

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 401 final

Brussels, 2 July 1982

Proposals for

- a Council Regulation simplifying customs formalities in trade within the Community
- a Council Regulation amending Council Regulation (EEC) No 2102/77 introducing a Community export declaration form
- a Council Regulation amending for the fifth time Regulation (EEC) No 222/77 on Community transit

(submitted to the Council by the Commission)

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Explanatory memorandum

I) Need for action to facilitate the free movement of goods within the Community

A look at the various requirements which economic operators at present have to comply with in intra-Community trade in goods shows that the formalities that have to be completed are virtually identical to those required in trade with non-Community countries. This sort of situation is obviously inconsistent with the objectives laid down in the Treaty.

Although some progress has already been achieved, notably through the introduction of the Community transit procedure, many obstacles still remain. A common feature of these obstacles is that they generate considerable costs for the economic operators concerned and may provide a temptation to protectionist tendencies within the Community during periods of economic difficulty, as is the case at present. It was with these disquieting factors in mind that the Commission initiated overall action to strengthen the internal market, involving the presentation of a set of specific proposals to the Council with the aim of facilitating the movement of goods and persons within the Community.

Furthermore, the European Council, whose attention had been drawn to this problem by the Commission, agreed at its meeting in Luxembourg on 29 and 30 June 1981 that an effort must be made to strengthen and develop the Community's internal market because of all the threats to its establishment. This position was reaffirmed by the European Council at its most recent meeting held in Brussels on 29 and 30 March 1982.

With particular regard to the aspect of the overall action which seeks to simplify customs formalities in trade within the Community, the aim is to strengthen Community preference by reducing the complexity of the formalities to be completed:

there is at present virtually no difference here between intra-Community trade and trade with non-Community countries, the whole being considered as simply constituting each Member State's external trade.

Although there are no longer any customs duties within the Community, a very clear distinction nevertheless remains in each Member State between national goods and imported goods, regardless of their origin. Some traders thus still regard intra-Community trade and trade with non-Community countries as being the same in nature and thus as requiring the completion of identical formalities. The reason for this is that, contrary to what traders might justifiably expect in the light of the objectives laid down in the Treaty, intra-Community trade has at present little or no preferential status as compared with trade with non-Community countries. However, some differentiation is necessary and, pending the full establishment of the internal market, this must form the postulate underlying the rules governing such trade. More flexible administrative procedures must therefore be introduced in intra-Community trade and economic operators must no longer be required to provide information or particulars no longer justified in respect of such trade. This sort of approach is moreover in line with the decisions of the Court of Justice of the European Communities, which have established the principle that administrative requirements imposed on users in intra-Community trade, if they go beyond what is strictly necessary for the proper monitoring of movements of goods, amount to measures having equivalent effect to a quantitative restriction, prohibited by the Treaty. The conclusion which must therefore be drawn is that there is no longer any room for customs formalities in intra-Community trade, even though specific formalities and a number of residual checks still remain necessary for the moment, notably in the area of statistics and taxation or for the purposes of certain provisions of the Treaty (principally Articles 36, 73, 109 and 115).

The Commission believes that one of the ways of achieving the objective pursued, which is to simplify formalities, would be to introduce a single administrative document which would replace the various "customs" declarations at present used in intra-Community trade and would include uniform information, limited in scope compared with that required in trade with non-Community countries. Since a document of this type would provide a permanent link between the particulars declared in the Member State of dispatch and those declared in the Member State of destination, this reform, as well as alleviating the constraints imposed on users, would increase the scope for preventing fraud in intra-Community trade. It does of course presuppose an increase in administrative cooperation, which would have to take very flexible forms. It would thereby help the various authorities concerned to become even more aware of the specific nature of intra-Community trade.

Mention should be made here in general terms of the precedent provided by experience in the Benelux countries, which decided that, for the purposes of trade amongst themselves, certain information could be waived and the necessary formalities considerably simplified.

