

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 610 final

Brussels, 26 November 1993

Proposal for a

COUNCIL DECISION

concerning the amendments to the reservations entered by the EC in respect of some provisions of certain Annexes to the international Convention on the simplification and harmonization of customs procedures

(presented by the Commission)

1. By the terms of Council Decision 75/199/EEC¹ the Community became a Contracting Party to the international Convention on the simplification and harmonization of customs procedures, known as the 'Kyoto Convention'.
2. Since this initial Decision the Council has adopted further Decisions accepting eighteen Annexes to the said Convention, the list of adopted Annexes comprising: A.1, A.2, B.1, B.2, B.3, C.1, D.1, D.2, E.1, E.3, E.4, E.5, E.6, E.8, F.1, F.2, F.3 and F.6.
3. Under the provisions of Article 5(1) of the Kyoto Convention, any Contracting Party which accepts an Annex is deemed to have accepted all its provisions unless, at the time of accepting or at any time thereafter, the Party enters reservations stating the differences existing between the provisions of its national legislation and those of the Standards and Recommended Practices of the Annex concerned.
4. By the provisions of Article 5(2) of the Convention, each Contracting Party bound by an Annex is required to review, at least once every three years, the Standards and Recommended Practices in respect of which it has entered reservations. It is understood that, following such examination, a Contracting Party may lift or amend its earlier reservations or formulate new ones where it considers this necessary.
5. The Commission departments and Member State representatives constituted as the Commission's Customs Legislation Committee (International Organizations), have conducted such a review taking into account the changes that had been made to the Community's customs legislation - particularly the Community Customs Code² - since acceptance of the various Annexes.
6. The outcome of the examination is set out in the Annex attached to this proposal for a Council Decision.
7. The Council's adoption of the Decision will have no repercussions on the Community budget.

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

2 OJ No L 302, 19.10.1992, p. 1.

CONCLUSION

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The Commission proposes that the Council should:

- adopt the amendments to the reservations entered by the Community in respect of Annexes A.1, A.2, B.1, B.2, B.3, C.1, D.1, D.2, E.1, E.3, E.4, E.5, E.6, E.8, F.1, F.2, F.3 and F.6 to the international Convention on the simplification and harmonization of customs procedures;
- designate the person authorized to notify the Secretary General of the Customs Cooperation Council of the outcome of the examination conducted in accordance with the provisions of Article 5(2) of the abovementioned Convention.

Proposal for a Council Decision

of ...

concerning the amendments to the reservations entered by the EC in respect of some provisions of certain Annexes to the international Convention on the simplification and harmonization of customs procedures

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

having regard to the proposal from the Commission,

whereas by Council Decision 75/199/EEC¹ the Community became a Contracting Party to the international Convention on the simplification and harmonization of customs procedures;

whereas by the above Decision and Council Decisions 77/415/EEC², 78/528/EEC³, 80/391/EEC⁴, 85/204/EEC⁵, 86/103/EEC⁶, 87/593/EEC⁷, 87/594/EEC⁸, 88/355/EEC⁹ and 88/356/EEC¹⁰, the Community has accepted eighteen Annexes to the said Convention so far;

whereas under Article 5(1) of the said Convention the Community has entered reservations on some Standards and Recommended Practices defined in these Annexes in order to cover the special requirements of the customs union;

whereas under Article 5(2) of the said Convention, the Community is required to review, once every three years at least, the Standards and Recommended Practices in respect of which it has entered reservations and Article 5(1) of the Convention allows Contracting Parties to enter reservations even after an Annex has been accepted,

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- 1 OJ No L 100, 21.4.1975, p. 1.
 - 2 OJ No L 166, 4.7.1977, p. 1.
 - 3 OJ No L 160, 17.6.1978, p. 13.
 - 4 OJ No L 100, 17.4.1980, p. 27.
 - 5 OJ No L 87, 27.3.1985, p. 8.
 - 6 OJ No L 88, 3.4.1986, p. 42.
 - 7 OJ No L 362, 22.12.1987, p. 1.
 - 8 OJ No L 362, 22.12.1987, p. 8.
 - 9 OJ No L 161, 28.6.1988, p. 3.
 - 10 OJ No L 161, 28.6.1988, p. 12.

