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COM (73)2081

Vol. 1973/0375

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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(73) 2081 final

Brussels, 13 November 1973

PROPOSAL FOR A REGULATION (EEC) OF THE COUNCIL

on the importation free of Common Customs Tariff
duties of educational, scientific and cultural materials

(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

The Agreement of Florence on the importation of educational, scientific and culture materials, drawn up under the auspices of UNESCO, and which entered into force on 12 May 1952, made provision for the importation of the materials in question free of customs duties, subject to certain conditions. Eight of the nine Member States of the Community have already been parties to this Agreement for several years. Ireland, who has recently acceded to it, does not yet, however, apply its provisions.

Actually, even in the Member States which apply the Agreement of Florence, wide differences exist in the scope of the measures adopted on the basis of this Agreement. These disparities result partly from the more or less liberal interpretation which it has been possible to give by each of them to the actual proposals of the Agreement. More importantly, in as far as duty-free entry under the Agreement is conditional on the existence of certain points of fact, (the absence of instruments or apparatus of equivalent scientific value to those for which duty-free importation is requested), they also partly result from this point of fact being assessed solely by reference to the Member State concerned and not by reference to the Community considered as a whole.

Added to the legal problem which is raised by the existence of measures of derogation in the Member States - under varying conditions - concerning the application of the Common Customs Tariff, there is an economic problem which, bearing in mind the objectives of the Treaty establishing the European Economic Community, must be settled in such a manner that, for duty-free admission to be granted, consideration must henceforth be given to the ability of Community industry as a whole to supply the apparatus or instruments necessary for education or scientific research within the Community.

.../...

This proposal for a Regulation formulates provisions which it would be necessary to adopt for uniform implementation of the Florence Agreement in all of the Member States. In outline, this is as follows :

a) Articles 1 and 2, considered together with Annexes I and II constitute, in terms of the Tariff, a simple transposition of the provisions of the Florence Agreement.

b) Article 3 fixes the conditions for the importation free of Common Customs Tariff duties of scientific instruments and apparatus intended for education and for scientific research. By transposing, in a Community context, the provisions of Annex D (b) of the Florence Agreement, it is henceforth required that duty-free admission shall be subject to the condition that instruments or apparatus of equivalent scientific value should not currently be manufactured in the Community, which is to be considered henceforth as the "country of importation". Thus the situation resulting from the implementation of this Agreement in the Community will be made in complete conformity with the Treaty of Rome.

c) Because of continual scientific technical progress it is not possible to produce a list of instruments and apparatus capable of being admitted duty-free at any given time. Such a list, which would require constant revision, would moreover involve the disadvantage of enumerating these instruments and apparatus under a commercial denomination which is hardly compatible with the neutral aspect proper to all tariff provisions.

.../...

It has also been considered preferable to set up a procedure for consultation under a Committee (which is the object of Article 6) which allows close and effective collaboration between the Member States and the Commission. This procedure allows in particular for it to be determined, in response to a request for duty-free admission, whether an instrument or apparatus of equivalent scientific value to that on which the request is based, is available in the Community. It could also be used, if the occasion arose, to determine the conditions of application of one or other of the provisions of the basic procedure.

d) In the opinion of the Commission, the above-mentioned Committee, the conditions of functioning of which would be the same as those of the specialised Committees already in existence for customs matters, might very well eventually have attributed to it responsibilities in other sectors of customs legislation, in view of the practical application of measures currently in course of preparation by the Services of the Commission and whose final formulation will constitute a decisive step towards achieving the Customs Union. Such measures include a common procedure for release for free circulation, a general procedure for customs duty-free allowances, rules for repayment and recuperation of customs duties and other imposts at importation, a procedure applicable to returned goods, etc... The role of the Committee which it is proposed to set up would thus be to participate in drawing up measures necessary for the implementation of Community customs provisions other than those appropriate to particular sectors of customs legislation where a specialised Committee already operates (Nomenclature, Value, Origin, Inward Processing, Community Transit). The title proposed for this committee is "General Customs Procedures Committee" in contrast with the existing committees for "specialised" customs procedures.

e) The provisions of Article 5 tend to limit the benefit of duty-free admission to users of materials of an educational, scientific or cultural character (and in particular scientific instruments or apparatus) which fulfill all of the conditions necessary for its being granted. These attract no special comment.

