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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 7 June 1988

accepting, on behalf of the Community, the recommendation of the Customs Cooperation Council of 13 June 1985 on the temporary admission of radio and television production and broadcasting equipment

(88/354/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas the recommendation on the temporary admission of radio and television production and broadcasting equipment was adopted by the Customs Cooperation Council on 13 June 1985; whereas it is necessary for the Community to adopt a position with regard to it;

Whereas the said recommendation may be accepted by the Community with immediate effect;

Whereas the first measure called for by the recommendation can be implemented pursuant to the existing Community provisions on temporary importation arrangements, namely the third indent of Article 13 (1) and Annex I to Commission Regulation (EEC) No 1751/84 of 13 June 1984 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements ⁽²⁾, as amended by Regulation (EEC) No 3813/85 ⁽³⁾, Articles 2, 3 ⁽⁴⁾ and 12 of Council Directive 85/362/EEC of 16 July 1985 on the harmonization of the laws of the Member States relating to turnover taxes—Exemption from value added tax on the temporary importation of goods other than means of transport ⁽⁴⁾, and Article 4 of Council Directive 83/182/EEC of 28 March 1983 on tax exemptions within the Community for certain

means of transport temporarily imported into one Member State from another ⁽⁵⁾;

Whereas the second and third measures called for by the recommendation could require particular implementing arrangements, to be specified by the Member States,

HAS DECIDED AS FOLLOWS:

Article 1

The recommendation of the Customs Cooperation Council of 13 June 1985 on the temporary admission of radio and television production and broadcasting equipment is hereby accepted on behalf of the Community with immediate effect, subject to the conditions of application set out in Annex I.

The text of the recommendation is set out in Annex II.

Article 2

The President of the Council shall designate the person empowered to notify the General-Secretariat of the Customs Cooperation Council of the acceptance of the recommendation by the Community, with immediate effect, subject to the conditions of application referred to in Article 1.

Done at Luxembourg, 7 June 1988.

For the Council
The President
M. BANGEMANN

⁽¹⁾ OJ No C 167, 27. 8. 1968.

⁽²⁾ OJ L 171, 29. 6. 1984, p. 1.

⁽³⁾ OJ L 368, 31. 12. 1985, p. 7.

⁽⁴⁾ OJ L 192, 24. 7. 1985, p. 20.

⁽⁵⁾ OJ L 105, 23. 4. 1983, p. 59.

ANNEX I

CONDITIONS OF APPLICATION

Community legislation covers only some of the matters dealt with by the recommendation.

For matters not covered by Community legislation, Member States shall provide information on any implementing arrangements of their own, until Community rules are introduced.

ANNEX II

RECOMMENDATION OF THE CUSTOMS COOPERATION COUNCIL

of 13 June 1985

on the temporary admission of radio and television production and broadcasting equipment

THE CUSTOMS COOPERATION COUNCIL,

considering that, in general, temporary admission facilities are granted to radio and television production and broadcasting equipment,

having regard to the Customs Convention on the temporary importation of professional equipment (8 June 1961),

having regard to the Customs Convention on the ATA carnet for the temporary admission of goods (6 December 1961),

having regard to the recommendation of the Council concerning the use of temporary importation papers in respect of radio and television vans (1 December 1955),

having regard to the recommendation of the Council on the temporary admission of radio and television vans (9 June 1977),

desiring to simplify customs formalities with a view to facilitating the admission of this equipment and the vehicles carrying it,

recommends that members and customs or economic unions should require from approved public and private bodies or their agents neither temporary admission documents nor

security for the temporary admission of radio and television production and broadcasting equipment, including radio or television vans, and that for the purposes of customs control they should be content with the production in duplicate of a list or detailed inventory of such equipment,

recommends that, wherever possible, members and customs or economic unions should require neither temporary admission documents nor security in respect of touring vehicles where these are used to transport such radio and television production and broadcasting equipment,

recommends that members and customs or economic unions should allow such equipment and vehicles to cross their frontiers outside the normal business hours of customs offices in respect of commercial traffic, including on Sundays and public holidays, against payment for special services, where applicable,

requests States, whether or not members of the Council, and customs or economic unions which accept this recommendation, to notify the Secretary-General of their acceptance, of the date from which they will apply the recommendation, and of the conditions of its application. The Secretary-General will transmit this information to the customs administrations of all members. He will also transmit it to any customs administrations of non-members or any customs or economic unions which have accepted this recommendation.

