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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 30 November 1987

accepting, on behalf of the Community, Annex E.5 to the International Convention on the simplification and harmonization of customs procedures

(87/593/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas, pursuant to Decision 75/199/EEC ⁽²⁾, the Community has concluded the International Convention on the simplification and harmonization of customs procedures;

Whereas, the acceptance of annexes to the International Convention on the simplification and harmonization of customs procedures effectively contributes to the facilitation and development of international trade;

Whereas Annex E.5 concerning temporary admission subject to re-exportation in the same state may be accepted by the Community;

Whereas such acceptance should, however, be accompanied by certain reservations to take account of the specific requirements of the Customs Union and the stage currently reached in the harmonization of customs legislation,

Article 1

Annex E.5 to the International Convention on the simplification and harmonization of customs procedures, concerning temporary admission subject to re-exportation in the same state, is hereby accepted on behalf of the Community, subject to a reservation of a general nature and reservations with regard to standards 14 and 23 and recommended practices 33, 37 and 38.

The text of the said Annex, together with the reservations, is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to notify the Secretary-General of the Customs Cooperation Council of the acceptance by the Community of the Annex referred to in Article 1, subject to the reservations referred to in that Article.

Done at Brussels, 30 November 1987.

For the Council

The President

N. WILHJELM

⁽¹⁾ OJ No C 318, 30. 11. 1987.

⁽²⁾ OJ No L 100, 21. 4. 1975, p. 1.

ANNEX

ANNEX E.5

ANNEX CONCERNING TEMPORARY ADMISSION SUBJECT TO RE-EXPORTATION IN THE SAME STATE

INTRODUCTION

There are many economic, social and cultural reasons which may lead a country to encourage the temporary stay of goods.

Moreover, when goods have to stay only temporarily in the customs territory of a State, to require final payment of the import duties and taxes applicable to them would as a rule be unjustified since the effect would be, for example, to subject goods to payment of import duties and taxes every time they were imported, on a temporary basis, into one country or another.

The national legislations of most countries accordingly contain provisions allowing conditional relief from duties and taxes for certain categories of goods temporarily imported.

The customs procedure under which conditional relief from import duties and taxes may be granted in respect of goods imported for a specific purpose and intended for re-exportation in the same state is the temporary admission procedure.

As a general rule, temporary admission involves total conditional relief from import duties and taxes. In certain special cases, however, for example when the goods are used for purposes such as production, work projects or internal transport, the conditional relief granted may be only partial.

The present Annex does not apply to articles temporarily imported by travellers for their personal use nor to private conveyances.

DEFINITIONS

For the purposes of this Annex:

- (a) the term 'temporary admission' means the customs procedure under which certain goods can be brought into a customs territory conditionally relieved from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of the goods;

- (b) the term 'import duties and taxes' means the customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (c) the term 'customs control' means the measures applied to ensure compliance with the laws and regulations which the customs are responsible for enforcing;
- (d) the term 'security' means that which ensures to the satisfaction of the customs that an obligation to the customs will be fulfilled. Security is described as 'general' when it ensures that the obligations arising from several operations will be fulfilled;
- (e) the term 'person' means both natural and legal persons, unless the context otherwise requires.

PRINCIPLE

1. *Standard*
Temporary admission shall be governed by the provisions of this Annex.

FIELD OF APPLICATION

2. *Standard*
National legislation shall enumerate the cases in which temporary admission may be granted and shall lay down the requirements which must be met.
3. *Standard*
Goods temporarily admitted shall be afforded total conditional relief from import duties and taxes. However, the conditional relief from import duties and taxes may be only partial in the cases referred to in Recommended Practice 38.

4. *Standard*
 Temporary admission shall not be limited to goods imported directly from abroad but shall also be authorized for goods ex customs transit, ex customs warehouse or from a free port or a free zone.

5. *Recommended practice*
 Temporary admission should be granted without regard to the country of origin of the goods, the country whence they arrived or their country of destination.

