

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation on the temporary importation of means of transport*COM(83) 741 final**(Submitted by the Commission to the Council on 21 December 1983)**(84/C 4/03)*

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 proposal from the Commission,

Having regard to the opinion of the European
Parliament,

Having regard to the opinion of the Economic and
Social Committee,

Whereas, although the duty-free temporary importation for use of means of transport intended for subsequent export is not covered by Article 9 (2) of the Treaty, it is the subject of legislation in most of the Member States; whereas such procedures are also covered by a number of multilateral conventions to which all or some of the Member States are party; whereas the requirements of the customs union make it desirable for procedures relating to the temporary importation of means of transport to be harmonized;

Whereas Council Regulation (EEC) No 3599/82 ⁽¹⁾ established general arrangements for temporary importation which did not include means of transport;

Whereas the means of transport which do not meet the conditions laid down by this Regulation may nevertheless be covered by the general arrangements;

Whereas it is necessary to ensure the uniform implementation of this Regulation and therefore make provision for a Community procedure for the adoption of implementing rules; whereas close and

effective cooperation in this field between the Member States and the Commission should be organized through the Committee for Customs Procedures with Economic Impact established by Council Regulation (EEC) No ... of ... on inward processing arrangements,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions*Article 1*

1. The temporary importation arrangements shall permit the importation, in accordance with the procedures and conditions laid down in this Regulation and free of all import duties, of means of transport which it is intended will stay temporarily in the customs territory of the Community and then be re-exported.

2. For the purposes of this Regulation:

- (a) 'person' mean a natural or legal person;
- (b) 'person resident outside the customs territory of the Community' shall mean a natural person having his normal residence outside the customs territory of the Community or a legal person having its registered place of business outside that territory;
- (c) 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties because of personal ties which show close links between that person and the place where he is living.

⁽¹⁾ OJ No L 376, 31. 12. 1982, p. 1.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated within the customs territory of the Community or outside the said territory, shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in the customs territory of the Community in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

- (d) 'import duties' are as defined in Article 1 (2) of Regulation (EEC) No 3599/82.

Article 2

The competent authorities of the Member State where application is made for admission of the means of transport under the temporary importation arrangements shall grant, under the conditions provided for in this Regulation, an authorization to any person who uses or causes to be used under his responsibility the said means of transport.

TITLE II

Means of road transport

Article 3

1. Road vehicles for business use shall be admitted under the temporary importation arrangements.
2. For the purpose of this Article, the following definitions shall apply:
 - (a) 'vehicles': all road motor vehicles and all trailers which can be coupled to such vehicles;
 - (b) 'business use': use of a vehicle in direct exercise of an activity carried out for consideration or financial gain.
3. Without prejudice to paragraph 4, admission under the temporary importation arrangements referred to in paragraph 1 shall be granted on condition that the vehicles are:
 - (a) imported by or on behalf of a person established outside the customs territory of the Community;
 - (b) used for business purposes by such a person or on his behalf; and
 - (c) registered outside the customs territory of the Community in the name of a person established outside that territory.

However, if the vehicles are not registered, the condition set out under (c) shall be deemed to be met where the vehicles in question belong to a person established outside the customs territory of the Community.

4. If a trailer is coupled to a motor vehicle registered within the customs territory of the Community, it shall be admitted under these arrangements even if the conditions set out in subparagraphs 3 (a) and (b) are not satisfied.

5. The vehicles referred to in paragraph 1 may remain in the customs territory of the Community during the time required for transporting and for taking on and discharging goods and passengers and for maintenance.

Article 4

1. Road vehicles for private use shall be admitted under the temporary importation arrangements.
2. For the purposes of this Article, the following definitions shall apply:
 - (a) 'vehicles': all road vehicles, including caravans and trailers which can be coupled to a motor vehicle;
 - (b) 'private use': use for purposes other than the business use as defined under Article 3 (2) (b).
3. Admission under the temporary importation arrangements referred to in paragraph 1 shall be granted on condition that the vehicles are:
 - (a) imported by a person established outside the customs territory of the Community;
 - (b) used for private purposes by or on behalf of the person concerned; and
 - (c) registered outside the customs territory of the Community in the name of a person established outside that territory.

However, if the vehicles are not registered, the condition set out in (c) shall be deemed to be met where the vehicle in question belongs to a person established outside the customs territory of the Community.

