

COM 4071

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 408 final

Brussels, 24 July 1975

PROPOSAL FOR
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 542/69 on Community transit

(submitted to the Council by the Commission)

COM(75) 408 final

EXPLANATORY NOTE

In the light of experience gained during 5 years working of the Community transit system it is possible to change certain provisions of the Council Regulation (EEC) No. 542/69⁽¹⁾ of 18 March 1969 so as to include further simplification into the transit procedures.

Thus this proposal is aimed at achieving certain measures announced in the Commission's simplification programme presented to the Council on 25 February 1975.⁽²⁾

The amendments proposed are to Articles 7, 27, 40, 41, 42, 44, 45 and 51 of the said basic Regulation.

Article 7

The main reason for the amendments is to abolish the use of the T.I.F. procedure for goods carried by rail.

The exclusion of this procedure meets the unanimous wishes of the railway administrations of the nine Member States for a maximum reduction in the number of transit procedures.

The procedure, based on the use of the international TIF declaration which in fact breaks up the transit operation into a series of national rail journeys is hardly used any more since the setting up in the Community of the simplified Community transit system for goods carried by rail based on the use of the International Consignment Note (C.I.N.) or the International Express Parcels Consignment note (TI ex) under Commission Regulation (EEC) No. 304/71 of 11 February 1971⁽³⁾.

Article 27

Since the coming into operation of the Community transit system the Commission considers it is justified in asking whether the automatic use of the guarantee should be retained in the Community transit procedures, in particular in the internal procedure.

In fact in most cases the risk of the non-recovery of customs duties and other charges, to which the goods may be liable, is negligible or even non-existent.

(1) O.J. No. L 77, 29 March 1969, p.1

(2) Document COM (75) 67 final

(3) O.J. No. L 35, 12 Feb., 1971, p.31

1. The risk of non-recovery is practically nil in the case of business firms established in the Community who frequently export goods and scrupulously and accurately observe the obligations for which they are responsible in customs and fiscal matters and whose solvency is never in doubt.
2. In addition the principle can be admitted that it is unnecessary to require a guarantee for Community goods. However, there must be some exceptions to such a rule as regards certain categories of goods which, because of their nature and the high level of charges to which they are liable, administrations find are subject to increased risks during their transport.

Goods for which the carriage must - except for the provisions of Article 27A - be covered by a guarantee would be listed, under the procedure laid down in Article 58 of the Regulation, bearing in mind the special rules laid down in respect of certain highly taxed goods under the flat-rate guarantee system.

The list, which can only cover a limited range of products, will not be able to take account, in the tax incidence, of the value added tax. In fact VAT is common to the Community and the problem of its operation in a particular Member State in respect of imported goods does not differ substantially from the problem raised by the operation of V.A.T. in respect of home-produced goods traded commercially on the home-market. Such a list would, in addition, help the avoidance of practical difficulties, leading to divergencies which currently exist, in internal taxation.

The additional provisions of Articles 27A and 27B will, without doubt reduce administrative costs in international commerce and, more particularly, in intra-Community trade.

Article 40

The adoption of the provisions in Articles 27A and 27B nullify Article 40 since the waiver allowed by this Article, which applies only in the exporting Member State, will, in future, be of a Community nature.

Article 41

Article 41 has sometimes been used to split the transit to avoid giving a guarantee. Since the introduction of exemption from the guarantee system will, in future, mean that goods are entered under the transit procedure from the start to the end of the transport operation, it is timely to reconsider the wording of Article 41 to limit the application thereof to goods which are not intended to be transported under customs transit beyond the frontier office of the neighbouring Member State.

Community measures for the control of use or destination of goods should not hinder the use of procedures laid down in this Article because the provisions of Regulation (EEC) No 2315/69 will apply for certain goods and the use of the internal transit system would be unduly burdensome for a short journey between two frontier offices.

However the restriction in respect of goods subject to Community measures for the control of use or destination of goods should be retained for goods which cross an internal sea frontier within the meaning of Article 11(g) of Regulation (EEC) No. 542/69.

Article 42

Railway administrations have requested that, in order to reduce customs frontier control (cause of train delays), the provisions of Article 41 should not apply to carriage of goods by rail.

Article 42 (2) has accordingly been redrafted.

Article 44

The amendment relates to the redraft of the second paragraph of this Article. Measures are necessary in the case of traffic in certain Member States (in particular container and roll-on and roll-off traffic) to avoid the transference of customs formalities in respect of Community transit operations to the port of unloading when, in the case of a combined transport beginning in a Community sea-port the goods are to travel beyond the port of unloading 3

to an inland office. The obligation to enter the goods under the Community transit system before the internal sea-crossing within the meaning of Article 11 (g) will considerably ease the flow of combined transport traffic in the ports of unloading.

However, these provisions would not apply when goods are carried beyond the port of unloading either by rail, by the use of the simplified rail procedures, or exceptionally on the Rhine by the use of the Rhine Manifest.

Article 45

The wording of paragraph 1 of this Article which relates to Community goods subject to measures for the control of their use of destination under the internal Community transit procedure, is no longer accurate in that agricultural products, eligible for an export grant on exportation to third countries, move under the external Community transit procedure (TI) (see Council Regulation (EEC) No 2719/72, 19 December, 1972)⁽¹⁾.