GRANT OF TEMPORARY ADMISSION

(a) Formalities prior to grant of temporary admission

6. *Standard*
 National legislation shall specify the cases in which prior authority is required for temporary admission and the authorities empowered to grant such authority.

7. *Recommended practice*
 The cases in which prior authority is required for temporary admission should be as few as possible.

(b) Declaration for temporary admission

8. *Standard*
 National legislation shall specify the conditions under which goods for temporary admission shall be produced at the competent customs office and a goods declaration shall be lodged.

9. *Recommended practice*
 National forms used for temporary admission should be harmonized with those used for the goods declaration for home use.

(c) Security

10. *Standard*
 The form in which security is to be provided on temporary admission shall be laid down in national legislation or determined by the customs authorities in accordance with national legislation.

11. *Recommended practice*
 The choice between the various acceptable forms of security should be left to the declarant.

12. *Standard*
 The customs authorities shall, in accordance with national legislation, determine the amount in which security is to be provided on temporary admission.

13. *Recommended practice*
 The amount of the security to be provided on temporary admission should not exceed the amount of the import duties and taxes from which the goods are conditionally relieved.

Note

This recommended practice does not prevent the amount of the security from being determined on the basis of a single rate where the goods fall in a wide range of tariff headings.

14. *Standard*
 Persons who regularly use the temporary admission procedure at one or more customs offices in a given customs territory shall be authorized to provide general security.

15. *Recommended practice*
 Customs authorities should waive the requirement for security where they are satisfied that payment of any sums that might fall due can be ensured by other means.

(d) ATA carnets

16. *Recommended practice*
 Contracting Parties should give careful consideration to the possibility of acceding to the Customs Convention on the ATA carnet for the temporary admission of goods done at Brussels on 6 December 1961 and thus accepting ATA carnets in lieu of national customs documents and as security for the import duties and taxes in respect of goods granted temporary admission with total conditional relief from import duties and taxes.

(e) Examination of the goods

17. *Recommended practice*
 At the request of the importer, and for reasons deemed to be valid, the customs authorities should, so far as possible, allow goods for temporary admission to be examined on private premises, the expenses entailed by such examination being borne by the importer.

(f) Identification measures

18. *Recommended practice*
 For the purpose of identifying goods temporarily admitted, the customs authorities should have recourse to the affixing of customs marks (seals, stamps, perforations, etc.) only where the goods cannot readily be identified by means of foreign seals, by marks, numbers or other indications permanently affixed to them, by a description, or by sampling.

STAY OF THE GOODS IN THE CUSTOMS TERRITORY

19. *Standard*
The time limit for temporary admission shall be fixed, for each type of case, by reference to the time necessary for the temporary admission, up to the maximum period, if any, laid down in national legislation.

20. *Recommended practice*
At the request of the person concerned, and for reasons deemed to be valid, the customs authorities should extend the period initially fixed.

TERMINATION OF TEMPORARY ADMISSION

21. *Standard*
National legislation shall specify the conditions under which goods on temporary admission shall be produced at the competent customs office and a goods declaration shall be lodged.

(a) Re-exportation

22. *Standard*
Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.

23. *Standard*
Provision shall be made for terminating temporary admission by placing the goods in a free port or free zone.

24. *Standard*
Provision shall be made to permit temporarily admitted goods to be re-exported through a customs office other than that through which they were imported.

25. *Recommended practice*
At the request of the exporter, and for reasons deemed to be valid, the customs authorities should, so far as possible, allow goods for re-exportation to be examined on private premises, the expenses entailed by such examination being borne by the exporter.

(b) Other methods of disposal

26. *Standard*
Provision shall be made for terminating temporary admission by declaring the goods for home use, subject to compliance with the conditions and formalities applicable in such case.

27. *Standard*

National legislation shall specify the point in time to be taken into consideration for the purpose of determining the value and quantity of goods declared for home use and the rates of the import duties and taxes applicable to them.

