

COMMISSION OF THE EUROPEAN COMMUNITIES

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Draft

COUNCIL REGULATION

on the importation free of Common Customs Tariff
duties of materials for the use of the blind and
other handicapped persons

(submitted to the Council by the Commission)



EXPLANATORY MEMORANDUM

The Agreement on the importation of educational, scientific and cultural materials, adopted by the General Conference of UNESCO at its fifth session, held in Florence in July 1950, provides for the granting of duty-free entry for certain articles for the blind.

These provisions are currently included in Council Regulation (EEC) No 1798/75 of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific and cultural materials (1).

At its nineteenth session, held in Nairobi in November 1976, the General Conference of UNESCO adopted a protocol to the Florence Agreement which, among other things, extends the duty relief from customs duties provided for in the Agreement to articles for the blind and, under certain conditions, to all materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons (Annex E).

Under point 14(a) of Title VIII of the Protocol, the European Economic Community has been admitted as contracting party to the Protocol provided that all the Member States constituting it are also parties thereto.

On _____, the Council, on a proposal from the Commission, decided to conclude this Protocol on behalf of the Community (2).

The purpose of this proposal for a regulation is therefore to give effect at Community level to the provisions of Annex E to the Protocol to the Florence Agreement.

(1) OJ No L 184, 15.7.1975, p. 1

(2) OJ No

This Protocol stipulates that, in order to be granted duty-free entry :

- materials specially designed for the educational, scientific or cultural advancement of the blind must be imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles [Annex E (i)].

- materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons must be imported directly by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

Furthermore, the granting of duty-free entry is subject to the condition that equivalent objects are not being manufactured in the importing country [Annex E (ii)].

Pursuant to point 14 (a) of Title VIII, the term "importing country" should be taken, in the case of the European Economic Community to refer to the whole of the territories which constitute it.

The measures contained in this proposal have been drawn up in accordance with these provisions. However, in view of the objective being pursued, the Commission, after consulting the representatives of the Member States, considered it possible to propose to the Council that it go beyond the obligations devolving upon the European Economic Community as a result of the signature of the Protocol to the Florence Agreement :

- by not requiring the granting of customs duty-free admission for materials for the use of handicapped persons other than the blind [Annex E (ii)] always to be made subject to the condition that articles equivalent to those for which duty-free admission is requested are not being manufactured in the Community, provided that the granting of this concession is not liable to prejudice Community production;
- by granting duty-free entry to materials which are sent as a gift to an approved institution or organization without any commercial consideration on the part of the donor.

Furthermore, in order to attain fully the desired objective, the Commission proposes that the approved institutions or organizations be authorized to lend, hire out or transfer, on a non-profit-making basis, the articles imported duty-free to persons with whom they are concerned.

The detailed rules for the practical application of these measures at Community level will be adopted by the Commission once it has received an opinion from the Committee on Duty-free Arrangements set up by the aforementioned Regulation (EEC) No 1798/75.

Since this proposal is based on Article 28 of the EEC Treaty it would not normally require the opinion of the European Parliament. However, in view of the subject of the proposal, the Commission considers it desirable to seek the opinion of the European Parliament as well as that of the Economic and Social Committee.

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COUNCIL REGULATION

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other handicapped persons

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 28 thereof,

Having regard to the draft Regulation submitted by the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas, in order to facilitate the education, employment and social advancement of the blind and other physically or mentally handicapped persons, the materials specially designed for those purposes should, whenever possible, be allowed admission free of Common Customs Tariff duties;

Whereas on 26 November 1976 the 19th General Conference of UNESCO adopted a Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials which makes provision for such duty-free admission;

Whereas the European Economic Community and its Member States are Contracting Parties to that Protocol;

Whereas Annex E of the said Protocol provides that in order to be granted duty-free entry :

- materials specially designed for the educational, scientific or cultural advancement of the blind must be imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles;
- materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons must be imported directly by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, whereas, furthermore, the granting of duty-free entry is subject to the condition that equivalent objects are not being manufactured in the importing country;

This Protocol stipulates that, in order to be granted duty-free entry:

- materials specially designed for the educational, scientific or cultural advancement of the blind must be imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles [Annex E (i)].

Whereas, in accordance with paragraph 14 (a) of the Protocol, the term "importing country" must be taken to refer to the whole of the territories of the Member States which constitute the European Economic Community;

Whereas, to the extent that the grant of customs duty-free admission is not liable to prejudice Community production, it possibly need not, where materials for the use of handicapped persons other than the blind are concerned, be made systematically subject to the condition that equivalent articles are not being manufactured in the Community; whereas, in any event, this condition need not be imposed if the articles in question are sent as a gift to an approved institution or organization without any commercial consideration on the part of the donor;

Whereas in order fully to attain the desired objective, the approved institutions or organizations should be authorized on a non-profit-making basis to lend, hire out or transfer the articles imported duty free to the blind or other handicapped persons with whom they are concerned;

Whereas in the interest of logic and clarity all the provisions governing the duty-free importation of materials for the use of the blind or other physically or mentally handicapped persons should be brought together in a single regulation; whereas it is therefore necessary to include in this Regulation those provisions of Council Regulation (EEC) No 1798/75 of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific and cultural materials ⁽¹⁾ which concern blind persons;

.../...