4. Notwithstanding subparagraph 3 (c), the arrangements shall also extend to vehicles which are registered in the customs territory of the Community and have a registration number plate that is issued to a person established outside that territory.
5. The temporary admission arrangements shall also be granted in the following cases:

- (a) where a private vehicle registered in the country of normal residence of the user is used regularly for the journey from his residence to his place of work in the customs territory of the Community and *vice versa*; there is no limitation on the period;
 - (b) where a student uses a private vehicle registered in the country of his normal residence in the customs territory of the Community in which the student is residing for the sole purpose of pursuing his studies.
6. Without prejudice to Article 5 (a), the vehicles, referred to in paragraph 1, may remain in the customs territory of the Community:
- (a) for a period, continuous or not, of six months within a 12-month period;
 - (b) for the period of the stay of the student in the customs territory of the Community in cases provided for in paragraph 5 (b) above.

Article 5

1. The provisions of Article 4 shall apply *mutatis mutandis* to saddlehorses which enter the customs territory of the Community for the purposes of or in the course of horse-riding excursions by their riders.
2. Saddle-horses as referred to in paragraph 1 may remain in the customs territory of the Community for a period of three months.

TITLE III

Means of rail transport

Article 6

1. Means of rail transport shall be admitted under the temporary importation arrangements.
2. For the purposes of this Article:

'means of rail transport' means all prime movers, railcars and multiple sets, and rolling stock of any description intended for the transport of persons and goods.
3. Admission under the temporary importation arrangements referred to in paragraph 1 shall be granted on condition that the means of rail transport:
 - (a) belong to a person established outside the customs territory of the Community;
 - (b) are registered on a railway network outside the customs territory of the Community.

TITLE IV

Means of air transport

Article 7

1. Subject to Article 8, means of air transport shall be admitted under the temporary importation arrangements.
2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for the time required to take on or discharge goods or passengers and undergo maintenance.

Article 8

1. The temporary admission arrangements shall be granted in respect of means of air transport for private use on condition that these means of transport are:
 - (a) registered outside the customs territory of the Community in the name of a person established outside of that territory; and
 - (b) used for private purposes within the meaning of Article 4 (2) (b).
2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for a period of six months, whether continuous or not, in any 12-month period.

TITLE V

Means of sea, lake or river transport

Article 9

1. Subject to Article 10, means of sea, lake or river transport shall be admitted under the temporary importation arrangements.
2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for the time required for taking on and discharging passengers or goods and for maintenance operations.

Article 10

1. Means of sea, lake or river transport for private use shall be admitted under the temporary importation arrangements provided that the means of transport:
 - (a) have been imported by a person established outside the customs territory of the Community;

- (b) are used by that person for private purposes as defined in Article 4 (2) (b).

2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for a period of six months, whether continuous or not, in any 12-month period.

3. In cases where the lack of river or lake facilities makes the mooring of boats for private use impossible, the temporary importation arrangements may be extended to pleasure boats:

- (a) imported temporarily by a natural person having his normal place of residence in the customs territory of the Community, and
- (b) registered outside the said territory.

TITLE VI

Pallets and containers

Article 11

1. Pallets shall be admitted under the temporary importation arrangements.

2. For the purposes of this Article, 'pallet' means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transport or of handling or stacking by means of mechanical appliances. The device consists of a deck supported by feet or of a special deck designed for air transport; its overall height is reduced to the minimum compatible with its handling by means of rollers, forklift trucks or pallet trucks; it may or may not have a superstructure.

Article 12

1. Containers shall be admitted under the temporary importation arrangements.

2. The term 'container' means an article of transport equipment (lift-van, movable tank or frame or other similar structure):

- (a) constituting a receptacle, totally or partially closed, designed to contain goods;
- (b) of a permanent character and accordingly strong enough for repeated use;
- (c) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

- (d) so designed as to permit ready handling, particularly during transfer from one mode of transport to another;

- (e) so designed as to be easy to fill and empty; and

- (f) with an internal volume of one cubic metre or more; however, this minimum shall not apply to containers used in air transport.

The term 'container' shall include the accessories and equipment of the container according to its category, provided that these are transported with it and permanently attached.

The term 'container' shall include neither vehicles, nor accessories or spare parts of vehicles, nor packaging.

3. Containers shall be admitted under the temporary importation arrangements referred to in paragraph 1 on condition that:

- (a) whether or not loaded with goods, they are imported temporarily into the customs territory of the Community; and
- (b) they are approved for the transport of goods under customs seal.

4. The containers referred to in paragraph 1 may remain in the customs territory of the Community for a maximum period of six months.

