by the competent authorities and offering similar guarantees. The entry shall indicate the date on which it is made and the particulars necessary for identification of the goods; such entry or the act in place of it has the same force in law as the acceptance of the declaration referred to in Article 3.
 - (c) make available to the competent authorities all documents, the production of which may be required for the application of the Community provisions governing the release of goods for free circulation.
2. On condition that checking on the proper conduct of operations is not thereby affected, the competent authorities may :
 - (a) permit the notification referred to in paragraph 1(a) to be effected as soon as the arrival of the goods becomes imminent;

(b) in certain special circumstances where the nature of the goods in question and the rapid rate of importation operations so warrants, exempt the authorized person from the obligation to notify the competent customs office of each arrival of goods, on condition that he provides that office with all the information which it deems necessary to enable it to exercise, where appropriate, its right to examine the goods. In that case, entry of the goods in the records of the person concerned shall be equivalent to their release.

Article 18c

The authorisation referred to in Article 18(1) shall set out the practical details for the functioning of the procedure and in particular :

- the goods to which it applies;
- the practical details of the obligations referred to in Article 18b, as well as the amount of the global guarantee to be provided by the person concerned;
- the time of release of the goods;
- the time limit within which the declaration referred to in Article 3 must be presented to the competent customs office designated for that purpose;
- the conditions in which goods are to be covered by general, periodic or recapitulative declarations.

SIMPLIFIED DECLARATION PROCEDURE

Article 19

1. The declarant or the person acting on his behalf shall, upon request, be authorized, in accordance with the conditions and in the manner laid down in Articles 20 and 20a, to make the declaration for release for free circulation in a simplified form where goods are presented to customs with a view to their release for free circulation.

Such declaration may take the form, apart from that of a declaration as referred to in Article 6, of an administrative or commercial document containing the particulars necessary for identification of the goods, accompanied by a request for release for free circulation.

The simplified declaration shall be accompanied by any document the production of which may be required to secure the release of the goods for free circulation.

2. Statements made in supplementary declarations, together with the statements made in the simplified declarations to which they relate, shall be deemed to constitute a single, indivisible instrument taking effect at the date on which the corresponding initial declaration was accepted.
3. The provisions of this Article shall be without prejudice to specific provisions applicable in the case of the presentation for release for free circulation of goods which have been placed under a customs procedure with economic impact.

Article 20

1. The authorization referred to in Article 19 shall be granted on condition that :
 - the applicant has not committed a serious infringement or repeated infringements of legislation concerning trade in goods;
 - it is possible to guarantee an effective check on import prohibitions or restrictions or other provisions governing release for free circulation.
2. The authorization may be refused where the applicant declares goods for release for free circulation only occasionally.
3. The authorization shall be revoked where one of the conditions referred to in paragraph 1 ceases to be fulfilled. It may be revoked where the situation referred to in paragraph 2 exists.
4. The customs authorities shall set out the grounds for decisions refusing or revoking authorisation.

Article 20a

1. The authorization referred to in Article 19 shall in particular designate the customs office(s) which accept simplified declarations, specify the goods to which they apply as well as the particulars necessary for the identification of the goods which must appear on the simplified declaration and specify the amount of the global guarantee to be provided by the person concerned.

It shall also specify the form and content of the supplementary declarations, which may be of a general, periodic or recapitulative nature, and fix the time limits by which they must be lodged with the competent authority to be designated.

2. In the headings which precede Articles 21 and 22 the letters (D) and (E) are deleted."

Article 2

Member States shall take the measures necessary to comply with this Directive not later than 1 January 1993.

The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.

Member States shall communicate these measures to the Commission.

Article 3

This Directive is addressed to the Member States.

Done at

For the Council

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