(1) OJ No L 184 of 15.7.1975, p. 1

Whereas, in order to permit verification at Community level that the conditions imposed for the granting of duty-free admission have been fulfilled, a Community procedure of consultation within a Committee should be used to allow close and effective collaboration between the Member States and the Commission; whereas it is also important to ensure the uniform implementation of the provisions of this Regulation and to adopt detailed rules for its implementation within the appropriate period of time; whereas for this purpose it is necessary to have recourse to the Committee on Duty Free Arrangements established by the above-mentioned Regulation (EEC) No 1798/75,

HAS ADOPTED THIS REGULATION :

Title I - materials for the use of the blind

Article 1

Materials specially designed for the educational, scientific or cultural advancement of blind persons, as specified in Annex 1 hereto, shall be admitted free of Common Customs Tariff duties irrespective of the nature of the recipient.

Article 2

1. Materials specially designed for the education or scientific or cultural advancement of blind persons, as specified in Annex II hereto, shall be admitted free of Common Customs Tariff duties provided they are imported directly by institutions or organizations concerned with the education of assistance to, the blind, approved by the competent authorities of the Member States for the purpose of duty-free entry of these types of articles.
2. The duty-free admission referred to in paragraph 1 of this Article shall be granted directly, on application from the recipient institution or organization, by the competent authority of the Member State in whose territory it is situated.

Title II - materials for the use of other
handicapped persons.

Article 3

1. Materials specially designed for the education, employment and social advancement of physically or mentally handicapped persons, other than blind persons, shall be admitted free of Common Customs Tariff duties when :

(a) they are intended for institutions or organizations that are principally engaged in the education and social advancement of or the provision of assistance to handicapped persons and are authorized by the competent authorities of the Member States to receive such articles duty-free;

and

(b) equivalent articles are not being manufactured in the Community.

However, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 7 (2), a derogation may be made from conditions (b) above, provided the granting of duty-free admission does not prejudice the production of equivalent articles within the Community.

2. The duty-free admission referred to in paragraph 1 shall apply to spare parts, units or accessories for the materials in question provided that such spare parts, units or accessories are imported at the same time as the said materials or, if they are imported at a later date, that they are recognizably intended for materials previously admitted duty-free, or eligible to be so admitted.

3. For the purpose of this Article :

whether articles are equivalent shall be assessed by comparing the characteristics and specifications of the article for which duty-free admission is requested with those of the corresponding article manufactured in the Community to determine whether the latter could be used

for the same purposes as those for which the article in respect of which duty-free admission is requested is intended and whether its performance would be comparable to that expected of the latter;

- an article shall be regarded as being manufactured in the Community where its delivery period from the time of the order is not, account being taken of commercial practices in the manufacturing sector under consideration, appreciably longer than the delivery period of the article for which duty-free admission is requested, or where this period does not exceed the latter to such an extent that the intended purpose or use for which the article was initially intended would be appreciably affected thereby.

Article 4

The duty-free admission referred to in Article 3 shall be granted, on application from the recipient institution or organization, by the competent authority of the Member State in whose territory, such institution or organization is situated.

Without prejudice to the last subparagraph of Article 3 (1), the granting of duty-free admission shall be conditional on its being established, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 6 (2), that articles equivalent to those for which duty-free admission is requested are not being manufactured in the Community.

Article 5

The granting of duty-free admission in respect of articles sent as gifts to the institutions or organizations referred to in Article 3 (1) (a) shall not be subject to the conditions laid down in Article 3 (1) (b) or the second paragraph of Article 4.

However, it must be established, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 6 (2), that the gift of the articles in question has not been prompted by any commercial considerations on the part of the donor.

Title III - common provisions

Article 6

1. Articles which have been admitted duty free in accordance with the conditions laid down in Articles 2 to 5 may be lent, hired out or transferred by the beneficiary institutions or organizations on a non-profit-making basis to the blind or physically or mentally handicapped persons with whom they are concerned without payment of the corresponding customs duties.
2. No loan, hire or transfer, whether for a consideration or free of charge, may be effected under conditions other than those provided for in paragraph 1 unless the competent authorities have first been informed.

Should an article be lent, hired out or transferred to an institution or organization itself entitled to benefit from exemption pursuant to Article 2 (1) or Article 3, the exemption shall continue to be granted provided the latter uses the article for purposes giving entitlement to such exemption. In other cases, the loan, hire or transfer shall be subject to prior payment of customs duties, at the rate applying on the day of the loan, hire or transfer, on the basis of the type of goods and the customs value ascertained or accepted on that date by the competent customs authorities.

