

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 563 final

Brussels, 23 October 1979

Recommendation for a

COUNCIL DECISION

accepting on behalf of the Community an Annex to the International
Convention on the simplification and harmonization of customs pro-
cedures

(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

The International Convention on the harmonization and simplification of customs procedures (Kyoto Convention), drawn up within the Customs Cooperation Council (CCC) and to which the Community is a contracting party (1), provides for the preparation of a number of annexes, each of which has the status of a convention and may be accepted separately.

In the light of their purpose, which is to facilitate international trade in goods, the various annexes, each of which deals with a particular area of customs legislation, concern directly the customs union and indeed the implementation of the Community's commercial policy. Annex B.3 (2), concerning reimportation in the same state, was adopted by the CCC in June 1978. The Community, as a contracting party to the Kyoto Convention, should now determine its position in respect of the annex.

The annex has been examined in detail by the relevant Commission departments and representatives of the Member States.

Following this examination, it appears that there are only a few differences between the Community provisions laid down by Council Regulation (EEC) No 754/76 of 25.3.1976 (3) and the standards and recommended practices of the annex. Accordingly, it seems possible to accept annex B.3 with the following reservations :

Standard 2

Article 2, paragraph 1 (b) of Council Regulation (EEC) No 754/76 of 25.3.1976 states that agricultural products which, at the time of their exportation, gave visa to the granting of refunds or other amounts shall not be considered to be returned goods, except where they fulfil certain conditions clearly laid down in the Regulation.

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(1) Council Decision of 18 March 1975 (JO n° L 100 of 21.4.1975, p. 1)

(2) Numeration used by the CCC

(3) OJ n° L 89 of 2.4.1976

This standard is therefore incompatible with provisions of Community law.

Recommended Practice 8

This recommended practice provides that economic prohibitions and restrictions on importation should not be applied to goods reimported in the same state which were in free circulation when exported. This provision is incompatible with Community law, in accordance with which certain economic prohibitions and restrictions may, in certain circumstances, apply to goods originating in third countries.

Recommended Practice 11

This recommended practice provides that, where time limits are fixed in national legislation beyond which reimportation in the same state will not be granted, such limits should not be less than one year. Community legislation lays down a limit of six months in respect of goods which, at the time of their exportation from the customs territory of the Community, were the subject of customs export formalities with a view to obtaining refunds and other amounts granted on exportation within the framework of the common agricultural policy, together with those which gave rise to the levying of an export duty.

Recommended Practice 12

Although the principle of the obligation to refund export duties and taxes is not clearly stated in this recommended practice, the second commentary to the recommended practice assumes acceptance of such a principle.

Accordingly, if the interpretation to be given to the recommended practice is that resulting from the commentary, the former is unacceptable for the Community. Article 5, paragraph 2 of Council Regulation (EEC) No 754/76 of 25.3.1976 renders the refund of export duties for certain agricultural goods conditional on the existence of certain circumstances defined in article 2, paragraph 2 of the Regulation.

Recommended Practice 24

This recommended practice provides that goods exported with notification of intended return should be granted conditional relief from any export duties and taxes applicable. Community agricultural provisions, however, provide for the levying of (and not conditional relief from) such duties in respect of goods to be exported and liable to duty, under whatever customs procedure they may leave the customs territory of the Community. The recommended practice is therefore incompatible with Community law.

CONCLUSION

The Commission recommends that the Council, in accordance with article 113 of the Treaty, accept, subject to the reservations mentioned above, annex B.3 concerning reimportation in the same state to the Kyoto Convention.

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of customs procedures

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 113 thereof ;

Having regard to the recommendation from the Commission ;

Whereas, in accordance with Council Decision 75/199/EEC (1),
the Community is a party to the International Convention on the simplification
and harmonization of customs procedures ;

Whereas the Annex to the said Convention concerning reimportation in the
same state can be accepted by the Community ;

Whereas it is nevertheless advisable to make such acceptance subject to
certain reservations in order to take account of the special requirements
of the customs union,

HAS DECIDED AS FOLLOWS :

Article 1

Annex B.3 concerning reimportation in the same state to the **International
Convention on the simplification and harmonization of customs procedures**
is hereby accepted on behalf of the Community, with the exception of
standard 2 and recommended practices 8, 11, 12 and 24.

The text of the said Annex is annexed to this Decision.

(1) OJ No L 100, 21.4.1975, p.1

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Article 2

The Commission shall inform the General Secretariat of the Customs Cooperation Council of the acceptance by the Community, subject to the reservations referred to in Article 1, of the Annex concerning reimportation in the same state.

Done at Brussels,
For the Council,
The President,