.../...

Bearing in mind the object of this proposal, it seems desirable for it to be submitted for opinion to the European Parliament as well as to the Economic and Social Committee.

Proposal for a
Regulation (EEC)
of the Council
on the importation free of Common Customs
Tariff duties of educational, scientific
and cultural materials

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAVING REGARD to the Treaty establishing the European Economic Community
and in particular Article 28 thereof,

HAVING REGARD to the proposal of the Commission,

HAVING REGARD to the Opinion of the European Parliament,

HAVING REGARD to the Opinion of the Economic and Social Committee,

Whereas, in order to facilitate the free exchange of ideas as well as the
exercise of cultural activities and scientific research within the Community,
it is necessary to allow, by all possible means, the admission free of
Common Customs Tariff duties of educational, scientific and cultural mate-
rials imported from third countries; whereas, moreover, the Agreement of
Florence, drawn up under the auspices of the United Nations Educational,
Scientific and Cultural Organisation (UNESCO), which entered into force
on 21 May 1952 and which provides a basis for the relative provisions to
be implemented in the majority of the Member States, makes provision for
such customs duty-free admission to be granted;

Whereas, the application of customs duty-free admission in respect of
educational, scientific and cultural materials must be uniform throughout
the Community;

.../...

Whereas, in respect more especially of scientific instruments or apparatus, and in order to take into account the manufacturing potentials of Community industry, granting of duty-free admission must be subject to instruments or apparatus of equivalent scientific value not being available in the Community, and not just in the Member State in which the importation takes place;

Whereas, due to rapid technical progress in the sphere of scientific apparatus and instruments, recognition of this fact calls for a Community procedure of consultation under a Committee to allow close and effective collaboration between the Member States and the Commission in this respect, whereas it is important to ensure the uniform implementation of the provisions of this Regulation and for this purpose to make provision for a Community procedure to allow the adoption of methods of implementation for it within the appropriate period of time,

HAS ADOPTED THIS REGULATION :

Article 1

Educational, scientific and cultural materials listed in Annex I shall be admitted free of Common Customs Tariff duties, irrespective of the use for which they are intended.

Article 2

1. Educational, scientific and cultural materials, listed in Annex II shall be admitted free of Common Customs Tariff duties when they are intended :

- either for public establishments and organisations or public institutions of on educational, scientific or cultural character,
- or for public establishments and organisations or public institutions within the specified categories in respect of each article in column 3 of the said Annex, in as far as they may have been approved for this purpose by the competent authorities of the Member States.

.../...

2. Duty-free admission referred to in paragraph I shall be granted directly by the competent authorities of the Member State on whose territory is situated the importing establishment or organisation, and in accordance with the procedures which they shall lay down.

Article 3

1. Scientific instruments and apparatus not included in Articles 1 and 2 which are imported exclusively for educational purposes or for scientific pure research shall be admitted free of Common Customs Tariff duties, when :

a) they are intended for :

- public establishments or institutions whose principal activity is education or scientific research;
- scientific or educational establishments of a private nature, approved for this purpose by the competent authorities of the Member States,

and when

b) instruments or apparatus of equivalent scientific value are not currently manufactured in the Community.

2. Duty-free admission referred to in paragraph I shall, subject to the production of all necessary evidence, be applicable to components, spare parts and accessories necessary for the operation of scientific instruments and apparatus which are themselves admissible duty-free.

.../...

3. For the implementation of the provisions of this Article,

- by "scientific pure research" shall be understood research carried out for non-commercial purposes ;
- "equivalent scientific value" shall be assessed by comparason of the characteristics and the specifications appropriate to the instrument or apparatus which is the subject of the request, with those of the corresponding instrument or apparatus manufactured in the Community, in order to determine whether the latter may be used for the same scientific purposes as those ^{for} which the instrument or apparatus which is the subject of the request are intended, and whether it can be used for purposes comparable with those expected from the latter.
- a scientific instrument or apparatus shall be considered as currently being manufactured in the Community when its delivery period, counting from the time of the order, (account being taken of commercial practices in the manufacturing sector under consideration), is not appreciably longer then the delivery period of the instrument or apparatus in respect of which the request is made, or, when this period does not exceed the latter delivery-period to such an extent that the destination or use initially intended for the instruments or apparatus would be appreciably affected by it.