COUNCIL DECISION

of 7 June 1988

accepting, on behalf of the Community, Annex B.2 to the International Convention on the Simplification and Harmonization of Customs Procedures

(88/355/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas, by Decision 75/199/EEC ⁽²⁾, the Community concluded the International Convention on the Simplification and Harmonization of Customs Procedures;

Whereas the acceptance of the Annexes to the International Convention on the Simplification and Harmonization of Customs Procedures effectively contributes to facilitation and development of international trade;

Whereas Annex B.2, concerning relief from import duties and taxes in respect of goods declared for home use, may be accepted by the Community;

Whereas acceptance should, however, be accompanied by certain reservations to take account of the specific requirements of the customs union and the stage currently reached in the harmonization of customs legislation,

Article 1

Annex B.2 to the International Convention on the Simplification and Harmonization of Customs Procedures, concerning relief from import duties and taxes in respect of goods declared for home use, is hereby accepted on behalf of the Community, subject to a reservation of a general nature and reservations with regard to Standards 3, 21, 28 and 34 and recommended practices 10, 16, 18, 19, 20, 23, 27, 29, 32, 33 and 35.

The text of Annex B.2, together with the reservations, is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to notify the Secretary-General of the Customs Cooperation Council of the acceptance, by the Community, of the Annex referred to in Article 1, subject to the reservations referred to in the said Article.

Done at Luxembourg, 7 June 1988.

For the Council
The President
M. BANGEMANN

⁽¹⁾ OJ No C 167, 27. 8. 1968.

⁽²⁾ OJ No L 100, 21. 4. 1975, p. 1.

ANNEX B.2

ANNEX CONCERNING RELIEF FROM IMPORT DUTIES AND TAXES IN RESPECT OF GOODS DECLARED FOR HOME USE

INTRODUCTION

Most countries experience the need to relieve from import duties and taxes certain goods cleared for home use, irrespective of their normal tariff classification or normal liability, provided that they are imported in specified circumstances and for specified purposes. This relief may be provided for in the customs tariff or may be set out in separate legislation or regulations.

Relief may be granted on philanthropic or humanitarian grounds, or may be based on considerations of equity. It may be intended to encourage the development of education, science and culture, or to foster harmonious international relations, or be introduced simply for administrative convenience, to avoid expenditure that would be out of proportion to the amounts collected. Occasionally, economic considerations may also have to be taken into account when granting relief.

The relief referred to here is outright inasmuch as the goods are taken into home use and are not placed under a customs procedure affording only conditional relief from import duties and taxes.

However, though the relief is outright, there are usually certain conditions to be met and the facility may, for a time at least, be subject to constraints: use for approved purposes, prohibition on sale, etc.

The relief may apply to both import duties and import taxes or, in certain cases, to customs duties only.

This Annex does not contain an exhaustive list of the various reliefs granted by all countries. It does not cover, *inter alia*, goods reimported in the same state, goods consumed on board ships, aircraft and international trains or goods contained in travellers' baggage. Nor does it cover tariff preferences, whether granted unilaterally or under bilateral or multilateral agreements.

DEFINITIONS

For the purposes of this Annex:

- (a) the term 'relief from import duties and taxes' means the clearance of goods for home use free of import duties and taxes, irrespective of their normal tariff classification or normal liability, provided that they are imported in specified circumstances and for specified purposes;
- (b) the term 'clearance for home use' means the customs procedure which provides that imported goods may

remain permanently in the customs territory. This procedure implies the payment of any import duties and taxes chargeable and the accomplishment of all the necessary customs formalities;

- (c) the term 'import duties and taxes' means customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (d) the term 'customs duties' means the duties laid down in the customs tariff, to which goods are liable on entering the customs territory;
- (e) the term 'security' means that which ensures to the satisfaction of the customs that an obligation to the customs will be fulfilled;
- (f) the term 'person' means both natural and legal persons, unless the context otherwise requires.

PRINCIPLES

- 1. *Standard*
Relief from import duties and taxes in respect of goods declared for home use shall be governed by the provisions of this Annex.

- 2. *Standard*
National legislation shall specify the circumstances and enumerate the cases in which relief from import duties and taxes is granted and shall lay down the requirements which must be met to qualify for such relief.

- 3. *Standard*
Relief from import duties and taxes shall be authorized not only for goods imported directly from abroad but also for goods which are under another customs procedure.