28. *Recommended practice*

Provision should be made for terminating temporary admission by deposit of the goods in a customs warehouse with a view to subsequent exportation or other authorized disposal.

29. *Recommended practice*

Provision should be made for terminating temporary admission by placing the goods under a customs transit procedure with a view to their subsequent exportation.

30. *Standard*

Provision shall be made for temporary admission to be terminated where, at the request of the person concerned, the goods are abandoned to the Revenue or destroyed or rendered commercially valueless under customs control, as the customs authorities may decide. Such abandonment or destruction shall not entail any cost to the Revenue.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste or scrap imported in that state.

31. *Standard*

Temporarily admitted goods which are destroyed or irrecoverably lost by accident or *force majeure* shall not be subjected to import duties and taxes, provided that such destruction or loss is duly established to the satisfaction of the customs authorities.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste or scrap imported in that state.

Note

In the case of partial conditional relief from import duties and taxes, Standards 30 and 31 are applicable provided that the portion of import duties and taxes payable at the time of the abandonment, destruction or loss of the goods is paid.

DISCHARGE OF SECURITY

32. *Standard*

Any security furnished shall be discharged as soon as possible after temporary admission has been terminated.

33. *Recommended practice*

If security has been given in the form of a cash deposit, provision should be made for it to be repaid at the office of re-exportation, even if the goods were not imported through that office.

INFORMATION CONCERNING TEMPORARY ADMISSION

34. *Standard*

The customs authorities shall ensure that all relevant information regarding temporary admission is readily available to any person interested.

SCOPE

(a) **Temporary admission with total conditional relief from import duties and taxes**35. *Recommended practice*

Temporary admission should be granted to the following goods:

- (1) 'Packings' referred to in Article 2 of the Customs Convention on the temporary importation of packings (Brussels, 6 October 1960).
- (2) 'Goods for display or use at exhibitions, fairs, meetings or similar events' referred to in Article 2, paragraph 1, of the Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events (Brussels, 8 June 1961).
- (3) 'Professional equipment' referred to in Annexes A to C of the Customs Convention on the temporary importation of professional equipment (Brussels, 8 June 1961).
- (4) 'Welfare material for seafarers' referred to in Article 1, paragraph (a), of the Customs Convention concerning welfare material for seafarers (Brussels, 1 December 1964).
- (5) 'Scientific equipment' referred to in Article 1, paragraph (a), of the Customs Convention on the temporary importation of scientific equipment (Brussels, 11 June 1968).
- (6) 'Pedagogic material' referred to in Article 1, paragraph (a), of the Customs Convention on the temporary importation of pedagogic material (Brussels, 8 June 1970).
- (7) 'Samples' and 'advertising films' referred to in Articles III and V of the International Convention to facilitate the importation of commercial samples and advertising material (Geneva, 7 November 1952).
- (8) 'Tourist publicity material' referred to in Article 3 of the Additional Protocol to the Convention concerning

customs facilities for touring, relating to the importation of tourist publicity documents and material / (New York, 4 June 1954).

- (9) 'Containers' referred to in Article 1 (c) of the Customs Convention on containers (Geneva, 2 December 1972).
- (10) 'Pallets' referred to in Article 1 of the European Convention on Customs treatment of pallets used in international transport (Geneva, 9 December 1960).
- (11) 'Commercial road vehicles' referred to in Article 1 of the Customs Convention on the temporary importation of commercial road vehicles (Geneva, 18 May 1956).

Contracting Parties are invited to consider the possibility of acceding to the above international instruments.

36. *Recommended practice*

Customs authorities should waive the requirement of a declaration in writing and of security in the cases of temporary admission referred to in items 1, 9, 10 and 11 of Recommended practice 35.

