COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 23 July 1975

PROPOSAL FOR A
COUNCIL DIRECTIVE

on the harmonization of provisions laid down by law, regulation or administrative action concerning deferred payment of duties at importation or at exportation

(submitted to the Council by the Commission)

Explanatory Memorandum

Within the scope of work undertaken with a view to achieving the Customs Union, the Council adopted on 4 March 1969 a Directive on the harmonisation of provisions laid down by law, regulation or administrative action for deferred payment of customs duties, charges having equivalent effect and agricultural levies (69/76/EEC) (1).

The essential object of that directive was to allow importers of third country products, under certain conditions, and in particular subject to appropriate security being given, to defer payment of customs duties, charges having equivalent effect or agricultural levies which are due, for a period of 30 days from the date when they are entered in the accounts by the authority responsible for their collection.

The provisions of that directive include, in a harmonised form, the facilities previously accorded by Member States as much for technical reasons (facilitating customs clearance operations) as for economic ones (leaving the importer a certain lapse of time for him to sell the imported goods before making payment of duties to which they are liable). If the importers are involved in certain expenses which are related directly or indirectly to the security required by the administrations, these do not however give rise to any interest charges.

Further payment facilities may be authorised by the Member States. In such cases, pursuant to the provisions of Article 6 of the directive in question, the expenses borne by the person liable for payment, and in particular the interest which he must pay for the credit thus accorded to him, must be calculated in such a manner that the amount is equivalent to that which would be requested for this purpose on the money and financial market in the State concerned.

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(1) OJ No L 58 of 8.3.1969, p. 14

The purpose of the whole of these rules is thus to ensure equality of treatment among Community importers, in whichever Member State they may reside, and to avoid deflections of trade based on special administrative facilities.

These provisions have up to the present functioned in a satisfactory manner, and a recent study made by the Commission and the competent authorities of the Member States indicates that there is no occasion to make any amendments in so far as technique is concerned.

However, the provisions of the Directive of 4 March 1969 apply exclusively to customs duties, charges having equivalent effect and agricultural levies imposed at importation. At the period when it was adopted by the Council there were no other levies to be operated by the customs services either in respect of industrial products or for agricultural products. However, since the date of its entry into force, there have been introduced :

- at importation, monetary compensatory amounts applicable to certain agricultural products or to certain goods resulting from their being processed,

- at exportation, levies, charges and compensatory amounts applicable to certain agricultural products or to certain goods resulting from their being processed.

In order to take into account this new situation and also any other changes likely to arise in the future within the scope of taxation of products imported into the Community or exported outside of it, it is necessary to enlarge the field of application of the directive so that it covers the whole of the duties applicable at importation and at exportation. Equality of treatment can thus be ensured in respect of both Community importers and exporters.

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Pursuant to the provisions of Article 46 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties, the same provisions will obviously be applicable in respect of duties at importation or at exportation which are applicable, during the transitional period, for trade of goods within the enlarged Community.

Certain changes in the wording have nevertheless seemed worthwhile for the sake of better understanding of the text, and it appears desirable, in the interests of clarity, to include in a single text the whole of the measures henceforth applicable as regards deferred payment of duties at importation or at exportation, and to replace the Directive of 4 March 1969 by a completely new one.

This Proposal for a Directive, based on Article 100 of the EEC Treaty, requires the Opinion of the European Parliament as well as that of the Economic and Social Committee.

Proposal
for a
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on the harmonisation of provisions laid down by law, regulation or administrative action concerning deferred payment of duties at importation or at exportation

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

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

Whereas the Council Directive of 4 March 1969, on the harmonisation of provisions laid down by law, regulation or administrative action for deferred payment of customs duties, charges having equivalent effect and agricultural levies (1), fixed the conditions which enable Member States to defer payment of amounts due in respect of customs duties, charges having equivalent effect or agricultural levies on goods which have been the subject of a customs declaration;

Whereas, since the date of entry into force of that directive, monetary compensatory amounts have been introduced which are applicable to certain agricultural products or to certain goods resulting from their being processed; whereas it is necessary to extend the application of the provisions of the said directive to these charges at importation;

.../...