- 4. *Recommended practice*
Except where an international instrument provides for reciprocity, relief from import duties and taxes should be granted without regard to the country of origin of the goods or the country whence they arrived.

FORMALITIES

- (a) *Prior authority*

- 5. *Standard*
National legislation shall specify the cases in which prior authority is required for relief from import duties and taxes and shall designate the authorities empowered to grant such authority.

6. *Recommended practice*

The cases in which prior authority is required for relief from import duties and taxes should be as few as possible.

(b) Declaration

7. *Standard*

National legislation shall specify the conditions under which goods qualifying for relief from import duties and taxes shall be produced at the competent customs office and a goods declaration shall be lodged.

8. *Recommended practice*

When a goods declaration is required, the form used should be that normally used for the goods declaration for home use.

(c) Security

9. *Standard*

The form in which security, if any, is to be provided for the purposes of relief from import duties and taxes shall be laid down in national legislation or determined by the customs authorities in accordance with national legislation.

10. *Recommended practice*

Where security is required to ensure compliance with any conditions laid down in respect of relief from import duties and taxes, the customs authorities should be satisfied with a written undertaking alone.

11. *Recommended practice*

Where, in special cases, security is required in the form of a deposit or a surety must be provided, the amount should be as small as possible and should not exceed the amount of the import duties and taxes that would have been involved if no relief had been granted.

12. *Standard*

Where security has been furnished, it shall be discharged as soon as possible after the customs are satisfied that the conditions under which relief from import duties and taxes has been granted have been duly fulfilled during any period laid down.

SCOPE

Cases covered by international instruments

13. *Recommended practice*

Relief from import duties and taxes or from customs duties only, as appropriate, should be granted for goods specified in the following international instruments and under the conditions laid down therein:

- (a) goods referred to in the Annexes to the Unesco Agreement on the Importation of Educational, Scientific and Cultural Materials (New York, 22 November 1950) and to the Protocol thereto (Nairobi, 26 November 1976) as well as in the Unesco Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character (Beirut, 1948);
- (b) equipment or material referred to in Recommended practices 4.39 and 4.41 of Annex 9 (7th edition) to the Convention on International Civil Aviation (Chicago, 7 December 1944);
- (c) commercial samples of negligible value and advertising material referred to in the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material (Geneva, 7 November 1952);
- (d) tourist publicity documents and material referred to in the Additional Protocol to the Convention Concerning Customs Facilities for Touring, Relating to the Importation of Tourist Publicity Documents and Material (New York, 4 June 1954);
- (e) products referred to in Articles 6 and 7 of the Customs Convention Concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fairs, Meetings or Similar Events (Brussels, 8 June 1961); and
- (f) goods imported under diplomatic or consular privileges as referred to in the Vienna Conventions on Diplomatic Relations (18 April 1961) and Consular Relations (24 April 1963).

Contracting parties are invited to consider the possibility of acceding to the above international instruments.

Samples of no commercial value

14. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of samples of no commercial value (samples of negligible value within the meaning of the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material (Geneva, 7 November 1952).

15. *Recommended practice*

The following should be regarded as samples of no commercial value:

- (a) raw materials and products of such dimensions that they are useless except for purposes of demonstration;
- (b) articles of non-precious materials affixed to cards or put up as samples in the manner usual in the trade, provided that there is not more than one of each size or kind;

- (c) raw materials and products, and articles of such materials or products, rendered useless, except for purposes of demonstration, by slashing, perforation, indelible marking or by any other effective method;
- (d) products which cannot be put up as samples of no commercial value in accordance with paragraphs (a) to (c) and which consist of:
 - (i) non-consumable goods of an individual value not exceeding US \$ 5, and provided there is not more than one sample of each kind or quality;
 - (ii) consumable goods of an individual value not exceeding US \$ 5, even if they consist wholly or partly of samples of the same kind or quality, provided the quantity and the manner in which they are put up preclude their being used otherwise than as samples.

Human therapeutic substances, blood-grouping and tissue-typing reagents

16. *Recommended practice*

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of the following substances, where they are consigned to institutions or laboratories approved by the competent authorities:

- (a) therapeutic substances of human origin; human blood and its derivatives (whole blood, dried plasma, albumin, gamma-globulin, fibrinogen); bodily organs;
- (b) blood-grouping reagents of human, animal, plant or other origin; and
- (c) tissue-typing reagents of human, animal, plant or other origin.