In a policy decision taken in 1970, the relevant governments accordingly introduced the principle that customs formalities should no longer exist in intra-Benelux trade and that all that was required for the purposes of such trade was the presentation of an invoice. However, since invoice layouts were not harmonized, a number of difficulties arose, principally in compiling statistics. It is for this reason that, without calling into question all that has been achieved under the 1970 policy decision, the Benelux countries are considering introducing in the near future a simple administrative document

that can be used for statistical purposes in trade between them, the particulars required being in any case simpler and fewer than those required in trade with other countries.

The measures envisaged by the Commission derive from the same concept. However, they go further in that the single document which it is proposed to introduce will also cover the movement of the goods to which it relates.

While the proposed simplification will be generally advantageous to all firms, it will be particularly so for smaller businesses, many of which are reluctant to reach out beyond the purely national framework because of the complexity of the formalities or find themselves obliged to make use of various intermediaries. It goes without saying that the highly simplified customs clearance procedures which certain firms already enjoy will not be affected, although it is possible that the arrangements governing such procedures will have to be adjusted. In this respect it should be noted that an estimate of the competitiveness of a product dispatched from a Member State must include the cost of the formalities carried out in that Member State and also in that of destination. The proposed reform cannot therefore be judged solely by its effect on the dispatch procedures without considering the formalities at destination of which the cost also affects, sometimes considerably, the competitiveness of the product. Thus it is necessary to consider the formalities to be completed in their entirety and not to examine this or that aspect in isolation.

The proposals for Regulations also fall within the framework of the 1982 programme for the attainment of the Customs Union¹ (point A1). They are based on Article 235 of the Treaty establishing the European Economic Community and require the opinions of Parliament and of the Economic and Social Committee.

¹ OJ C 80, 31 March 1982.

II) Analysis of the proposals

A. Proposal for a Regulation simplifying customs formalities in trade within the community

1) Object and scope (Articles 1 and 2)

The aim of the proposal for a Regulation is to rationalize formalities and checks in intra-Community trade given the fact that it is at present impossible to achieve full and effective freedom of movement for goods within the Community.

The proposal covers all Community goods falling within the scope of the EEC and ECSC Treaties which are the subject of trade between two Member States. This means that goods subject to excise duties or to charges imposed under the common agricultural policy (monetary compensatory amounts) are also included. Excluding them would have created more problems than it would have solved, one reason being that the list of products subject to excise duties varies from one Member State to another.

2) Introduction of a single document (Articles 4, 5, 6, 7 and 11)

At present, three different forms must be used successively in intra-Community trade for the dispatch (still referred to today as "export"), movement and release of goods for home use or their entry under any other procedure in the Member State of destination. While the format of the dispatch declaration, like the Community transit declaration, is in principle uniform throughout the Community, despite sometimes very marked differences of emphasis from one Member State to another regarding the information to be provided, the same is not true of the declarations used for release for home use or for entry under another procedure in the Member State of destination, which differ widely from one Member State to another.

It was therefore felt that it was essential to put an end to this large degree of variety in the documents required by introducing a single administrative document which would cover the whole of the relevant operation. Thus, so as to establish a

link between the various stages of each operation, it is provided that all the documents required for dispatch, for Community transit, where appropriate, and for release for home use or for entry under any other procedure in the Member State of destination will have to be lodged for endorsement at the customs office at which the dispatch formalities are completed.

The single document will thus, depending on the circumstances, serve as the declaration of:

- dispatch of goods from one Member State to another,
- internal Community transit for such goods,
- release for home use or entry under any other procedure in the Member State of destination.

Thus, the single document will serve as the dispatch declaration when signed only by the consignor or by his authorized representative, as a transit declaration when signed by the principal in the section reserved for him, and as the declaration of release for home use or of entry under any other procedure required in the Member State of destination when also signed by the consignee or his authorized representative. The latter will not, of course, have to sign the declaration unless he considers that it corresponds exactly to the goods received. If he feels that it does not, he would have to make the necessary corrections after having informed the customs office of destination of the particulars he believes to be incorrect. The proposed system will thus provide greater security than at present exists in helping to prevent fraud.

It is proposed by the Commission that the format of the single document should be decided on by the Council acting by a qualified majority on a proposal from the Commission. The relevant proposal should be forwarded to the Council during the second half of 1982.

