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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EEC) No 3648/91

of 11 December 1991

laying down the methods of using form 302 and repealing Regulation (EEC) No 3690/86 concerning the abolition, within the framework of the TIR Convention, of customs formalities on exit from a Member State at a frontier between two Member States and Regulation (EEC) No 4283/88 on the abolition of certain exit formalities at internal Community frontiers — introduction of common border posts

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Regulations (EEC) No 3690/86 <sup>(4)</sup> and (EEC) No 4283/88 <sup>(5)</sup> simplified formalities in respect of goods crossing an internal frontier of the Community under cover of a TIR or ATA carnet, a Community movement carnet or NATO form 302 by providing for the introduction of common border posts, thus ensuring that the same checks are not repeated on both sides of the frontier and that the sole administrative operation takes place at the office of entry in the Member State into which the goods are brought;

Whereas Regulation (EEC) No 719/91 <sup>(6)</sup> further simplifies the rules for use of TIR and ATA carnets with effect from 1 January 1992 by providing that the Community is to be considered for this purpose to form a single customs

territory, thus eliminating entirely the need, at internal frontier crossings, for the formalities and controls inherent in the use of TIR and ATA carnets as transit documents;

Whereas, in anticipation of the total eliminations of internal frontiers linked to the establishment of the single market, these additional facilities should be extended from 1 January 1992 to operations under cover of NATO form 302 as well;

Whereas Regulation (EEC) No 3/84 <sup>(7)</sup> concerning the Community movement carnet, as last amended by Regulation (EEC) No 718/91 <sup>(8)</sup>, is due to be repealed with effect from the date of application of Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit <sup>(9)</sup>;

Whereas Regulations (EEC) No 3690/86 and (EEC) No 4283/88 will become redundant when the measures for which they provide cease to be applicable; whereas they should be repealed with effect from the dates in question,

HAS ADOPTED THIS REGULATION:

## Article 1

Regulation (EEC) No 3690/86 is hereby repealed.

<sup>(1)</sup> OJ No C 143, 1. 6. 1991, p. 11.

<sup>(2)</sup> OJ No C 280, 28. 10. 1991, and

OJ No C 326, 13. 12. 1991.

<sup>(3)</sup> OJ No C 269, 14. 10. 1991, p. 23.

<sup>(4)</sup> OJ No L 341, 4. 12. 1986, p. 1.

<sup>(5)</sup> OJ No L 382, 31. 12. 1988, p. 1.

<sup>(6)</sup> OJ No L 78, 26. 3. 1991, p. 6.

<sup>(7)</sup> OJ No L 2, 4. 1. 1984, p. 1.

<sup>(8)</sup> OJ No L 78, 26. 3. 1991, p. 4.

<sup>(9)</sup> OJ No L 262, 26. 9. 1990, p. 1.

*Article 2*

1. Where, in accordance with the provisions in force, goods are transported from one point in the Community to another under cover of form 302 established under the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951, the Community shall be considered, for the purposes of the rules governing the use of the said form for such transport, to form a single territory, as defined by Council Regulation (EEC) No 2151/84 of 23 July 1984 on the customs territory of the Community<sup>(1)</sup>.

2. Where, in the course of a transport operation referred to in paragraph 1, goods pass through the territory of a third country, the controls and formalities inherent in form 302 shall be applied at the points where the goods temporarily leave the customs territory of the Community and where they re-enter that territory.

3. Where it is found that, in the course of, or in connection with, a transport operation carried out under cover of form 302, an offence or irregularity has been committed in a particular Member State, the recovery of duties and other charges which may be chargeable shall be effected by that Member State in accordance with Community or national provisions, without prejudice to the institution of criminal proceedings.

4. Where it is not possible to determine in which territory the offence or irregularity was committed, such offence or irregularity shall be deemed to have been committed in the Member State where it was noted.

In that case, the duties and other charges relating to the goods in dispute shall be levied by that Member State in accordance with Community or national provisions.

If, subsequently, the Member State where the said offence or irregularity was actually committed is determined, the duties and other charges (apart from those levied, pursuant to the second subparagraph, as own resources of the Community) to which the goods are liable in that Member State shall be reimbursed to it by the Member State which originally recovered them. In that case, any overpayment shall be returned to the person who originally paid the charges.

Where the amount of the duties and other charges originally levied and reimbursed by the Member State which recovered them is smaller than that of the duties and other charges due in the Member State where the offence or irregularity was actually committed, that Member State shall levy the difference in accordance with Community or national provisions.

Member States shall take the necessary measures to deal with any offence or irregularity and to impose effective penalties.

*Article 3*

Regulation (EEC) No 4283/88 is hereby repealed.

However, to the extent that it concerns the Community movement carnet, the said Regulation shall continue to apply until the date of application of Regulation (EEC) No 2726/90.

*Article 4*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1992.

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

Done at Brussels, 11 December 1991.

*For the Council*

*The President*

P. BUKMAN

<sup>(1)</sup> OJ No L 197, 27. 7. 1984, p. 1. Regulation last amended by Regulation (EEC) No 4151/88 (OJ No L 367, 31. 12. 1988, p. 1).