Removable articles imported on transfer of residence

17. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of removable articles belonging to a natural person or to members of his household imported on transfer of their residence to the country of importation.

18. *Recommended practice*

For the purposes of Standard 17 the expression 'removable articles' should be taken to include, in particular:

- (a) furniture and furnishings;
- (b) household appliances and audio-visual equipment;
- (c) personal effects;
- (d) means of transport for private use e.g.: motor vehicles and trailers therefor, cycles, motor cycles, caravans, pleasure boats and light aircraft;

- (e) household provisions normally kept in stock;
- (f) collector's pieces;
- (g) household pets and saddle horses; and
- (h) equipment necessary for the calling, trade or profession of the persons transferring their residence, other than industrial, commercial or agricultural plant or equipment.

Note

In some countries, relief from customs duties and from economic prohibitions or restrictions is granted in respect of industrial, commercial or agricultural plant or equipment imported by natural persons in connection with the transfer of their undertaking to the country of importation.

19. *Recommended practice*

The relief provided for in Standard 17 should not be made subject to conditions more restrictive than the following:

- (a) that the articles are appropriate, in kind, number and value, to the circumstances of the case;
- (b) that in the case of persons returning to the country of importation, there has been an appropriate period of residence abroad. This period should not be fixed at more than one year;
- (c) that except for household provisions, the removable articles have been owned or possessed, and used abroad by the importer or the members of his household for a reasonable period. This period should not be fixed at more than six months except in the case of articles liable to large amounts of import duties and taxes, for which it should not exceed one year;
- (d) that except for household provisions, the removable articles granted relief will continue to be owned or possessed, and used by the importer or the members of his household for a reasonable period after importation. This period should not be fixed at more than six months except in the case of articles liable to large amounts of import duties and taxes, for which it should not exceed one year;
- (e) that the removable articles be imported within an appropriate period starting from the date on which the importer establishes residence in the country of importation. This period should not be less than six months;
- (f) that any alcoholic beverages and tobacco goods do not exceed the quantities laid down in national legislation;
- (g) that the importer submits a list (inventory) of all the articles being imported.

Furniture and household articles for furnishing secondary residences

20. *Recommended practice*

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of furniture and household articles imported for the purpose of

furnishing a secondary residence by a person whose normal residence is in another country, under the conditions laid down by national legislation.

Note

Relief is normally made subject to the following conditions:

- (a) the furniture and household articles must:
 - 1) have been used before by the person concerned for a reasonable period;
 - 2) be imported to furnish the secondary residence and be for the personal use of a private person and the members of his family living with him during their stay in the secondary residence;
 - 3) be appropriate, in kind and quantity, to the normal furnishing of the secondary residence in question;
 - 4) be retained in the possession of the person concerned for a reasonable period;
- (b) relief may be granted on one occasion only for one and the same secondary residence;
- (c) the secondary residence must be owned by the person concerned or have been rented by him for a reasonable period.

Trousseaus and wedding presents

21. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of trousseaus and wedding presents for a person resident abroad who transfers residence to the country of importation on, or with a view to marriage to a person already residing in that country.

22. *Standard*

Trousseaus and wedding presents shall be taken to include:

- (a) household linen and clothing, whether or not new, for the personal use of the person concerned or for use in his household;
- (b) any articles customarily given on the occasion of a wedding.

23. *Recommended practice*

The relief provided for in Standard 21 should not be made subject to conditions more restrictive than the following:

- (a) that the person concerned has lived abroad for an appropriate period. This period should not be fixed at more than one year;
- (b) that the goods be imported no earlier than three months before the scheduled date of the wedding and no later than six months after the wedding;
- (c) that the person granted the relief will continue to own or possess the goods imported as trousseaus and wedding presents for a reasonable period after importation. As a rule, this period should not be fixed at more than one year;

- (d) that the goods are intended for the personal use of the couple;
- (e) that any alcoholic beverages and tobacco goods do not exceed the quantities laid down in national legislation;
- (f) that a list (inventory) of all the goods being imported be submitted, together with any supporting documents required by the customs authorities.

Personal effects and educational articles for persons attending educational establishments

24. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of the personal effects and educational articles used by persons normally resident abroad who are duly enrolled as full-time pupils or students in an educational establishment in the country of importation.