It should be noted that the proposal for a Regulation does not affect the rules applicable with regard to representation of the consignor or consignee vis-à-vis the customs authorities. The same applies to the responsibility of the person concerned in relation to the type of representation chosen.

Lastly, so as to allow greater flexibility in the use of the single document, it has been provided that the language in which the single document is drawn up must be an official Community language accepted by the competent authorities in the Member State of departure, which does not necessarily restrict the choice to the official language or one of the official languages of the Member State in question. This will, where appropriate, allow national regulations to evolve along lines in keeping with business practice.

3. Problems connected with the use of the single document (Article 10)

The introduction of the single document is intended to bring about a genuine simplification. It must not therefore prevent the maintenance of simplified arrangements already introduced in intra-Community trade.

Thus, there are already simplified and streamlined procedures which involve some 20 to 30% of operations at present and allow goods to be dispatched or released for home use on the basis of administrative or commercial documents containing only certain minimum information. So as not to undo the progress achieved through the relaxations already allowed in this area, and given the fact that a document showing that the transit operation has been completed is required in all cases, one solution would be to use the single document. Any consignor using the simplified procedure would then merely have to specify the consignee, give particulars for identifying the goods and provide the other information currently required for transit. Furthermore, when the provisions for implementing the Regulation are drafted, provision could be made for extending the document preauthentication system currently available in Community transit to include the simplified declarations both on dispatch and at destination. It should also be noted that introduction of the proposed system would be without prejudice to other possible simplifications of procedures, particularly in view of the progress which may be expected in the field of automatic data-processing.

Similarly in the case of grouped consignments, the regulations currently in force in several member States allow goods sent by one or more consignors to one or more consignees to be combined in a single declaration. The use of a single document would not prevent the principle of these special procedures from being maintained. The document, which must in any case be drawn up for dispatch purposes, would then replace the loading lists used for transit, since the information needed for transit has to be provided on only one of the documents presented, which includes a reference to all of the declarations attached.

Lastly, the simplified rules applicable to postal consignments, lettres and parcel post consignments and to certain goods, notably those contained in travellers' personal luggage, would be maintained.

4. Other simplification measures (Articles 8 and 9)

Because of the specific framework within which intra-Community trade in goods takes place, it was felt necessary to include provisions which would ensure that goods were not held up "in customs" when such situations could in fact be avoided. Since the relevant operations take place wholly within the Community, greater use of mutual administrative assistance should allow a rapid solution to be found for many problems, especially in cases of doubt as to the authenticity or applicability of a document.

Provision is also made for declarations to be annulled or corrected in view of the specific nature of the charges and regulations applicable in intra-Community trade.

5. Provisions relating to the Committee

A Committee on the Free Movement of Goods is to be set up, under the chairmanship of a representative of the Commission, to examine any questions relating to the application of the Regulation.

It will also be necessary to adopt a number of implementing provisions under this procedure. If necessary, provisions designed to simplify the formalities connected with the dispatch of goods and their release for home use or their entry under any other procedure in the Member State of destination can also be adopted using the above procedure.

6. Impact on other regulations

The introduction of a single document will have an impact on the Community transit procedure and on the use of the present forms. The relevant Community provisions will therefore have to be adjusted accordingly, and this is the purpose of the two proposals for Regulations which are also attached.

B. Proposal for a Regulation amending Council Regulation (EEC) No 2102/77 introducing a Community export declaration form

Since Council Regulation (EEC) No 2102/77 provided for the use of the EX form both in intra-Community trade and in trade with non-Community countries, use of the EX form will now have to be restricted to declarations of export to non-Community countries.

C. Proposal for a Regulation amending for the fifth time Council Regulation (EEC) No 222/77 on Community transit

With the introduction of a single document, as described above, a number of technical adjustments will have to be made to Regulation (EEC) No 222/77. These adjustments will not affect the substantive rules applicable nor will they affect the simplifications already introduced (loading lists, simplified procedures at departure and at destination, special provisions for certain types of transport, etc.). However, it was also felt that provision should be made for the Community transit procedure not to be applicable in trade between two adjacent Member States where the formalities involved in the dispatch of goods and their release for home use or their entry under any other procedure are carried out when the goods cross the common frontier, since the existence of a single document will make use of the Community transit procedures superfluous.

