



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02.06.1999
COM(1999) 236 final

98/0134(COD)

Amended proposal for a
EUROPEAN PARLIAMENT AND COUNCIL REGULATION (EC)
amending Council Regulation (EEC) No 2913/92
establishing the Community Customs Code

(presented by the Commission pursuant to Article 250(2)
of the EC Treaty)

EXPLANATORY MEMORANDUM

Following the opinion adopted by Parliament on 12 March on the proposal for a Regulation (EC) amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, the Commission wishes to amend its initial proposal (COM (98) 226) in accordance with Article 250 of the Treaty establishing the European Community.

The Commission has incorporated the substance of five amendments* proposed by Parliament. The amended proposal is intended:

- to settle the issue of "good faith" on the part of importers with regard to preferential origin agreements. The text in question is intended to improve the legal security of operators, dividing the risk of uncertainty between the importer and the system and specifying the obligations of the customs authorities;
- to reposition and clarify a point concerning the documents which must accompany customs declarations made electronically;
- to clarify a point concerning the reform of the customs procedures with economic impact and to delete another point on the matter, which is not indispensable.

*

Insertions are shown in bold and underlined. Deleted texts are shown struck through.

Amended proposal for a
EUROPEAN PARLIAMENT AND COUNCIL REGULATION (EC)
amending Council Regulation (EEC) No 2913/92
establishing the Community Customs Code
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

HAVE ADOPTED THIS REGULATION:

Article 1(4) : Article 62(3)

~~"3. Exceptions to the requirement established in paragraph 2 may be laid down in accordance with the committee procedure, in particular where the declaration is made electronically.~~

~~However, the right of access without prior warning of the national authorities or, where appropriate, of Community authorities, together with the obligation on the part of the operator to keep the proof for a minimum period shall be guaranteed. Implementing measures shall also be defined in accordance with the committee procedure."~~

Article 1(4a)(NEW) : Article 77(2)

4a. **In Article 77, the present text becomes paragraph 1 and the following paragraph 2 is added:**

"2. **Where the customs declaration is made electronically, exceptions to the requirement laid down in Article 62 (2) may be made in accordance with the Committee procedure.**

However, the right of access without prior warning of the national authorities or, where appropriate, of Community authorities, together with the obligation on the part of the operator to keep the proof for a minimum period shall be guaranteed. Implementing measures shall also be defined in accordance with the Committee procedure."

Article 1(5) : Article 115(4)

"4. Measures aimed at prohibiting, imposing conditions for or facilitating recourse to paragraph 1 may be adopted in accordance with the Committee procedure."

Article 1(7) : Article 118(4)

~~"4. Specific time limits may be laid down in accordance with the committee procedure."~~

Article 1(21a)(NEW : Article 220(2)(b)

The following is added to Article 220(2)(b):

"where the preferential status of the goods is established on the basis of a system of administrative cooperation involving the authorities of a third country, the issuance of a certificate by those authorities, should it prove to be incorrect, shall constitute an error within the meaning of the previous paragraph which could not reasonably have been detected, unless the exporter gave an incorrect account of the facts to the authorities in question; such an error shall be established, in particular, if the person liable provides proof that the exporter gave a correct account of the facts to the authorities issuing the certificate; the person liable may not, however, plead good faith if the Commission has published a notice in the Official Journal of the European Communities stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country, unless that person has shown due care in obtaining other proof of the origin of the goods which gives grounds for preferential treatment; it falls to the Member States to take all appropriate steps to establish any liability on the part of the person liable for duty;"

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*