25. *Recommended practice*

The relief provided for in Standard 24 should not be made subject to conditions more restrictive than the following:

- (a) that the goods be for the personal use of the person concerned;
- (b) that a list (inventory) of the goods to be imported be submitted, together with any supporting documents required by the customs authorities.

Effects acquired by inheritance

26. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of effects inherited by a person who, at the time of the death of the deceased, has his principal residence in the country of importation provided that such effects were for the personal use of the deceased.

27. *Recommended practice*

The relief provided for in Standard 26 should not be made subject to conditions more restrictive than the following:

- (a) that the deceased was resident abroad at the time of death;
- (b) that the effects be imported within one year of the date on which the person concerned became entitled to dispose of them;
- (c) that, except in the case of household provisions, the person granted relief retain ownership or possession of the goods inherited for a reasonable period after importation. As a rule, this period should not be fixed at more than one year;

- (d) that any alcoholic beverages and tobacco goods do not exceed the quantities laid down in national legislation;
- (e) that a list (inventory) of the goods to be imported be submitted, together with any supporting documentary proof required by the customs authorities.

Personal gifts

28.

Standard

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of personal gifts (excluding alcohol, alcoholic beverages and tobacco goods) the aggregate value of which, determined on the basis of the retail prices in the country of dispatch, does not exceed US \$ 25. Where several consignments are dispatched at the same time by the same sender to the same addressee, the aggregate value shall be taken to be the total value of all those consignments.

Note

A gift is usually considered to be personal if it:

- (a) is sent to a private person by or on behalf of another private person resident abroad;
- (b) is occasional; and
- (c) consists only of goods for personal use by the addressee or his family, and the nature and quantity of the goods imported are such that the consignment is obviously not of a commercial nature.

Goods sent to charitable or philanthropic organizations

29.

Recommended practice

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of basic necessities (such as foodstuffs, medicaments, clothing and blankets) sent as gifts to an approved organization for distribution free of charge to needy persons by the organization or under its control.

Awards

30.

Recommended practice

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of:

- (a) decorations presented by foreign governments to persons resident in the country of importation;
- (b) *objets d'art*, trophies, medals and similar articles presented abroad either as prizes in a competition or as a reward for acts of courage or self-sacrifice, to persons resident in the country of importation, or such articles donated by authorities or non-profit-making

organizations abroad with a view to presentation for the same purposes in the country of importation to persons resident in that country, subject to the production of any supporting documents required by the customs authorities.

Materials for the construction, upkeep or ornamentation of military cemeteries; coffins, funerary urns and ornamental funerary articles

31.

Recommended practice

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of:

- (a) goods, imported by organizations approved by the competent authorities of the country of importation and appropriate for the construction, upkeep or ornamentation of military cemeteries;
- (b) coffins containing the bodies, and urns containing the ashes, of deceased persons, and the flowers, wreaths and other ornamental objects accompanying them;
- (c) flowers, wreaths and other ornamental objects brought by persons attending a funeral or mourners coming to decorate graves in the country of importation.

Documents and miscellaneous articles of no commercial value

32.

Recommended practice

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of consignments containing the following items when they are clearly, by their quantity or nature, of no commercial value:

- (a) publications of foreign governments and publications of official international organizations;
- (b) printed forms issued by foreign governments;
- (c) voting papers for foreign nationals;
- (d) documents sent free of charge to the public services of the country of importation;
- (e) objects to be submitted as evidence or for similar purposes to the courts or other official agencies of the country of importation;
- (f) printed circulars concerning signatures addressed to public services or banks in the country of importation;
- (g) securities in foreign currencies, cheque books and travellers' cheques of banks established abroad;
- (h) reports, statements and notes drawn up by companies established abroad;
- (i) recorded media such as punched cards, sound recordings, magnetic tapes, microfiches, microfilms and magnetic discs, for the international exchange of information;

- (k) publications of chambers of commerce of the country of importation abroad;
- (l) plans, technical drawings, traced designs, specifications and other documents imported solely with a view to placing orders abroad or to participating in competitions or calls for tenders in the country of importation;
- (m) documents relating to trade marks, patterns or designs and patent applications submitted to the agencies in the country of importation which deal with the protection of copyrights or the protection of industrial or commercial property;
- (n) printed forms and tickets sent by transport and travel undertakings located abroad to their offices and agencies in the country of importation;
- (o) printed forms and tickets, bills of lading, waybills and other commercial documents which have been processed;
- (p) press photographs and stereotype mats for press photographs sent to press agencies or to publishers of newspapers or periodicals.