Similarly, since the single document will in itself provide evidence of the Community nature of the goods to which it refers, document T2L will become redundant and can therefore be abolished.

Proposal for a Council Regulation simplifying
customs formalities in trade within the Community

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 European Parliament,

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

Whereas at present the formalities which must be carried out by users in intra-Community trade in goods are virtually identical to those required in trade with third countries; whereas such a situation is unjustified and inconsistent with the objective of the Treaty; whereas it is at present important, for intra-Community trade, to move as closely as possible towards the conditions under which trade takes place within a single Member State;

Whereas simplification of the formalities in this field will have a positive impact on the development of intra-Community trade; whereas it will also provide an incentive for firms, particularly small firms, to view their business activity in terms of the whole of the Community's internal market;

Whereas, in order to attain this objective, there should firstly be an overall simplification of the documents required, the effect of which would be to replace by a single administrative document the various Community or national forms currently used in intra-

Community trade for the dispatch, Community transit and entry of goods for home use or their entry under any other procedure in the Member State of destination; whereas such simplification must apply to all Community goods within the meaning of the EEC and ECSC Treaties that are the subject of intra-Community trade; whereas the format of the single document must be adopted by the Council acting by a qualified majority on a proposal from the Commission;

Whereas such simplification must not have the effect of calling into question the simplified procedures at present enjoyed by a number of users; whereas it must not provide an obstacle to further simplification within the Benelux regional union; whereas it does not affect the rules applicable with regard to representation vis-à-vis the customs authorities or regarding the responsibility resulting from the type of representation chosen; whereas it does not conflict with the principle of the use of modern techniques, notably computerized techniques for the transmission and processing of data;

Whereas more flexible procedures should also be provided for in intra-Community trade because of the preferential framework within which such trade is carried on and the specific nature of the charges and arrangements applicable to it; whereas it is in particular necessary to ensure as far as possible that goods which are the subject of such trade are not held up more than necessary when the formalities required are being completed, particularly where the declaration lodged is incomplete; whereas far-reaching administrative cooperation should enable a rapid solution to be found for many problems;

Whereas the use of a single document allows a link to be established between the various stages of the operations carried out; whereas the scope for preventing fraud will thereby be increased, while at the same time the constraints imposed on users will be eased;

III

Whereas it is important to ensure uniform implementation of the provisions of this Regulation and, for this purpose, to provide for a Community procedure that will allow not only the adoption within appropriate time limits of a number of implementing provisions, but also the adaptation of the format of the declaration to certain technical requirements, notably with regard to automatic data-processing; whereas the same procedure must be used to allow the adoption of provisions which might prove necessary with regard to the easing of administrative procedures for the dispatch and release of goods for home use or for their entry under any other procedure in the Member State of destination; whereas it is necessary for this purpose to have a committee to organize close and effective cooperation between the Member States and the Commission;

Whereas such simplification is necessary for attaining one of the objectives of the Community; whereas the Treaty has not provided the necessary powers and this Regulation must, therefore, be based on Article 235 thereof,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to other Community provisions, this Regulation lays down measures to simplify customs formalities in trade within the Community, in particular by introducing a single document to be used for the dispatch, transit and for home use of Community goods or for their entry under any other procedure in the Member State of destination.

TITLE I GENERAL PROVISIONS

Article 2

This Regulation shall apply to goods - which are covered by the Treaty establishing the European Coal and Steel Community and are in free circulation in the Community in accordance with that Treaty, which satisfy the conditions laid down in Article 9(2) of the Treaty establishing the European Economic Community, hereinafter referred to as "Community goods" and which are the subject of trade between two Member States.

Article 3

For the purposes of this Regulation:

- dispatch means the procedure by which Community goods are consigned from one Member State to another;
- consignor means the natural or legal person on whose behalf Community goods are declared for dispatch to another Member State;

- consignee means the natural or legal person on whose behalf Community goods are entered for home use or for any other procedure in the Member State of destination.