HAS DECIDED AS FOLLOWS:

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Article 1

The reservations entered by the Community in respect of Annexes A.1, A.2, B.1, B.2, B.3, C.1, D.1, D.2, E.1, E.3, E.4, E.5, E.6, E.8, F.1, F.2, F.3 and F.6 of the international Convention on the simplification and harmonization of customs procedures shall be amended as a result of the review the outcome of which is set out in the Annex to this Decision.

Article 2

The President of the Council shall designate the person authorized to notify the Secretary-General of the Customs Cooperation Council of the outcome of the review referred to in Article 1.

Done at Brussels, ...

For the Council

The President

ANNEX

Outcome of the review, conducted by the European Community (EC) in accordance with the requirements of Article 5(2) of the international Convention on the simplification and harmonization of customs procedures, of the reservations entered by the EC in respect of the Annexes to the said Convention

1. Annex A.1

concerning customs formalities prior to the lodgement of the goods declaration

1.1 The reservation in respect of Standard 11 shall be lifted.

1.2 The existing reservation in respect of Standard 21 shall be maintained.

2. Annex A.2

concerning the temporary storage of goods

2.1 The present general reservation shall be maintained.

2.2 A reservation worded as follows shall be entered in respect of Recommended Practice 10:

"Community legislation provides that the customs authority may require the person holding the goods to lodge a security with a view to ensuring payment of any customs debt which may arise."

2.3 The present wording of the reservation entered in respect of Recommended Practice 13 shall be replaced by:

"Community legislation authorizes goods in temporary storage to be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state, without modifying their appearance or the technical characteristics."

3. Annex B.1

concerning clearance for home use

3.1 The present wording of the second paragraph of the general reservation shall be replaced by:

"Community legislation distinguishes between releasing goods for free circulation and releasing them for home use. To obtain the release of goods for free circulation simply requires customs duty to be paid whereas for goods to be released for home use, various other provisions, e.g. on taxation, also have to be applied.

It should also be pointed out that release for free circulation and release for home use in the Community generally occur at the same time and in the territory of the same Member State."

3.2 The existing reservations in respect of Recommended Practices 19 and 52 shall be maintained.

3.3 The first sentence of the present wording of the reservation in respect of Standard 28 shall be replaced by the following sentence:

"The Community also applies the provisions of this Standard if declarations are incomplete." (Second sentence unchanged).

4. Annex B.2

concerning relief from import duties and taxes in respect of goods declared for home use

4.1 The present general reservation and the present reservations in respect of Recommended Practices 20, 27, 32 and 33 and of Standard 34 shall be maintained.

4.2 The present wording of the reservation in respect of Standard 3 shall be replaced by:

"Community legislation only grants the exemption to consignments of negligible value if they are dispatched directly from a third country to a consignee in the Community."

4.3 In the last sentence of the present wording of the reservation in respect of Recommended Practice 10, the words "is accompanied" shall be replaced by the words "may be accompanied" (remainder unchanged).

4.4 The present wording of the reservation in respect of Recommended Practice 16 shall be replaced by:

"The exemption is granted to the substances concerned if they are to be used exclusively for non-commercial, medical or scientific purposes."

4.5 A second paragraph worded as follows shall be added to the present wording of the reservation in respect of Recommended Practice 18:

"Member States have the option of excluding dual-use vehicles which are used for commercial or professional purposes from the relief granted on value added tax."

4.6 The present wording of the reservation in respect of Recommended Practice 19 shall be replaced by:

"Relief from import duties and taxes on goods covered by Standard 17 may be made subject to the condition that any customs duties or taxes to which the goods are normally liable in their country of departure or origin have actually been levied. The period for which the beneficiary must continue to own or possess the goods after importing them is set at twelve months."