2. Paragraph 2 of this Article relates to the waiver of guarantee for the air journey. In fact the airline companies to whom the waiver applies are listed by the Community Transit Committee.

In view of the frequent amendments necessary to keep this list up-dated it would be much simpler to allow the waiver to all airline companies authorised for air-transport purposes in a Member State of the Community.

The use by firms of commercial airline companies is generally subject in each Member State to authorisations granted after inquiry has been made of such firms in respect of their financial and technical security.

Article 51

Consequential on the amendment to Article 7 (1), the second sub-paragraph of paragraph 2 of this Article has been deleted.

Proposal
for
COUNCIL REGULATION (EEEC) No .../75
of 1975
amending Regulation (EEEC) No 542/69 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 Assembly;

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

Whereas several years' experience of application of the Community transit system set up under Council Regulation (EEEC) No 542/69 (1) of 19 March 1969, last amended by the Act of Accession and the Adjustments to the Treaties demonstrates the possibility of relaxing certain formalities under that system;

Whereas in particular greater flexibility can be introduced in regard to the guarantee having regard to the risks of non-recovery of customs duties and other charges actually encountered;

Whereas moreover automatic exemption from guarantee for goods chargeable only with VAT would constitute a substantial advance in respect of the free circulation of goods within the Community;

Whereas finally the repetition of Customs formalities should be avoided when goods which are due to continue their journey under customs transit to their destination within the Community cross internal frontiers

HAS ADOPTED THIS REGULATION:

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(1) OJ No L 77 of 24 March 1969, p. 1

(2) OJ No L 73 of 27 March 1973, p. 14

Article 1

1. Article 7 (1) of Regulation (EEC) No 542/69 is replaced as follows:

"In derogation from Article 1, the Community transit procedure shall not apply to carriage of goods under the procedure of international carriage of goods under cover of TIR carnets (TIR Convention) or the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine) on condition that that carriage of goods began or is to end outside the Community."

2. The expression "procedure of international carriage of goods by road" in the first sub-paragraph of Article 7 (2) is replaced by "procedure for international carriage of goods under cover of TIR carnets."

3. The second sub-paragraph of Article 7 (3) is replaced as follows:

"The internal Community transit document must carry a reference to the procedure used and to the relative document."

Article 2

The following Articles are added to Regulation (EEC) No 542/69:

"Article 27a

1. In derogation from Article 27, the principal may be exempted from furnishing a guarantee when the risk of non-recovery of duties and any other applicable charges is considered negligible according to the sufficiency of the principal.
2. The provisions necessary for the application of paragraph 1 shall be adopted under the procedure laid down in Article 58.

Article 27b

1. In derogation from Article 27, the principal shall be exempted from furnishing a guarantee for goods which fulfil the conditions laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community and for goods covered by the Treaty establishing the European Coal and Steel Community which are in free circulation in accordance with this Treaty except such goods shown on a list drawn up under the procedure laid down in Article 58.
2. Goods, which present additional risks due to the high level of charges to which they are liable, in particular excise duties and other charges on consumption, other than value added tax, shall not be included in the list. "

Article 3

Article 40 of Regulation (EEC) No 542/69 is repealed.

Article 4

Article 41 of Regulation (EEC) No 542/69 is replaced as follows:

"Article 41

1. Goods covered by Article 1 (3) (a) and (b) in respect of which export formalities are carried out at a frontier customs office of the exporting Member State and which are to be placed, at the office of entry in the neighbouring Member State, under a customs procedure other than transit need not be dealt with under the Community transit procedure.
In such a case, the only facts which need be given in the T2 declaration are those required for export purposes by the provisions laid down by law, regulation or administrative action in the Member State of departure.
2. Paragraph 1 shall not apply to goods crossing an internal frontier in accordance with the second sub-paragraph of Article 11 (g) when such goods are not subject to Community measures entailing control of their use or destination.
3. The customs office of export shall stamp one copy of the T2 declaration and return it to the exporter or his representative. This copy should be sent to, and the goods presented at, the office of entry specified in paragraph 1."

Article 5

Article 42 (2) of Regulation (EEC) No 542/69 is replaced as follows:

- "2. The provisions of Article 19 (2) and (3) and Articles 21, 22 and 41 shall not apply to the carriage of goods by rail."

Article 6

Article 44 (2) of Regulation (EEC) No 542/69 is replaced as follows:

- "2. The provisions of paragraph 1 shall not apply when:

- (a) goods are subject to Community measures entailing control of their use or destination;
- (b) "the carriage of goods by sea, in a combined transport operation, is due to be succeeded beyond the port of unloading by carriage of the goods by road through the territory of one or more Member States".

Article 7

Article 45 of Regulation (EEC) No 542/69 is replaced as follows:

"Article 45

1. The Community transit procedure shall not be compulsory for the carriage of goods by air when such goods are not subject to Community measures entailing control of their use or destination.
2. In cases where Community transit procedure is used for carriage of goods wholly or partly by air, no guarantee need be furnished to cover the air portion of the journey of goods carried by airlines authorised in Member States to operate commercial aircraft on international routes".

Article 8

The second sub-paragraph of Article 51 (2) of Regulation (EEC) No 542/69 is repealed.

Article 9

This Regulation shall enter into effect on 1 January 1976.

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

Done at, 1975

For the Council

The President