Article 4

1. Where Community goods are the subject of trade between two Member States, the formalities connected with such trade shall be completed using a single document, based on a declaration on a form, a specimen of which is to be established by the Council acting by a qualified majority on a proposal by the Commission. This document or declaration shall serve, depending on the circumstances, as the dispatch document or declaration or as the document or (declaration of internal Community transit or of entry for home use or of entry of the goods under any other procedure in the Member State of destination.

The specimen of the form provided for in the previous subparagraph may be modified, where necessary, in accordance with the procedure laid down in Article 15, particularly with a view to its adaptation to the technical requirements arising from automatic data-processing systems.

2. The declaration shall be drawn up in one of the official languages of the Community which is acceptable to the competent authorities of the Member State in which the dispatch formalities are completed. The competent authorities of any other Member State concerned with the operation in question may, where necessary, require a translation of the declaration into the official language or one of the official languages of that Member State.

TITLE IICompletion of formalitiesA. Dispatch formalitiesArticle 5

1. Dispatch shall be subject to the lodging at a duly authorized customs office of the number of copies of the duly completed declaration required for dispatch to which shall be attached, for endorsement by the competent authorities, the requisite copies of the declaration which will be used to complete the formalities:

- for Community transit, where appropriate, and
- for entry for home use or for entry under any other procedure in the Member State of destination.

All copies of the declaration referred to in the preceding paragraph shall be signed by the consignor or where appropriate, by the person acting on his behalf.

The declaration must also be accompanied by documents which are required for the correct application of measures governing the dispatch of the goods in question.

2. The lodging of a declaration signed by a consignor or by the person acting on his behalf at a customs office shall indicate that the interested party wishes to declare the goods in question for dispatch or, depending on the circumstances, shall commit the person on whose behalf he is acting to observe all the obligations inherent in the dispatch of the goods in question.

B. Community transit formalities

Article 6

1. Without prejudice to the simplification provided for in respect of certain means of transport, an internal Community transit declaration shall consist of the copies of the declaration duly completed to that end and signed by the principal, as defined in Article 11(a) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit¹.
2. The transit within the Community of Community goods shall be effected in accordance with the provisions of Regulation (EEC) No 222/77.
3. The single document provided for in Article 4 and endorsed by the customs authorities shall certify the Community status of the goods to which it relates.

C. Formalities in the Member State of destination

Article 7

1. The entry for home use or the entry under any other procedure in a Member State of destination of Community goods dispatched from another Member State shall be subject to the lodging at the duly authorized customs office of copies of the declaration endorsed for that purpose on completion of the dispatch formalities. Photocopies of such documents may be attached where necessary.

The copies of the declaration and any photocopies of them shall:

- specify the procedure sought;
- be duly completed, and
- be signed by the consignee or, where appropriate, by the person acting on his behalf.

The declaration shall also be accompanied by documents required for the correct application of measures governing the entry of the goods for the procedure in question.

¹OJ No L 38, 9.2.1977, p.1.

2. The lodging of a declaration by a consignee or by the person acting on his behalf at a customs office shall indicate that the interested party wishes to enter the goods in question for the procedure indicated, in accordance with paragraph 1, and shall commit him or, depending on the circumstances, the person on whose behalf he is acting, to observe all the obligations inherent in the procedure in question.

D. Common provisions

Article 8

1. Declarations which satisfy the requirements laid down in Article 5(1) and in Article 7(1) shall be accepted forthwith by the customs authorities when the relevant goods are presented to them.

The date of acceptance of each declaration shall be the date to be taken into consideration for the application of measures governing respectively the dispatch of the goods in question, their entry for home use, or their entry for the procedure requested in the Member State of destination.

2. Notwithstanding paragraph 1, the customs authorities may, for reasons they consider valid, and at the request of the consignor or consignee or, where appropriate, the person acting on behalf of one of the latter, accept a declaration to which some of the documents which are required to be produced are not appended or do not contain all the particulars required.