4.7 The present wording of the reservation in respect of Standard 21 shall be replaced by:

"Member States have the option of making relief from value added tax on trousseaux and movable property belonging to the person transferring his or her residence subject to the condition that any customs duties and/or taxes to which the goods are normally liable in their country of departure or origin have actually been levied. The exemption ... (remainder unchanged)."

4.8 The wording of the first subsection of the reservation in respect of Recommended Practice 23 should read as follows:

"...
- not earlier than two months before the date fixed for the wedding. In this case, the relief shall be subject to the lodging of an appropriate security for the customs duties whereas this security is optional as far as tax exemption is concerned, and ... (remainder unchanged)"

4.9 The present wording of the second paragraph and the table in the reservation in respect of Standard 28 shall be replaced by:

"... In addition to the quantitative restrictions on tobacco, alcohol and alcoholic beverages, Community legislation lays down, in respect of the products listed below, the maximum tax, or duty and tax, allowances and the maximum quantities shown opposite each product:

Exemption from:

taxes

(a) coffee	500 grams
or	
coffee extracts and essences	200 grams
(b) tea	100 grams
or	
tea extracts and essences	40 grams

duties and taxes

(c) perfumes	50 grams
or	
toilet waters	0.25 litre."

4.10 The beginning of the first sentence of the present reservation in respect of Recommended Practice 29 should read as follows:

"The goods referred to in the Recommended Practice are admitted free of import duties and taxes ... (remainder unchanged)."

4.11 The present wording of the reservation in respect of Recommended Practice 35 shall be replaced by:

"Community legislation provides for the relief referred to in this Recommended Practice subject to the materials in question not normally being reusable. Relief from duty on these materials is granted subject to the further condition that their value is included in the tax base for the goods carried."

5. Annex B.3

concerning reimportation in the same state

5.1 The present general reservation and the present reservations in respect of Recommended Practices 8 and 24 shall be maintained.

5.2 The reservation in respect of Recommended Practice 11 shall be lifted.

6. Annex C.1

concerning outright exportation

6.1 The present reservations (general reservation and in respect of Recommended Practice 10 and Standard 21) shall be maintained.

7. Annex D.1

concerning rules of origin

7.1 The present reservations in respect of Standard 7 and Recommended Practice 10 shall be maintained.

7.2 In the second paragraph of the present wording of the reservation in respect of Standard 8, the words "CCC Nomenclature" shall be replaced by "Nomenclature of the Harmonized System" (remainder unchanged).

8. Annex D.2

concerning documentary evidence of origin

8.1 The present reservations (in respect of Recommended Practices 3, 10 and 12) shall be maintained.

9. Annex E.1

concerning customs transit

9.1 The present wording of the general reservation shall be replaced by:

"Although the Member States of the Community constitute a single territory, each Member State has the option to set up simplified transit procedures applicable in certain circumstances to goods which are not intended to move through the territory of another Member State.

Member States also have the option to establish amongst themselves, via bilateral or multilateral arrangements, simplified procedures which comply with criteria established as necessary and are applicable to certain traffic or to specific enterprises."

10. Annex E.3

concerning customs warehouses

10.1 The present general reservation shall be maintained.

10.2 A reservation worded as follows shall be entered in respect of Recommended Practice 9:

"Community legislation requires 'appropriate customs surveillance' to be ensured within the warehousing procedure. Independently of the surveillance methods used, Member States have the option of requiring a security."

10.3 A reservation worded as follows shall be entered in respect of Recommended Practice 11:

"Normally the Community applies the provisions of this Recommended Practice but it reserves the right not to do so in exceptional circumstances."

10.4 A reservation worded as follows shall be entered in respect of Recommended Practice 13:

"This Recommended Practice does not apply to value added tax. The Member States of the Community are free to decide whether or not to allow the repayment of customs duties."