4. Normal materials of equipment shall, in any case, be excluded from duty-free admission, unless they portray certain particularities not possessed by materials available in the Community.

Article 4

Duty-free admission referred to in Article 3 shall be granted by the competent authority of the Member State on whose territory the receiving establishment or organisation is situated.

.../...

Granting of duty-free admission shall be subject to the condition laid down, among the conditions fixed in accordance with the procedure referred to in Article 8, that instruments or apparatus of equivalent scientific value to those instruments or apparatus for which duty-free admission is requested shall not currently be manufactured in the Community.

Article 5

1. The articles listed in Annex II and the scientific instruments and apparatus referred to in Article 3, which have been admitted duty-free may not be lent, hired out or transferred either on payment, or free of charge without the prior agreement of the competent authority of the Member State in which entry was made for release of the goods for free circulation.
2. Should an article be lent, hired out or transferred either on payment or free of charge to an establishment or organisation entitled to benefit from duty-free admission by virtue of Article 2 (1) or Article 3 (1), then duty free admission shall remain granted insofar as the latter uses the article, instrument or apparatus for non-commercial purposes.

In other cases, the loan, hire or transfer either on payment or free of charge, of an article shall be subject to prior payment of customs duties, at rates in force at the date of the loan, hire or transfer, calculated according to the type of goods and their value for customs purposes applicable at that date, by the competent authorities of the Member State in which entry was made for release of the goods for free circulation.

.../...

Article 6

1. A General Customs Procedures Committee shall be set up, hereinafter referred to as the "Committee", composed of representatives of Member States, and with a representative of the Commission as Chairman.
2. The Committee shall set up its own internal arrangements.

Article 7

The Committee shall examine all questions relating to the implementation of this Regulation which are put to it by its Chairman, whether on his own initiative or at the request of the representative of a Member State.

Article 8

1. The provisions necessary for the implementation of Article 3, Article 4, second subparagraph, and Article 5 shall be adopted in accordance with the procedure set out in paragraphs 2 and 3.
2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on this draft within a time limit which the Chairman may fix depending on the urgency of a particular question. It shall decide by a majority of the forty three votes, the votes of the Member States being subject to the considerations provided for in Article 148 (2) of the Treaty. The Chairman shall not vote.
3. a) The Commission shall adopt the proposed measures when they are in conformity with the opinion of the Committee.

b) When the proposed measures are not in conformity with the opinion of the Committee, or in the absence of any opinion, the Commission shall without delay submit a proposal to the Council in respect of the measures to be taken. The Council shall act by a qualified majority.

.../...

- c) If at the expiry of a time-limit of three months, counting from the date of submission to the Council, it has not acted, then the proposed measures shall be adopted by the Commission.

Article 9

This regulation shall enter into force on

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

Done at Brussels,

For the Council,

The President,

ANNEXE I

C.C.T. No	Description of articles
49.11	<u>A. Books, publications and documents</u> Other printed matter, including printed pictures and photographs : ex B. Other : - books and documents produced by processes other than printing including micro-copies on opaque materials - official documents, parliamentary and administrative, published in their country of origin. - travel posters and travel literature (pamphlets, guides, time-tables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the European Communities - publications whose purpose is to stimulate study outside the European Communities. - catalogues of books and publications, being books and publications offered for sale by publishers or booksellers established outside the European Communities - catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character, being catalogues issued by or on behalf of the United Nations, or any of its specialised agencies
ex 90.21	Geographical, hydrographical or astronomical relief maps and charts, produced by processes other than printing <u>NOTE</u> : the following are excluded from duty-free admission a) Books, publications and documents (except catalogues, travel posters and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes... .../...