Acceptance of such a declaration may not have the effect of preventing or delaying authorization to dispatch or dispose of the goods in question where there is no other reason prevailing against it.

Article 9

The provisions of Article 5(2) and Article 7(2) shall not affect the right of the consignor, consignee or, where appropriate, the person acting on behalf of one of the latter to cancel or correct the declaration.

Article 10

1. The provisions of this Regulation shall not preclude:

- the maintenance of simplified procedures enabling in particular a consignor or a consignee not to be obliged to produce at a Customs office either the Community goods or the declaration relating to them;
- the use of special procedures which have the effect, subject to observance of certain requirements, of combining in a single declaration Community goods forwarded by one or more consignors to one or more consignees;
- the application of special provisions laid down with regard to postal consignments, letters or parcel post consignments;
- the authorities from waiving the requirement to submit a written declaration in certain cases, notably as regards Community goods contained in travellers' personal luggage, for dispatch or entry for home use.

2. The provisions of this regulation shall not prevent application of agreements made or to be made between Belgium, Luxembourg and the Netherlands with a view to the simplification of formalities in trade within their regional union.

Article 11

1. The findings of the competent authorities of a Member State in the course of application of this Regulation shall have the same conclusive force in all the Member States as the findings of the competent authorities of each of those Member States.

2. The Member States shall assist each other in applying this Regulation.

TITLE IIIFINAL PROVISIONSArticle 12

1. A Committee on the intra-Community Free Movement of Goods (hereinafter referred to as "the Committee") is hereby set up, consisting of representatives of the Member States with a representative of the Commission as chairman.
2. The Committee shall adopt its own rules of procedure.

Article 13

The Committee may examine any question relating to the application of this Regulation submitted to it by its chairman either on his own initiative or at the request of a representative of a Member State.

Article 14

1. The provisions necessary for:
 - (a) the implementation of this Regulation; and for
 - (b) the simplification of formalities connected with the dispatch of and entry for home use of goods or for the entry of Community goods for any other procedure in the Member State of destinationshall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.
2. The Commission representative shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an opinion on the draft within a time limit set by the chairman having regard to the urgency of the matter.

Decisions shall be taken by a majority of 45 votes, the votes of the Member States being weighted as laid down in Article 148(2) of the Treaty.

The Chairman shall not vote.

3. The Commission shall adopt the provisions proposed where they are in accordance with the opinion of the Committee.

If the said provisions are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal concerning the provisions to be adopted. The Council shall act by a qualified majority.

If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

Article 15

Each Member State shall inform the Commission of the provisions which it adopts for the implementation of this Regulation.

The Commission shall communicate this information to the other Member States.

Article 16

This Regulation shall enter into force on 1 July 1983.

It shall apply with effect from 1 July 1984.

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

Done at Brussels,

For the Council

Proposal for a Council Regulation amending
Regulation (EEC) No 2102/77
introducing a Community export
declaration form

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 European Parliament,

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

Whereas Council Regulation (EEC) No 2102/77¹ introduced a Community export declaration form which could be used for dispatch of goods from one Member State to another as well as for export of goods outside the customs territory of the Community;

Whereas in the course of strengthening the internal market, Council Regulation (EEC) No of simplifying customs formalities in trade within the Community² has substituted in respect of the trade in question a single document for the declarations currently used for dispatch, internal Community transit, release of goods for home use or placing them under any other procedure in the Member State of destination; whereas Regulation (EEC) No 2102/77 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

¹ JO No L 246 of 27.9.1977, p. 1.

²

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Article 1

Article 1 of Regulation (EEC) No 2102/77 is hereby replaced by the following:

"Article 1

1. Without prejudice to other Community provisions this Regulation shall apply to goods which, destined for exportation from the Community, are covered by a written export declaration.
2. For the purpose of this Regulation "export" and "exportation" shall mean both the definitive or temporary exportation and the re-exportation of goods outside the customs territory of the Community".

Article 2

This Regulation shall enter into force on 1 July 1983.

It shall apply with effect from 1 July 1984.