10.5 A reservation worded as follows shall be entered in respect of Recommended Practice 15:

"Whether or not the goods in question are to be exported subsequently, Community legislation does not provide for the storage in customs warehouses of goods that are liable to, or have borne, internal duties or taxes."

10.6 The present wording of the reservation in respect of Standard 18 shall be replaced by:

"In the Community, import goods may undergo the usual forms of handling to ensure their preservation or marketable quality or prepare them for distribution or resale:

In certain circumstances, goods governed by the common agricultural policy may be handled only in those ways specifically provided for in their case."

10.7 The present wording of the reservation in respect of Standard 19 shall be replaced by:

"Community legislation on customs warehouses does not fix the maximum duration of storage. Nevertheless, in exceptional cases the period may be less than one year."

11. Annex E.4

concerning drawback

11.1 The present reservations (general reservation and in respect of Standard 5) shall be maintained.

12. Annex E.5

concerning temporary admission subject to re-exportation in the same state

12.1 The present general reservation and the present reservations in respect of Standard 14 and Recommended Practices 33 and 37 shall be maintained.

12.2 A reservation worded as follows shall be entered in respect of Standard 4:

"Community legislation does not grant temporary admission for goods which, for the purposes of discharging the temporary admission or inward processing procedures, have been entered under the customs warehouse or free zone procedures prior to being re-exported (free zones have been created in Denmark, Germany, Greece, Spain, Ireland, Italy, Portugal and the United Kingdom)."

12.3 A reservation worded as follows shall be entered in respect of Recommended Practice 5:

"Normally the Community applies the provisions of this Recommended Practice, but it reserves the right not to do so in exceptional circumstances."

12.4 The present wording of the reservation in respect of Standard 23 shall be replaced by:

"In the Member States where free zones exist (Denmark, Germany, Greece, Spain, Ireland, Italy, Portugal and the United Kingdom) this Standard is applicable only if the goods are introduced into the zones with a view to subsequent exportation from the customs territory of the Communities."

12.5 Four EC reservations, one each on packings, commercial vehicles, containers and pallets, shall be entered in respect of Recommended Practice 36. The reservations shall be worded as follows:

Reservation on packings

"Community legislation authorizes temporary admission on the basis of an oral declaration accompanied by an inventory, for packings bearing indelible, non-detachable marks and imported full by a person established outside the customs territory of the Community. Written declarations are required for all other types of packings entered under the temporary admission arrangements.

Where re-exportation is not in doubt because of commercial usage, Community legislation also allows temporary admission without a security for packings imported empty and bearing indelible, non-detachable marks.

Provision is also made for granting exemptions from the requirement to provide a security in respect of packings imported full and subject to a verbal declaration accompanied by an inventory, unless an express request to the contrary is made to the competent authorities."

Reservation on commercial road vehicles

"Community legislation provides that, where there is a serious risk of failure to comply with the obligation to re-export a commercial road vehicle, the temporary admission procedure applies subject to the production of a document of a type laid down in an international convention or the lodging of a declaration, and the customs authority has the option of requiring a security when the declaration is lodged."

Reservation on containers

"For all containers, whether or not approved for carrying goods under customs seal, Community legislation authorizes temporary admission without formalities from the time of entry into Community customs territory, provided that the containers bear durably applied markings in an appropriate, clearly visible position identifying the owner or operator and giving the marks and identification numbers used by the owner or operator, the tare weight of the container (except in the case of swap bodies used in combined road-rail transport) and the country of registration of the container (except in the case of air transport). Containers not fulfilling these conditions may be granted temporary admission to Community customs territory once a written application has been submitted, an authorization issued and, where there are well-founded or serious doubts regarding the obligation to re-export, a list has been produced and/or a security constituted."