37. *Recommended practice*

Temporary admission should be granted in respect of the following goods unless they are eligible for outright duty-free admission under national legislation:

- (1) Used removable articles belonging to a person who takes up temporary residence in the country of importation.
- (2) Articles (including vehicles) which, by their nature, are unsuitable for any purpose other than advertising of specific articles or publicity for a specific purpose.
- (3) Data-carrying media for use in automatic data processing.
- (4) Drawings, plans and models to be used in the manufacture of goods.
- (5) Matrices, blocks, plates and similar articles, on loan or hire, for printing illustrations in periodicals or books.
- (6) Matrices, blocks, plates, moulds and similar articles, on loan or hire, to be used in the manufacture of articles that are to be delivered abroad.
- (7) Instruments, apparatus and machines to be tested or checked.
- (8) Instruments, apparatus and machines made available free of charge to a customer by or through a supplier or repairer, pending the delivery or repair of similar goods.

- (9) Costumes and scenery items sent on loan or on hire to dramatic societies or theatres.
- (10) Goods which have to undergo a change of packing prior to their delivery abroad.
- (11) Goods such as apparel, articles of jewellery and carpets, sent on 'sale or return' terms to persons not engaged in trade in such goods.
- (12) Animals, sports requisites and other articles belonging to a person resident abroad, for use by that person in sports contests or demonstrations.
- (13) Works of art, collectors' pieces and antiques for display in exhibitions, including those organized by the artists themselves.
- (14) Books sent on loan to persons resident in the country of importation.
- (15) Photographs, transparencies and films to be shown in an exhibition or at a competition for still or cinema photographers.
- (16) Draught animals and equipment for the working of lands adjacent to the border by persons resident abroad.
- (17) Animals brought to pasture on lands adjacent to the border worked by persons resident abroad.
- (18) Horses and other animals imported for shoeing or weighing, or for treatment or other veterinary purposes.
- (19) Specialized equipment arriving by ship and used on shore at ports of call for the loading, unloading and handling of cargo.
- (b) **Temporary admission with partial conditional relief from import duties and taxes**
38. *Recommended practice*
- Goods, other than those referred to in Recommended practices 35 and 37, which are to be temporarily used for purposes such as production, work projects or internal transport, should be granted temporary admission with partial conditional relief from import duties and taxes.
- Note**
- National legislation may provide that, for the purposes of calculating the amount of any duties and taxes payable upon such goods, account shall be taken of the duration of their stay in the customs territory, of the depreciation consequent upon the use made of them or of the hire charges paid for them.

Reservations to be entered by the Community in respect of Annex E.5 to the International Convention on the simplification and harmonization of customs procedures

1. *Reservation of a general nature (observation of general nature)*

'Community legislation only partly covers the provisions of this Annex. In the areas not covered by Community legislation, the Member States enter their own reservations, if necessary.'

2. *Standard 14*

'This Standard is not applied when the procedure is carried out at customs offices situated in different Member States.'

3. *Standard 23*

'In the Member States where free zones exist, this Standard is only applied if the goods concerned are placed in a free zone with a view to their subsequent exportation from the customs territory of the Community.'

4. *Recommended practice 33*

'This Recommended practice is not applied in all cases, in particular where the procedure is carried out at customs offices situated in different Member States except in certain cases concerning the Benelux Economic Union.'

5. *Recommended practice 37*

'The goods covered by point 3 are admitted under temporary admission arrangements if recorded and

made available free of charge to a person whether or not established in the customs territory of the Community.

For the goods listed in points 4 and 5 of the Recommended practice, Community legislation provides for temporary importation with total relief from import duties where at least 75 % of the production resulting from their use is exported from the customs territory of the Community.

The tests and checks set out in point 7 must not constitute a gainful activity.

The operation referred to in point 10 is not provided for in Community legislation under the temporary importation relief arrangements. However, it may be carried out (for example) as a usual form of handling in a customs warehouse or in a free zone, or under the inward processing relief arrangements.

Community legislation does not provide for the operation referred to in point 19.'

6. *Recommended practice 38*

'Partial relief does not apply for value-added tax purposes. Temporary admission under partial suspension of import duties is not applied as regards goods, the use of which might cause harm to the Community economy in particular because of the relationship between their economic life-span and the length of stay envisaged.'