

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 36 final

Brussels, 3 February 1981

Proposal for a

COUNCIL REGULATION (EEC)

amending for the third time Regulation (EEC) No 222/77
on Community transit

(submitted to the Council by the Commission)

COM(81) 36 final

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Explanatory memorandum

1. Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit¹ includes provisions concerning the guarantee which must normally be furnished in order to ensure collection of the duties and other taxes which may become payable in the course of a Community transit operation.
2. Except in the case of a cash deposit, the guarantee consists in a natural or legal third person furnishing a joint and several guarantee by signing a guarantee form which conforms, according to the case in point, to specimens I, II or III annexed to the Regulation. These guarantee forms provide, amongst other things, that the person acting as guarantor undertakes to pay the sums requested forthwith, upon the first application in writing by the competent authorities.
At present, therefore, guarantors are allowed no time in which, for example, to establish whether the requests for payment made of them are justified. Experience has shown that guarantors regard this situation as an excessive imposition and that it may prompt some of them to withdraw from the Community transit guarantee system; their withdrawal would not only seriously disrupt the operation of the system, but might also deprive certain categories of operator of the opportunity of using Community transit procedures on their own account and without an intermediary.
3. It is therefore necessary to introduce a measure of flexibility into the guarantee arrangements, and in particular to provide for a period in which to make payment. Following the practice on other international transit procedures, it would seem appropriate to fix this period at three months from receipt of the written request for payment.
4. The purpose of this draft Regulation, which it is proposed the Council adopt, is to amend the specimen guarantee forms annexed to the abovementioned Regulation in order to introduce this three-month period.

¹OJ No L 38, 9.2.1977, p. 1.

PROPOSAL FOR A COUNCIL REGULATION (EEC) AMENDING
FOR THE THIRD TIME 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^o thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas Council Regulation (EEC) No 222/77⁴, as last amended by
the Act of Accession of Greece, provides that the gua-
rantee which must normally be furnished in order to ensure collection of
the duties and other taxes which may become payable in the course of a
Community transit operation shall consist of the joint and several guarantee
of a natural or legal third person and that this guarantee shall be in the
form of one of the specimens annexed to the said Regulation;

Whereas these specimen guarantee forms stipulate, in particular, that
the guarantor shall pay the sums requested forthwith, upon the first appli-
cation in writing by the competent authorities;

Whereas experience has shown that this requirement is excessive and that
guarantors need to be allowed a certain period in which to effect payment,
which period it would seem appropriate to fix at three months;

¹ OJ No

² OJ No C

³ OJ No C

⁴ OJ No L 38, 9.2.1977, p. 1.

Whereas the introduction of this three-month period makes it necessary to adopt the Community transit guarantee forms and whereas the specimens of these forms annexed to Regulation (EEC) No 222/77 must therefore be amended,

HAS ADOPTED THIS REGULATION :

Article 1

The specimen guarantee forms annexed to Regulation (EEC) No 222/77 are hereby replaced by the specimens annexed to this Regulation.

Article 2

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

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

Done at Brussels,

For the Council

The President

ANNEX

SPECIMEN I

COMMUNITY TRANSIT

GUARANTEE

(Comprehensive guarantee covering several Community transit operations)

I. UNDERTAKING BY THE GUARANTOR

1. The undersigned (1)
resident at (2)

hereby jointly and severally guarantees, at the office of guarantee of
up to a maximum amount of

in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of
Germany, the Hellenic Republic, 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 (3),

any amount for which a principal (4) may be or become
liable to the abovementioned States by reason of
infringements or irregularities committed in the course of a Community transit operation
carried out by that person, including duties, taxes, agricultural levies and other charges—
with the exception of pecuniary penalties—as regards principal or further liabilities,
expenses and incidentals.

2. The undersigned undertakes to pay, within a period of three months from the date of the first
application in writing by the competent authorities of the States referred to in paragraph 1,
and without being able to defer payment beyond such period, the sums requested up to the limit
of the maximum amount aforesaid.

This amount may not be reduced by the sums already paid in pursuance of this undertaking
unless recourse is had to the undersigned in respect of a Community transit operation
which began before the 30th day following that of the receipt by the undersigned of pre-
vious application or applications.

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 State in the terri-
tory 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.

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

(2) Full address.

(3) Delete the name of any State of which the territory will not be used.

(4) Surname and forenames, or name of firm, and full address of the principal.

4. For the purpose of this undertaking the undersigned gives his address for service ⁽¹⁾ as ⁽²⁾ and in each of the other States referred to in paragraph 1 as care of:

State	Surname and forenames, or name of firm, and full address
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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 and 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 addresses 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 ⁽³⁾)

II. ACCEPTANCE BY THE OFFICE OF GUARANTEE

Office of guarantee

Guarantor's undertaking accepted on

□
(Stamp and signature)

⁽¹⁾ If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the 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 acknowledgment in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.
⁽²⁾ Full address.
⁽³⁾ The signature must be preceded by the following in the signatory's own handwriting: 'Guarantee for the amount of with the amount written out in full.

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SPECIMEN II

COMMUNITY TRANSIT

GUARANTEE

(Guarantee covering a single Community transit operation)

I. UNDERTAKING BY THE GUARANTOR

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

in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, 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 (3),

any amount for which a principal (4) may be or become liable to the abovementioned States by reason of infringements or irregularities committed in the course of a Community transit operation

carried out by that person from the office of departure of

to the office of destination of in respect of the goods designated hereinafter, including duties, taxes, agricultural levies and other charges — with the exception of pecuniary penalties — as regards principal or further liabilities, expenses and incidentals.

2. The undersigned undertakes to pay, within a period of three months from the date of the first application in writing by the competent authorities of the States referred to in paragraph 1, and without being able to defer payment beyond such period, the sums requested.

3. This undertaking shall be valid from the day of its acceptance by the office of departure.

4. For the purposes of this undertaking, the undersigned gives his address for service (5) as (2) and, in each of the other States referred to in paragraph 1, as care of:

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

⁽²⁾ Full address.

⁽³⁾ Delete the name of any State or States of which the territory is not to be used.

⁽⁴⁾ Surname and forenames, or name of firm, and full address of the principal.

⁽⁵⁾ If, in the law of the State, there is no provision for address for service, the guarantor shall appoint, in each of the 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 acknowledgment in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

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

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in favour of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, 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 States 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 7 000 ECUs per voucher.

2. The undersigned undertakes to pay, within a period of three months from the date of the first application in writing by the competent authorities of the States referred to in paragraph 1, and without being able to defer payment beyond such period, the sums requested up to an amount of 7 000 ECUs per guarantee 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 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 (2) and, in each of the other States referred to in paragraph 1, as care of:

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

(3) If, in the law of a State, there is no provision for giving addresses for service, the guarantor shall appoint, in each of the 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 fourth subparagraph of paragraph 4 must be made to correspond.