ANNEX I (Cont'd)

C.C.T. No	Description of articles
ex 90.21 (Contd.)	b) newspapers and periodicals in which the advertising matter is in excess of 70 per cent by space c) all other items (except catalogues referred to above) in which the advertising matter is in excess of 25 per cent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.....
	<u>B. Audio and visual materials of an educational, scientific or cultural character</u> 37.04 Sensitised plates and films exposed but not developed, negative or positive : A. Cinematograph films : ex II - other positives, of an educational, scientific or cultural character, produced by the United Nations or any of its specialised agencies ex 37.05 Plates, unperforated film and perforated film (other than cinematograph film) exposed and developed, negative or positive, of an educational, scientific or cultural character produced by the United Nations or any of its specialised agencies. ex 37.07 Other cinematograph film, exposed and developed, whether or not incorporating sound track, negative or positive - Newsreels (with or without sound track), depicting events of current news value at the time of importation, and imported for copying, either in negative form, exposed and developed, or in positive form, exposed and developed, duty-free entry being limited to two copies of each subject. 92.12 Gramophone records or other sound or similar recordings: matrices for the production of records, prepared record blanks, film for mechanical sound recording, prepared tapes, wires, strips and like articles of a kind commonly used for sound or similar recording B. Recorded
	.../...

ANNEX I (Cont'd)

C.C.T. No	Description of articles
92.12 (Cont'd)	ex II. other, of an educational, scientific or cultural character, produced by the United Nations or any of its specialised agencies.
	<u>C. Articles for the blind</u>
ex 49.03	Children's picture books and painting books, in raised characters for the blind
49.11	Other printed matter, including printed pictures and photographs : ex B. other, in raised characters for the blind

ANNEX II

C.C.T. No	Description of articles	Entitled establishments or organisations
	<u>Visual and auditory materials of an educational, scientific or cultural character</u>	
37.04	Sensitised plates and film, exposed but not developed, negative or positive A. Cinematograph film ex II. other positives, of an educational, scientific or cultural character	Any organisation (including broadcasting and television organisations) and any public or private educational, scientific or cultural institution or society approved by the competent authorities of the Member States
ex 37.05	Plates, unperforated film and perforated film (other than cinematograph film), exposed and developed, negative or positive, of an educational, scientific or cultural character	Any organisation (including broadcasting and television organisations) and any public or private educational, scientific or cultural institution or society approved by the competent authorities of the Member States
37.07	Other cinematograph film, exposed and developed, whether or not incorporating sound track, negative or positive B. Other positives : ex I. Newsreels (with or without sound track), depicting events of current news value at the time of importation, not intermediate positives	Any organisation (including broadcasting and television organisations) approved by the competent authorities of the Member States
		.../...

ANNEX II (Cont'd)

C.C.T. No	Description of articles	Entitled establishments or organisations
92.12 (Cont'd)	ex B. With sound recordings of an educational, scientific or cultural character	
ex 66.02	<u>Articles for the blind</u> Walking-sticks (including climbing-sticks and seat-sticks) canes, whips, riding-crops and the like - white walking-sticks for the blind	Any institution for the blind or organisation concerned with the welfare of the blind approved by the competent authorities of the Member States
90.19 B	Hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability ex II. Other : - apparatus for guiding the blind	Any institution for the blind or organisation concerned with the welfare of the blind approved by the competent authorities of the Member States
ex 91.01	Pocket watches, wrist watches and others watches, including stop-watches -Braille watches for the blind, with cases in materials other than precious metal	Any institution for the blind or organisation concerned with the welfare of the blind approved by the competent authorities of the Member States
97.04	Equipment for parlour, table and funfair games for adults or children (including billiard tables and pintables and table-tennis requisites) : ex B. Other : - tables for games adapted for use by the blind	Any institution for the blind or organisation concerned with the welfare of the blind approved by the competent authorities of the Member States
Miscellaneous articles	Other objects (for example, apparatus to facilitate reading for the blind), specially designed for the educational, scientific or cultural development of the blind	Any institution for the blind or organisation concerned with the welfare of the blind approved by the competent authorities of the Member States.