Religious objects

33. *Recommended practice*

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of objects used for religious worship, subject to compliance with the conditions laid down in national legislation.

Products imported for testing

34. *Standard*

Relief from import duties and taxes and from economic prohibitions or restrictions shall be granted in respect of

products imported for testing, provided that the quantities imported do not exceed those strictly necessary for testing and that:

- (a) they are products that will be completely used up during testing;
- (b) if not so used up, they will be re-exported, destroyed or rendered commercially valueless under official control, without expense to the revenue.

Products and materials for the protection of goods during transport

35. *Recommended practice*

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of packing materials (straw, paper, fibre glass, wood shavings, etc.) and various products such as rope, paper and paperboard which have been used to stow and protect goods during transport.

Fodder and other feed for animals in the course of being transported

36. *Recommended practice*

Relief from import duties and taxes and from economic prohibitions or restrictions should be granted in respect of fodder and other feed accompanying imported animals and intended for use during transport.

INFORMATION CONCERNING RELIEF

37. *Standard*

The customs authorities shall ensure that all relevant information concerning relief from import duties and taxes is readily available to any person interested.

Commentaries and reservations to be entered by the Community in respect of Annex B. 2 to the
International Convention on the Simplification and Harmonization of Customs Procedures

1. *General reservation (general remark)*

'Community legislation generally covers the provisions of this Annex. However, the Member States shall, if appropriate, enter their own reservations to the extent that Community legislation leaves them the possibility to maintain, in certain cases, their national provisions.'

2. *Standard 3*

'Community law provides the possibility of excluding from relief those goods declared for free circulation after being placed under another customs procedure. This exclusion has only been applied in respect of the entry for free circulation of consignments of negligible value.'

3. *Recommended practice 10*

'In certain cases, relief may be granted if the person concerned undertakes to respect certain conditions (for example, to actually install himself in the Community or to furnish a supporting document for his relief request). This undertaking is accompanied by a security, the form and amount of which shall be determined by the competent authorities.'

4. *Recommended practice 16*

'The importation of the substances concerned as a commercial operation is excluded from relief.'

5. *Recommended practice 18*

'Community legislation excludes from relief the following items:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) commercial means of transport;
- (d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts.'

6. *Recommended practice 19*

'The period for which the beneficiary must keep the property or possession of the articles in question is set at 12 months.'

7. *Recommended practice 20*

'Community legislation does not provide for exemption from value-added tax on goods imported for furnishing

a secondary residence imported from countries outside the European Community.'

8. *Standard 21*

'The exemption from value-added tax ⁽¹⁾ applies to presents of a unit value of not more than 200 ECU.

Member States may, however, grant exemption for more than 200 ECU, provided that the value of each exempt present does not exceed 1 000 ECU. The relief from import duties applies to presents when the value of each present does not exceed 1 000 ECU'

(See also reservation to Recommended practice 23.)

9. *Recommended practice 23*

'Community legislation provides no relief for alcoholic products, tobacco or tobacco products.

Save in exceptional circumstances, relief shall be granted only in respect of goods entered for free circulation:

- not earlier than two months before the date fixed for the wedding (in this case the relief shall be subject to the lodging of appropriate security, the form and amount of which shall be determined by the competent authorities), and
- not later than four months after the date of the wedding.'

10. *Recommended practice 27*

'Community legislation excludes from relief the following items:

- (a) alcoholic products;
- (b) tobacco and tobacco products;
- (c) commercial means of transport;
- (d) articles for use in the exercise of a trade or profession, other than portable instruments of the applied or liberal arts, which were required for the exercise of the trade or profession of the deceased;
- (e) stocks of raw materials and finished or semi-finished products;
- (f) livestock and stocks of agricultural products exceeding the quantities appropriate to normal family requirements.'

11. *Standard 28*

'Community legislation provides relief for goods the total value of which does not exceed 45 ECU forming

small consignments of a non-commercial nature sent without payment by a private person to another private person living in the customs territory of the Community.

