

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 192 final

Brussels, 16 April 1982

JUN 21 1982

SERIALS UNIT

Recommendation for a

COUNCIL DECISION

concerning the acceptance of a draft Additional Protocol to the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment

---

(submitted to the Council by the Commission)

COM(82) 192 final



## EXPLANATORY MEMORANDUM

By its Decision of 25 June 1979, the Council authorized the Commission to conduct, within the Council of Europe, negotiations with a view to adding a protocol to the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment so that the European Economic Community could become a Contracting Party to that Agreement.

The grounds for this decision comprised the fact that the Agreement in question lays down that each Contracting Party which has sufficient stocks for its own needs will make medical, surgical and laboratory equipment available on free loan to such other Contracting Parties as may, in exceptional circumstances, have urgent need of it, such equipment having to be subsequently returned, and the fact that Article 2 lays down the length of the period of temporary importation and stipulates the beneficiaries of these Arrangements.

In practice, this means that the Member States are waiving the application of Common Customs Tariff duties on the equipment in question.

The Secretariat of the Council of Europe will submit this draft Additional Protocol for approval by the Committee of Ministers of that organization provided the draft has received the prior approval of the EEC Council of Ministers. It would like to be able to submit the draft at a meeting to be held in May this year.

Once the addition of this Protocol has been decided on by the Committee of Ministers of the Council of Europe, the European Community may become a Contracting Party to the Agreement.

Consequently, the Commission recommends that the Council accept the draft Additional Protocol to the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment and that it authorize the Commission to inform the Secretariat of the Council of Europe of such acceptance (Annex I).

As soon as this Additional Protocol has been adopted by the Committee of Ministers of the Council of Europe (probably in the second half of 1984), the Commission will recommend that the Council of Ministers of the Community should approve, on behalf of the Community, the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment.

Recommendation for a  
COUNCIL DECISION

concerning the acceptance of a draft

Additional Protocol to the Agreement on the temporary importation,  
free of duty, of medical, surgical and laboratory equipment for use  
on free loan in hospitals and other medical institutions for  
purposes of diagnosis or treatment

---

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic  
Community,

Having regard to the Recommendation from the Commission,

Whereas the Agreement on the temporary importation, free of duty, of  
medical, surgical and laboratory equipment for use on free loan in  
hospitals and other medical institutions for purposes of diagnosis  
or treatment, which was drawn up on the initiative of the Council  
of Europe, is designed to make it easier for Member States of that  
organization to import medical, surgical and laboratory equipment  
loaned in exceptional circumstances by other Member States, on  
condition that the said equipment is re-exported;

Whereas one of the conditions necessary to ensure this cooperation,  
which aims to satisfy the most urgent needs of the people of the  
Member States concerned, is to allow this equipment temporary exemption  
from import duties and import taxes, on condition that it is required  
for hospitals and other medical institutions, as provided for in  
Articles 1 and 2 of the Agreement;

Whereas any decision to grant temporary exemption from customs duties  
under an agreement must take account of the requirements peculiar to  
the Customs Union and in particular of the existence of the Common  
Customs Tariff;

Whereas any derogation from the Common Customs Tariff, whether by unilateral measures or by treaty, is the sole responsibility of the Community;

Whereas the Secretariat of the Council of Europe has proposed that an Additional Protocol be added to the Agreement in question to enable the European Economic Community to become a Contracting Party to that Agreement so that it may exercise its powers in that field;

Whereas the draft Additional Protocol meets the requirements of the European Economic Community,

HAS DECIDED AS FOLLOWS :

Article 1

The draft Additional Protocol to the Agreement on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment, as proposed by the Secretariat of the Council of Europe, is hereby approved on behalf of the Community.

The text of the said draft Additional Protocol is annexed to this Decision.

Article 2

The Commission shall inform the Secretariat of the Council of Europe of the approval by the Community of the draft Protocol referred to in Article 1.

Done at Brussels,

For the Council  
The President

ADDITIONAL PROTOCOL TO THE AGREEMENT ON THE TEMPORARY IMPORTATION,  
FREE OF DUTY, OF MEDICAL, SURGICAL AND LABORATORY EQUIPMENT FOR  
USE ON FREE LOAN IN HOSPITALS AND OTHER MEDICAL INSTITUTIONS FOR  
PURPOSES OF DIAGNOSIS OR TREATMENT.

---

The Member States of the Council of Europe, Contracting Parties to the Agreement of 28 April 1960 on the temporary importation, free of duty, of medical, surgical and laboratory equipment for use on free loan in hospitals and other medical institutions for purposes of diagnosis or treatment (hereinafter referred to as "the Agreement"),

Having regard to Articles 1 and 2 of the said Agreement, which lay down that this type of equipment may, under certain conditions, be temporarily imported free of duty,

Whereas so far as the Member States of the European Economic Community are concerned, the granting of such an exemption must in particular take account of the existence of the Common Customs Tariff set up by those States; whereas any derogation from the Common Customs Tariff falls within the competence of the European Community, which possesses the necessary powers in this respect by virtue of the Treaty which established it;

Whereas, for the purposes of implementation of Articles 1 and 2 of the Agreement, it is therefore necessary for the European Economic Community to be able to become a Contracting Party to the Agreement,

HAVE AGREED AS FOLLOWS :

Article 1

The European Economic Community may become a Contracting Party to the Agreement by signing it. In respect of the Community, the Agreement shall enter into force on the first day of the month following the date of such signature.

Article 2

1. This Additional Protocol is open to acceptance by the Contracting Parties to the Agreement. It shall enter into force on the first day of the month following the date on which the last Contracting Party deposits its instrument of acceptance with the Secretary General of the Council of Europe.
2. This Additional Protocol shall however enter into force at the end of a period of two years from the date on which it becomes open to acceptance, unless any Contracting Party communicates an objection to its entry into force. In that event, the first paragraph of this Article shall be applied.

Article 3

From the date of its entry into force, this Additional Protocol shall form an integral part of the Agreement. From that date, no State may become a Contracting Party to the Agreement without at the same time becoming a Contracting Party to the Additional Protocol.

Article 4

The Secretary Général of the Council of Europe shall notify the Member States of the Council of Europe, any State having acceded to the Agreement and the European Economic Community of any acceptance or objection under Article 2 and of the date of entry into force of this Additional Protocol in accordance with Article 2.

The Secretary General shall also notify the European Economic Community of any act, notification or communication relating to the Agreement.

Done at Strasbourg, this \_\_\_\_\_, in English and French, both texts being equally authentic, in a single original which shall be deposited in the archives of the Council of Europe.

The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to any State invited to accede to the Agreement and to the European Economic Community.