(1) OJ No L 58 of 8.3.1969, p. 14

Whereas there have also been introduced since that date agricultural levies, charges and monetary compensatory amounts at exportation for certain agricultural products or certain goods resulting from their being processed; whereas it is desirable for there to be provision to grant deferred payment of amounts due in respect of charges at exportation under the same conditions as those laid down for the payment of the different charges applicable at importation;

Whereas it is necessary, in the interests of clarity, to include in a single text the whole of the measures which are henceforth applicable with regard to deferred payment of the customs debt at importation and at exportation, and, in consequence, to repeal the directive of 4 March 1969,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. This Directive shall determine the rules which must be laid down by the law, regulation or administrative action of Member States concerning deferred payment of duties at importation or at exportation on goods which have been the subject of a customs declaration, with the consequent obligation to pay them.

2. Within the meaning of this Directive, the following shall be understood :

   a) duties at importation : customs duties and charges having equivalent effect, as well as agricultural levies and other charges at importation laid down within the framework of the common agricultural policy or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from processing agricultural products;

.../...

b) duties at exportation : agricultural levies, and other charges at exportation, laid down within the framework of the common agricultural policy or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from processing agricultural products.

Article 2

1. Subject to the applicant giving appropriate security, the competent authorities shall grant him, pursuant to the conditions provided for by this Directive, a time limit for the payment of duties on importation or exportation which he is liable to pay. Without prejudice to certain costs which may result for the beneficiary, the grant of this delay shall not give rise to the collection of any interest charges.

2. Subject to the application of the provisions of Articles 3, 4 and 5, the time limit for payment referred to in paragraph 1 shall be 30 days counting from the date when the amounts due by the person liable for payment are entered in the accounts by the authority responsible for their collection. The date of this entry in the accounts shall not be more than two days after that on which authority was given to remove the goods from customs charge - or of any other act resulting from compliance with customs regulations in force - and on which the amounts in question apply.

Article 3

1. Where the amounts due on account of duties at importation or at exportation for operations effected during any particular period are dealt with together so as to give rise to only one entry in the accounts at the end of that period by the authority responsible for collecting payment, the time limit for payment referred to in Article 2 (2) shall be reduced by a number of days equal to one-half of the number of days of the corresponding period in question.

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2. Where the number of days in the period referred to in paragraph 1 is an uneven number, the number of days to be deducted shall be equal to one-half of the even number immediately below that uneven number.

3. The period referred to in paragraph 1 shall not extend beyond the time limit for payment referred to in Article 2 (2).

Article 4

1. When deferred payment of duties at importation or at exportation is granted globally in respect of the whole of the amounts entered in the accounts over a particular period by the authority responsible for their collection, the time limit for payment referred to in Article 2 (2), calculated as from the end of that period, shall be reduced by the number of days equal to half of the number of days of the corresponding period in question.

2. Where the number of days in the period referred to in paragraph 1 is an uneven number, the number of days to be deducted shall be equal to one-half of the even number immediately below that uneven number.

3. The length of the period referred to in paragraph 1 may not extend beyond the time limit for payment referred to in Article 2 (2).

Article 5

If the last date for payment, determined in accordance with Articles 2, 3 and 4, falls on a non-working day, the time limit for payment shall be extended until the first working day following that date.

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Article 6

Where a Member State grants further payment facilities in addition to the deferred payment referred to in Articles 1 to 5, the expenses borne by the person liable for payment, and in particular any interest, must be calculated in such a way that the amounts are equivalent to those which would be charged for this purpose on the money and financial market in the State concerned.

Article 7

The Member States shall bring into force not later than 1 July 1976 the measures required to comply with this Directive.

Article 8

Each Member State shall inform the Commission of the provisions it is making in implementation of this Directive.

The Commission shall communicate the information to the other Member States.

Article 9

1. The Council Directive of 4 March 1969, on the harmonisation of provisions laid down by law, regulation or administrative action for deferred payment of customs duties, charges having equivalent effect and agricultural levies (69/76/EEC) shall be repealed with effect from 1 July 1976.

2. In all Community acts where reference is made to the Council Directive referred to in paragraph 1, or to certain Articles of that Directive, that reference shall be considered as referring to the present Directive or to corresponding Articles of this Directive.

Article 10

This Directive is addressed to the Member States.

Done at Brussels,

For the Council,

The President,