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

Done at Brussels,

For the Council

Proposal for a Council Regulation amending for the
fifth 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 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

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

Whereas Council Regulation (EEC) No of simplifying customs formalities in trade within the Community¹ introduced a single document in place of the present declarations of dispatch, internal Community transit and entry of goods for home use or their entry under any other procedure in the Member State of destination; whereas the format of the internal Community transit declarations is thereby affected;

Whereas the relevant single document, endorsed by the customs authorities of the Member State in which the dispatch formalities are completed, serves as evidence of the Community nature of the goods to which it relates;

Whereas the movement of the relevant goods within the Community must continue to be carried out in accordance with the provisions of Council Regulation (EEC) No 222/77², as last amended by Regulation (EEC) No³; whereas the simplifications introduced in this field as regards procedure or types of transport must not be affected; whereas it should, however, be provided that Community transit shall not apply where, in trade between two adjacent Member States, the formalities required are carried out when the common frontier is crossed;

¹ OJ No L

² OJ No L 38, 9.2.1977, p.1

³ OJ No L

Whereas Regulation (EEC) No 222/77 should be adapted accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 222/77 is hereby amended as follows :

1. Article 1(5) is replaced by the following:

"5. The provisions of the EEC and ECSC Treaties relating to the free movement of goods shall apply to those goods which, in accordance with Article 1(2)(b), are carried under the procedure for external Community transit, and are not exported to a third country provided that a document establishing their Community status issued after the cancellation of the customs export formalities relating to the Community measures which necessitated the exportation of the goods to a third country is produced."

2. The first subparagraph of Article 2(2) is replaced by the following:

"2. The provisions of the EEC and ECSC Treaties which relate to the free movement of goods shall apply to movements of goods under an international procedure for temporary importation or temporary admission only if a document establishing the Community status of those goods is produced."

3. Article 7(3) is replaced by the following:

"3. The provisions of the EEC and ECSC Treaties which relate to the free movement of goods shall apply to the movement of goods under one of the procedures referred to in paragraphs 1 and 2 on condition that they are accompanied not only by the document required under the procedure used but also by a document establishing the Community status of those goods.

The latter document shall contain a reference to the procedure used and to the document relating to it."

4. Article 9 is replaced by the following:

"Article 9

Where, in the cases provided for in this Regulation, the provisions of the EEC and ECSC Treaties which relate to the free movement of goods are applied only on presentation of a document establishing the Community status of those goods, the party concerned may, for any valid reason, obtain that document subsequently from the competent authorities of the Member State of departure."

5. Article 39(1) is replaced by the following:

"1. Any goods that are to be carried under the procedure for internal Community transit shall, depending on the circumstances, be covered either by the declaration referred to in Article 6 of Council Regulation (EEC) No _____ of _____ simplifying customs formalities in trade within the Community¹, or by a T2 declaration. The format of the T2 declaration shall be determined in accordance with the provisions of Article 57."

¹

6. Article 41 is replaced by the following:

"Article 41

1. Goods in respect of which export formalities are carried out at a frontier customs office of the Member State concerned need not be dealt with under the Community transit procedure at that office unless they are subject to Community measures entailing control of their use or destination. In such a case, an internal Community transit operation may begin at the office of entry of the neighbouring Member State, which shall then become the office of departure.
2. The provisions of paragraph 1 shall likewise apply to goods crossing an internal frontier within the meaning of the second subparagraph of Article 11(g).
3. Where, in trade between two adjacent Member States, the formalities relating to dispatch and entry for home use are carried out when the internal frontier is crossed, the Community transit procedure shall not apply."

7. Article 47 is replaced by the following:

"Article 47

The provisions of the EEC and ECSC Treaties which relate to the free movement of goods shall not apply to goods which, pursuant to the provisions of Article 44, 45(1) or 46(1), do not circulate under the procedure for internal Community transit, unless a document establishing their Community status is produced."

8. Article 49(2)(b) is replaced by the following:

"b) in other cases, if a document establishing the Community status of the goods is produced."

Article 2

This Regulation shall enter into force on 1 July 1983.

It shall apply with effect from 1 July 1984.

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

Done at Brussels,

For the Council

