

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (89) 215 final- SYN 40

Brussels, 28 April 1989

Re-examined proposal for a  
Council Regulation (EEC)

on the entry in the accounts and terms of payment  
of the amounts of the import duties or export duties  
resulting from a customs debt

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(Submitted by the Commission pursuant to Article 149(2), (d), of the EEC Treaty)

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EXPLANATORY MEMORANDUM

I. Common position and Parliament's position

On 21 December 1988 the Council adopted a common position on the proposal for a Regulation on the entry in the accounts and terms of payment of the amounts of the import duties or export duties resulting from a customs debt (COM(84) 739 - SYN 40). Parliament approved that common position during its part-session held in March 1989 subject to four amendments. Those amendments relate to the following points:

1. At the request of a single Member State, the Council introduced a provision (second paragraph of Article 11) enabling Member States to collect "ancillary costs for opening a file or for services rendered" where deferment of payment of the amount of import or export duties is granted.

Parliament proposes that this provision be deleted.

2. The Council deleted Article 12(1)(b) of the Commission proposal, which stipulated that deferment of payment could not be granted in the case of post-clearance recovery.

Parliament proposes that this provision be reinstated.

3. The Council added to the provision (Article 24(3)) that repayment by the competent authorities "of amounts of import duties or export duties or of credit interest or interest on arrears collected on payment of such duties shall not give rise to the payment of interest by those authorities" the following sentence: "However, interest may be paid if national provisions so provide".

Parliament proposes that this entire provision be deleted.

4. Parliament also proposes reintroducing a provision stipulating that minimal amounts need not be entered in the accounts.

## II. Commission's position

1. The Commission accepts the four proposals by Parliament.

As regards points I (1) and (3), the provisions introduced by the Council would inevitably result in the rules being applied differently in the different Member States and thereby conflict with one of the fundamental objectives of the Commission's original proposal that traders should enjoy equal treatment throughout the Community.

As regards point 2, the Council has revoked a Community measure which has been in force since 1978. The Commission considers that the right to benefit from deferment of payment in the case of post-clearance recovery confers an unwarranted advantage on traders who already enjoy a privilege in that payment of their debts is claimed later than normal.

As regards point 4, it would seem reasonable to accept a de minimis rule in the interests of administrative economy.

2. Furthermore, the Commission considers that, in enabling interest to be charged in respect of post-clearance recovery "if national provisions so stipulate" (second paragraph of Article 21), the Council has again failed to achieve one of the essential objectives of the Commission's proposal, namely equal treatment of traders throughout the Community. It therefore adheres to its original proposal in this connection.

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Common position of the Council

Re-examined proposal

Preamble and recitals as in the common position

Articles 1 to 10 as in the common position

Article 11

The granting of deferment of payment shall be made conditional on the provision of security by the applicant.

In addition, the granting of deferment of payment may give rise to the collection of ancillary costs for opening a file or for services rendered.

Article 11

The granting of deferment of payment shall be made conditional on the provision of security by the applicant.

Articles 12 and 13 as in common position

Article 14

1. Deferment of payment shall not be granted in respect of amounts of duty which, although relating to goods entered for a customs procedure which entails the obligation to pay such duty, are entered in the accounts in accordance with the provisions in force concerning acceptance of incomplete declarations, because the declarant has not, by the time of expiry of the time-limit set, provided the information necessary for the definitive valuation of the goods for customs purposes or has not supplied the particulars or the document missing when the incomplete declaration was accepted.

Article 14

1. Deferment of payment shall not be granted in respect of amounts of duty which, although relating to goods entered for a customs procedure which entails the obligation to pay such duty, are entered in the accounts in accordance with the provisions in force concerning acceptance of incomplete declarations, because the declarant has not, by the time of expiry of the time-limit set, provided the information necessary for the definitive valuation of the goods for customs purposes or has not supplied the particulars or the document missing when the incomplete declaration was accepted, or for the purposes of post-clearance recovery.

Common position of the Council

Re-examined proposal

Article 14(2) as in the common position

Articles 15 to 20 as in the common position

Article 21

Without prejudice to any provisions connected with offences against customs rules which might be applied, no interest other than the interest provided for in Article 19 shall be charged on amounts of duty payable by a person liable for payment.

However, interest on arrears may be collected in respect of post-clearance recovery if national provisions so stipulate.

Article 21 a

Article 21

Without prejudice to any provisions connected with offences against customs rules which might be applied, no interest other than the interest provided for in Article 19 shall be charged on amounts of duty payable by a person liable for payment.

Article 21a

This Regulation shall apply without prejudice to such provisions as lay down that the customs authorities need not enter in the accounts amounts of duty of less than 10 ECU.

Articles 22 and 23 as in the common position

Article 24(1) and (2) as in the common position

3. The following Article shall be inserted in Regulation (EEC) No 1430/79:

3. Deleted

Common position of the Council

Re-examined proposal

"Article 17a

Repayment by the competent authorities, pursuant to this Regulation, of amounts of import duties or export duties or of credit interest or interest on arrears collected on payment of such duties shall not give rise to the payment of interest by those authorities. However, interest may be paid if national provisions so provide."

4) as in common position

Article 25 as in common position



Commission of the European Communities

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