Besides quantitative restrictions applicable to tobacco, alcohol and alcoholic beverages, Community legislation provides for the following maximum tax allowances for imports of coffee, tea, perfumes and toilet water:

- | | |
|----------------------------------|-------------|
| (a) coffee: | 500 grammes |
| or coffee extracts and essences: | 200 grammes |
| (b) tea: | 100 grammes |
| or tea extracts and essences: | 40 grammes |
| (c) perfumes: | 50 grammes |
| or toilet waters: | 0,25 litre |

12. *Recommended practice 29*

'The goods referred to in the Recommended practice are admitted free of import duties in so far as this does not give rise to abuses or major distortions of competition.

Community legislation provides that the following goods are excluded from relief for duty and taxes at importation:

- (a) alcoholic products;
- (b) tobacco or tobacco products;
- (c) coffee and tea;
- (d) motor vehicles other than ambulances.'

13. *Recommended practice 32*

'For the operations covered by points (a) and (b), Community legislation provides that the relief applies to documents addressed or distributed free of charge.

Community legislation does not provide for the operations envisaged under points (g) and (k) of this Recommended practice.

The importations covered by point (ij) are permitted under Community legislation in so far as duty-free admission does not give rise to abuses or to major distortions of competition and that these goods are used for the transmission of information sent free of charge to the addressee.'

14. *Recommended practice 33*

'Community legislation does not provide for the relief covered by this Recommended practice.'

15. *Standard 34*

'Goods covered by this Standard are entitled to relief only if the examination, analysis or tests concerned do not in themselves constitute sales promotion operations.'

16. *Recommended practice 35*

'Community legislation provides for the relief envisaged in this Recommended practice in so far as the materials in question are not normally reusable and on condition that their value is included in the imposable base of the goods transported.'

COUNCIL DECISION

of 7 June 1988

accepting, on behalf of the Community, Annex E.4 to the International Convention on the Simplification and Harmonization of Customs Procedures

(88/356/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 43, 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas, by Decision 75/199/EEC ⁽²⁾, the Community concluded the International Convention on the Simplification and Harmonization of Customs Procedures;

Whereas the acceptance of the Annexes to the International Convention on the Simplification and Harmonization of Customs Procedures effectively contributes to the development and easing of international trade in goods;

Whereas Annex E.4 concerning drawback may be accepted by the Community;

Whereas acceptance should, however, be accompanied by certain reservations to take account of the specific requirements of the customs union and the stage currently reached in the harmonization of customs legislation,

Article 1

Annex E.4 to the International Convention on the Simplification and Harmonization of Customs Procedures, concerning drawback, is hereby accepted on behalf of the Community, subject to a reservation of a general nature and a reservation with regard to Standard 5.

The text of Annex E.4, together with the reservations, is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to notify the Secretary-General of the Customs Cooperation Council of the acceptance by the Community, subject to the reservations referred to in Article 1, of the Annex referred to in Article 1.

Done at Luxembourg, 7 June 1988.

For the Council

The President

M. BANGEMANN

⁽¹⁾ OJ No C 167, 27. 6. 1988.

⁽²⁾ OJ No L 100, 21. 4. 1975, p. 1.

ANNEX E. 4

ANNEX CONCERNING DRAWBACK

INTRODUCTION

When imported materials which have borne import duties and taxes are subjected to manufacturing or processing (or, in certain circumstances, repair) and are then exported, they can often be offered for sale in foreign markets at more competitive prices if the import duties and taxes are refunded at exportation. The drawback procedure provides facilities for such a refund.

Since, however, such refunds may encourage the importation of foreign goods for which equivalents are available from domestic sources, some restriction on the granting of such refund may be considered necessary in respect of particular categories of goods or particular processing or manufacturing operations. The extent to which drawback may be granted will have to be specified as necessary by individual countries.

This Annex covers not only the granting of drawback in cases where the goods have undergone processing, manufacture or repair, but also the possibility of granting drawback in cases where goods have been imported and are subsequently re-exported in the same state. The Annex does not cover, however, repayment made on grounds of equity, for example, when goods are returned to the supplier as being not in accordance with contract. Neither does the Annex cover the repayment on exportation of duties and taxes other than import duties and taxes.

DEFINITIONS

For the purposes of this Annex:

- (a) the term 'drawback procedure' means the customs procedure which, when goods are exported, provides for a refund (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or used up in their production;
- (b) the term 'drawback' means the amount of import duties and taxes repaid under the drawback procedure;
- (c) the term 'import duties and taxes' means customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered.

PRINCIPLE

1. *Standard*
The drawback provisions shall be governed by the provisions of this Annex.