Reservation on pallets

"As long as pallets are identifiable, Community legislation authorizes their temporary admission without formalities from the time of entry into Community customs territory. Where they are not identifiable, a written application has to be submitted and an authorization issued. In both cases a written declaration and, where necessary, a security, may be required if the customs consider that there is a serious risk of failure to comply with the obligation to re-export."

12.6 The beginning of the second sentence of the present reservation in respect of Recommended Practice 38 shall read as follows:

"Temporary admission with partial relief from import duties is not applied to consumable products and goods whose ..." (remainder unchanged).

13. Annex E.6

concerning temporary admission for inward processing

13.1 The present general reservation and the present reservation in respect of Standard 19 shall be maintained.

- 13.2 The wording of the present reservation in respect of Recommended Practice 5 shall be replaced by:

"Normally the Community applies the provisions of this Recommended Practice, but it reserves the right not to do so in exceptional circumstances."

- 13.3 A reservation worded as follows shall be entered in respect of Recommended Practice 16:

"Where the customs authority requires a security, the type and amount of security shall be fixed by the customs authority of each Member State."

- 13.4 The present wording of the reservation in respect of Standard 34 shall be replaced by:

"In Member States where free zones exist (Denmark, Germany, Greece, Spain, Ireland, Italy, Portugal and the United Kingdom) this Standard shall be applicable when the compensatory products enter the zones with a view to their subsequent exportation from the customs territory of the Community."

- 13.5 The present wording of the reservation in respect of Recommended Practice 39 shall be replaced by:

"Community legislation does not provide for any limitation similar to that mentioned in this Recommended Practice. If a customs debt relating to the compensating products or to the goods in their unaltered state occurs, it gives rise to the payment of compensatory interest on the amount of the import duties due."

14. Annex E.8

concerning temporary exportation for outward processing

- 14.1 The present general reservation and the present reservation in respect of Standard 20 shall be maintained.

- 14.2 The present wording of the reservation in respect of Recommended Practice 3 shall be replaced by:

"Normally the Community applies the provisions of this Recommended Practice, but it reserves the right not to do so in exceptional circumstances."

15. Annex F.1

concerning free zones

- 15.1 The present wording of the general reservation shall be replaced by:

"Community legislation allows Member States the option of constituting certain areas of Community customs territory as free zones. So far free zones of this type have been set up by Denmark, Germany, Greece, Spain, Ireland, Italy, Portugal and the United Kingdom."

In addition Community legislation provides for a particular type of free zone called a 'free warehouse', to which exactly the same rules apply as those governing the free zones. So far, free warehouses have been set up in Spain, France, Italy, the Netherlands and Portugal. Moreover Community legislation covers only part of the procedures dealt with in this Annex. In respect of areas not covered by Community legislation, the Member States shall enter their own reservations if necessary."

- 15.2 The present wording of the reservation in respect of Standard 21 shall be replaced by:

"Community legislation does not lay down a maximum storage period. Nevertheless, in exceptional cases, the period may be less than one year."

16. Annex F.2

concerning processing of goods for home use

- 16.1 The present reservations (general reservation and in respect of Recommended Practice 7) shall be maintained.

17. Annex F.3

concerning customs facilities applicable to travellers

- 17.1 The present general reservation and the present reservations in respect of Standards 21, 38 and 44 and Recommended Practice 45 shall be maintained.

- 17.2 A reservation worded as follows shall be entered in respect of Recommended Practice 18:

"Community legislation does not provide for a system of flat-rate assessment as far as value added tax and excise duties are concerned."

- 17.3 A reservation worded as follows shall be entered in respect of Recommended Practice 31:

"Community legislation provides that when there is a serious risk of failure to comply with the obligation to re-export the means of transport for private use, the temporary admission procedure applies subject to the production of a document of a type laid down in an international convention or the lodging of a declaration, and the customs authority has the option of requiring a security when the declaration is lodged."

18. Annex F.6

concerning the repayment of import duties and taxes

- 18.1 The present reservations (general reservation and in respect of Standard 7) shall be maintained.

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