TITLE VII

Other provisions

Article 13

The relevant authorities shall admit for temporary importation spare parts, accessories and normal equipment, including equipment which is used for the loading, stowage or protection of goods:

- (a) imported at the same time as the means of transport covered by this Regulation, for which they are intended; or
- (b) imported subsequently to these means of transport.

Article 14

The means of transport provided for in Titles II, III, IV and V of this Regulation shall not be lent, hired, pledged or transferred to any person having his normal residence in the customs territory of the Community.

Article 15

Where the circumstances so justify, the competent authorities may, at the request of the interested party, prolong the time limits provided for in this regulation within reasonable limits.

Article 16

Persons eligible for the temporary admission arrangements shall be obliged to submit to all surveillance and control measures specified by the competent authorities.

Article 17

The competent authorities may revoke the authorization where it is established that the person eligible for the temporary admission arrangements has not observed one of the conditions laid down for the grant of the said arrangements.

Article 18

1. The arrangements for temporary importation shall be satisfied when the means of transport placed under these arrangements is exported outside the customs territory of the Community or placed in a free zone with a view to its subsequent export, or placed:

- in a customs warehouse, or
- under an external Community transit procedure or one of the international transport procedures referred to in Article 7 (1) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit⁽¹⁾, provided that the use of such a procedure is permitted by Community legislation,

or abandoned to the profit of public funds with the approval of the relevant authorities.

However, as regards pallets, the arrangements shall also be considered satisfied when identical pallets to those which are eligible for the temporary admission arrangements are exported or placed in a free zone with a view to subsequent export or are placed under one of the arrangements set out above.

2. The competent authorities may, where circumstances so warrant, authorize the release for free circulation or the destruction under customs supervision of means of transport admitted under the temporary importation arrangements, either immediately or after it has been placed in a free zone or after it has been placed under one of the procedures referred to in paragraph 1.

3. Paragraphs 1 and 2 shall also apply, without prejudice to the provisions regarding infringement of customs legislation, in cases where the authorization has been withdrawn under Article 17.

4. Defective parts and spare parts removed from the means of transport as a result of repair or maintenance must be either re-exported outside the

customs territory of the Community, destroyed under customs supervision, released for free circulation, or placed under other customs arrangements.

5. Without prejudice to the provisions concerning the infringement of customs legislation and duty-free arrangements, in cases where the means of transport admitted under the temporary importation arrangements are released for free circulation or in other cases where a customs debt is incurred under Council Directive 79/623/EEC of 23 June 1979 on the harmonization of provisions laid down by law, regulation or administrative action relating to customs debt⁽²⁾, import duties shall be charged according to the taxation characteristics of the means of transport when it was temporarily imported, whether the release for free circulation took place then or after the means of transport had been placed under one of the customs procedures specified to in paragraph 1.

However, in the case of waste or debris resulting from the destruction of the parts referred to in paragraph 4, the point to be used for the calculation of the customs debt shall be that referred to in Article 3 (f) of Directive 79/623/EEC.

TITLE VIII

Final provisions*Article 19*

1. This Regulation shall not affect the provisions laid down with regard to transport, in particular the conditions governing access to the market and the execution of the said transport.

2. Without prejudice to paragraph 1, the means of transport covered by this Regulation shall be admitted under the temporary importation arrangements free of import prohibitions or restrictions, on condition that they are to be re-exported.

3. The provisions of this Regulation shall not prevent the prohibition or restriction of imports, exports or transit for any of the reasons listed in Article 36 of the EEC Treaty.

Article 20

Until such time as Community provisions are established in the field in question, this Regulation shall not affect the application by the Member States of special measures applying in respect of armed forces stationed in the customs territory of the Community and without serving under the flag of a Member State, in pursuance of international agreements.

⁽¹⁾ OJ No L 38, 9. 2. 1977, p. 1.

⁽²⁾ OJ No L 179, 17. 7. 1979, p. 31.

Article 21

The Committee for Customs Procedures with Economic Impact set up by Article 16 of Regulation (EEC) No ... [of ... on inward processing arrangements] may examine any question concerning the application of this Regulation, either on the initiative of its chairman or at the request of the representative of a Member State.

Article 22

The provisions necessary for the implementation of this Regulation, and in particular the conditions under which means of transport may be placed under

the arrangements or used while in the customs territory of the Community and the conditions under which the goods referred to in Article 13 (b) may be temporarily imported, shall be adopted in accordance with the procedure provided for in Article 18 of Regulation (EEC) No ... [of ... on inward processing arrangements].

Article 23

This Regulation shall enter into force on 1 January 1985.

This Regulation shall be binding in its entirety and directly applicable in all Member States.