SCOPE

2. *Standard*
National legislation shall specify the cases in which drawback may be claimed and the conditions under which it is paid.

Note 1

The cases where drawback may be claimed may be specified by reference to certain goods or classes of goods or to certain uses of goods. Drawback may also be restricted to certain categories of import duties and taxes or to cases where the goods have undergone processing, manufacture or repair or other authorized uses. Drawback in respect of goods used up in the production of exported goods does not normally extend to mere aids to manufacture, such as lubricants, but may apply to waste or loss resulting from such manufacture.

Note 2

Repayments under the drawback procedure are not granted in cases where import duties and taxes have been, or will be, repaid under other provisions.

3. *Recommended practice*

The drawback procedure should also be applied in cases where the goods or materials which have borne import duties and taxes have been replaced by equivalent goods or materials used in the manufacture or production of exported goods.

CONDITIONS TO BE FULFILLED

4. *Standard*
The interested parties shall maintain records or stock accounts enabling the validity of the claim for drawback to be verified.

5. *Standard*
When it is known or anticipated at the time of importation of the goods for home use that drawback will be claimed, the declarant may be required, in order to facilitate a later claim, to state this intention; however, payment of drawback shall not be withheld solely because such a statement has not been made, nor shall exportation be required because of such a statement.

Note

The customs may require that goods on which drawback is to be claimed be segregated from other goods or be processed or manufactured under customs supervision.

DURATION OF STAY OF THE GOODS IN THE CUSTOMS TERRITORY**6. *Standard***

Where a time limit for the exportation of the goods is fixed beyond which they no longer qualify for drawback, due account shall be taken in fixing such limit of the nature of the process or manufacture to which the goods may be subjected, and of the commercial or other factors involved.

7. *Recommended practice*

Where a time limit for the exportation of the goods is fixed, this should, upon request, be extended if the reasons are deemed by the customs authorities to be valid.

DECLARATION ON EXPORTATION AND CLAIM FOR DRAWBACK**8. *Standard***

A declaration of exportation on drawback accompanied by supporting documents shall be lodged at a competent customs office.

9. *Recommended practice*

At the request of the exporter, and for reasons deemed to be valid, the customs authorities should, so far as possible, allow goods for exportation to be examined on private premises, the expenses entailed by such examination being borne by the exporter.

The customs authorities may themselves require goods for exportation to be produced for examination at private premises.

10. *Recommended practice*

Where the exportation of goods under the drawback procedure is controlled through the exporter's records, production of the goods at exportation should normally be dispensed with.

11. *Standard*

The claim for drawback shall contain (or provide in the accompanying documents) such proof as is required to show

that the conditions laid down for the payment of drawback have been fulfilled.

Note

The particulars that may be required by the customs authorities for the payment of drawback include the following:

- (a) the claimant;
- (b) the initial clearance of the goods for home use (for example, the number and date of the goods declaration for home use);
- (c) the import duties and taxes paid;
- (d) the nature or tariff description, and the quantity of the goods;
- (e) the use, process or manufacture to which the goods have been subjected;
- (f) details of exportation.

12. *Recommended practice*

Where a time limit is fixed beyond which claims for drawback will not be accepted, provision should be made for its extension for commercial or other reasons deemed by the customs authorities to be valid.

PAYMENT OF DRAWBACK**13. *Standard***

Drawback shall be paid as soon as possible after the claim has been verified.

14. *Recommended practice*

Drawback should also be paid on deposit of the goods in a customs warehouse on condition that they are to be exported subsequently.

15. *Recommended practice*

The customs authorities should, if so requested, pay drawback periodically, on goods exported during a specified period.

INFORMATION CONCERNING DRAWBACK**16. *Standard***

The customs authorities shall ensure that all relevant information regarding the drawback procedure is readily available to any person interested.

Commentaries and reservations to be entered by the Community in respect of Annex E. 4 to the International Convention on the Simplification and Harmonization of Customs Procedures

1. *General Reservation (general remark)*

Community legislation generally covers the provisions of this Annex. However, in the areas not covered by Community legislation, the Member States enter their own reservations, if necessary.

2. *Standard 5*

The declaration for release for free circulation must contain certain details regarding the use of the inward processing relief arrangements-drawback system. Furthermore, use of this system pre-supposes that an inward processing authorization has been issued or, in certain cases, requested before this release for free circulation.