Article 7

1. The Committee on Duty Free Arrangements provided for in Article 7 of Regulation (EEC) No 1798/75 shall examine such matters relating to the implementation of this Regulation as are put to it by its Chairman, whether on his own initiative or at the request of the representative of a Member State.
2. The provisions necessary for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 9 (2) and (3) of Regulation (EEC) No 1798/75.

Article 8

This Regulation shall enter into force on 1 January 1979.

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

Done at Brussels,

For the Council

The President

CCT Heading number	Description of goods
ex 49.03	Children's picture books and painting books, printed in relief for the blind
49.11	Other printed matter, including printed pictures and photographs : ex B. Other, printed in relief for the blind

CCT Heading number	Description of goods	Recipient institution or organization
48.01	Paper and paperboard (including cellulose wadding), in rolls or sheets : ex F. Other : - Braille paper	All institutions or organizations concerned with the education of, or assistance to, the blind and approved by the competent authorities of the Member States for the purpose of duty-free entry of these types of articles
48.15	Other paper and paperboard, cut to size or shape : ex B. Other : - Braille paper	ditto
ex 66.02	Walking-sticks (including climbing-sticks and seat-sticks), canes, whips, riding-crops and the like : - White canes for the blind	
84.51	Typewriters, other than typewriters incorporating calculating mechanisms; cheque-writing machines : ex A. Typewriters : - adapted for the use of blind persons	ditto
84.53	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included - equipment for the mechanical production of braille recorded material for the blind	ditto
85.15	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radio-broadcasting and television transmission and reception apparatus (including receivers incorporating sound recorders or reproducers) and television cameras; radio navigational aid apparatus, radar apparatus and radio remote control apparatus :	

CCT Heading number	Description of goods	Recipient institution or organisation
90.19	<p>ex A. III. Receivers, whether or not combined with a sound recorder or reproducer :</p> <ul style="list-style-type: none"> - television-enlargers for the blind and partially sighted <p>Orthopaedic appliances, surgical belts, trusses and the like; splints and other fracture appliances; artificial limbs, eyes, teeth and other artificial parts of the body; hearing aids or other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability :</p> <p>ex B. Other :</p> <ul style="list-style-type: none"> - electronic reading machines for the blind and partially sighted - electronic orientation and obstacle detection appliances for the blind 	ditto
90.21	<p>Instruments, apparatus or models, designed solely, for demonstrational purposes (for example, in education or exhibition), unsuitable for other uses :</p> <ul style="list-style-type: none"> - Teaching aids and apparatus specifically designed for the use of the blind 	ditto
ex 91.01	<p>Pocket-watches, wrist-watches and other watches, including stop-watches :</p> <ul style="list-style-type: none"> - Braille watches with cases other than of precious metals 	
92.11	<p>Gramophones, dictating machines and other sound recorders or reproducers, including record-players and tape decks, with or without sound-heads; television image and sound recorders or reproducers :</p>	

.../...

CCT Heading number	Description of goods	Recipient institution or organization
92.12	<p>A. II. Sound reproducers :</p> <ul style="list-style-type: none"> - Phonographs and cassette players specially designed or adapted for the blind <p>Gramophone recorders and other sound or similar recordings; matrices for the production of records, prepared record blanks, film for mechanical sound recording, prepared tapes, wires, strips and like articles of a kind commonly used for sound or similar recordings :</p> <p>ex B. II b) Other :</p> <ul style="list-style-type: none"> - Magnetic tapes and cassettes for the production of braille and talking books 	ditto
97.04	<p>Equipment for parlour, table or funfair games for adults or children (including billiard tables and pintables and table-tennis requisites) :</p> <p>ex B. Other :</p> <ul style="list-style-type: none"> - Table games and accessories specially adapted for the use of the blind 	ditto
Various	<ul style="list-style-type: none"> - All other material specially designed for the educational, scientific or cultural advancement of the blind 	ditto

FINANCIAL MEMORANDUM

Date :

1. Budgetary line

2. Title of action : Proposal for a regulation of the Council on the importation free of the duties of the Common Customs Tariff of objects intended for the blind and other handicapped persons

3. Legal basis : Art. 28 of the EEC Treaty

4. Purpose of the action : To include in a single text based on the provisions of the Florence Agreement and its Protocol, all measures of duty free admission likely to be granted on the importation of objects intended for the educational, scientific or cultural development of physically or mentally handicapped persons

5. Financial implications

Since the duty free admission will now be granted for other categories of handicapped persons other than the blind (current system), there will be a decrease in receipts. This is not quantifiable and ought however to be relatively limited. Also it is a humanitarian operation which the Community could not refuse

