

COMMISSION OF THE EUROPEAN COMMUNITIES
^

COM(81) 74 final

Brussels, 27 February 1981

Proposal for a
COUNCIL DIRECTIVE

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

(submitted to the Council by the Commission)

COM(81) 74 final

EXPLANATORY MEMORANDUM

In the course of the work which resulted in the adoption of Council Directive 79/695/EEC of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation (1), some of the Member States indicated that they felt the directive should have included a definition of the conditions under which a person (hereinafter referred to as "declarant") is permitted to make a customs entry.

Since the definition of a declarant concerns entries made in respect of all customs procedures and not merely the release of goods for free circulation, it was agreed that it should be laid down in a separate regulation and that the Member States could make the implementation of Directive 79/695/EEC subject to publication of that regulation.

Article 27 (1) of the Directive thus provides that "Member States shall take the measures necessary to comply with this Directive not later than six months after the date of publication in the Official Journal of the European Communities of the Regulation laying down the conditions under which a person is permitted to make a customs entry".

It has become apparent from the ensuing discussions on the proposal for a regulation that there are considerable differences of opinion between some Member States and it is likely that further lengthy negotiations will be necessary, which would delay the adoption of the regulation for some time.

(1) OJ No L 205, 13.8.1979, p. 19

The implementation of Directive 79/695/EEC by the Member States is therefore likely to be similarly delayed. Such a delay would cause serious difficulties, given the need to eliminate as soon as possible the present disparities in national laws on free circulation, which result in considerable distortions of treatment between Community importers, depending on the Member State in which they are established.

Moreover, the proposal for a Council directive on the harmonisation of export procedures (1) is about to be adopted and this text, which is the counterpart to the directive on the release of goods for free circulation, contains no restriction making the date of its entry into force subject to publication of the regulation on the definition of a declarant.

For all these reasons, and since there is no practical reason why the provisions on the release of goods for free circulation should not be implemented even without a common definition of a declarant, the Commission considers it necessary to specify the date by which Directive 79/695/EEC must be implemented by the Member States.

This proposal is designed to amend Article 27 (1) accordingly by fixing the final date for the implementation of Directive 79/695/EEC as 1 April 1982.

In view of the major changes which will be required in the present laws of some Member States in order to implement the specific procedures laid down in Article 17 to 22 of the directive, it does not seem advisable to change the date, fixed as 1 January 1984, until which the introduction of these procedures may be postponed.

(1) OJ No C 201, 10.8.1979, p. 6

Since this proposal for a directive is based on Article 100 of the EEC Treaty, the European Parliament and the Economic and Social Committee must give their opinions.

PROPOSAL FOR A COUNCIL DIRECTIVE

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

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 (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Article 27 (1) of Council Directive 79/695/EEC (4)

provides that Member States shall take the measures necessary to comply with the Directive not later than six months after the date of publication in the Official Journal of the European Communities of the Regulation laying down the conditions under which a person is permitted to make a customs entry;

Whereas the adoption by the Council of the above-mentioned Regulation has not taken place within the period originally specified; whereas, however, distortions of treatment resulting from the considerable disparities in the laws, regulations and administrative provisions of the Member States on the release of goods for free circulation should be eliminated as quickly as possible;

(1) OJ No C

(2) OJ No C

(3) OJ No C

(4) OJ No L 205, 13.8.1979, p. 19

Whereas there is no reason why the provisions on the release of goods for free circulation should not be implemented even in the absence of a Community definition of the conditions under which a person is permitted to make a customs entry; whereas it is necessary, therefore, to specify the date by which Member States must bring into force the measures necessary to comply with Directive 79/695/EEC; whereas, however, it is not necessary to amend the date until which the effective implementation of Articles 17 to 22 of the Directive may be postponed;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The first and second sub-paragraphs of Article 27 (1) of Directive 79/695/EEC are hereby replaced by the following:

"Member States shall take the measures necessary to comply with this Directive not later than 1 April 1982".

Article 2

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President