

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 22 May 1978

on the harmonization of provisions laid down by law, regulation or administrative action concerning deferred payment of import duties or export duties

(78/453/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas Council Directive 69/76/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action for deferred payment of customs duties, charges having equivalent effect and agricultural levies ⁽³⁾, fixed the conditions on which Member States may defer payment of amounts due in respect of customs duties, charges having equivalent effect or agricultural levies on goods which have been the subject of a customs declaration ;

Whereas, since the date of entry into force of Directive 69/76/EEC, monetary compensatory amounts have been introduced which are applicable to certain imported agricultural products or to certain goods resulting from the processing thereof ; whereas it is necessary to extend the application of the said Directive to these import charges ;

Whereas since that date levies, charges and monetary compensatory amounts on the exportation of certain agricultural products or certain goods resulting from the processing thereof have also been introduced ;

whereas it is desirable that provision should be made for granting deferred payment of amounts due in respect of these export charges on the same conditions as those laid down for the payment of the different import charges applicable ;

Whereas all the measures which are henceforth applicable with regard to deferred payment of the customs debt on importation and on exportation should, in the interests of clarity, be included in a single text, and, in consequence, Directive 69/76/EEC should be repealed,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. This Directive determines the rules which must be laid down in the laws, regulations or administrative provisions of Member States concerning deferred payment of import duties or export duties in respect of goods which have been declared under customs procedure which entails the obligation to pay such duties.

2. For the purposes of this Directive :

(a) 'import duties' means customs duties and charges having equivalent effect, as well as agricultural levies and other import charges laid down within the framework of the common agricultural policy, or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products ;

⁽¹⁾ OJ No C 7, 12. 1. 1976, p. 73.

⁽²⁾ OJ No C 15, 22. 1. 1976, p. 2.

⁽³⁾ OJ No L 58, 8. 3. 1969, p. 14.

- (b) 'export duties' means agricultural levies, and other export charges laid down within the framework of the common agricultural policy, or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products;
- (c) 'entry in the accounts' means the official act by which the amount of the import duties or export duties to be collected by the competent authorities is duly determined.

Article 2

1. Subject to the applicant giving appropriate security, the form of which shall be specified by the competent authorities of the Member States, they shall, on the conditions laid down in this Directive, grant him deferment of payment of the import duties or export duties for which he is liable. Without prejudice to certain costs which may result for the beneficiary, the granting of this deferment of payment shall not give rise to the imposition of any interest charges.
2. For the purpose of paragraph 1, 'appropriate security' means a security of an amount fixed by the competent authorities on the basis of each import or export transaction — or, if appropriate, of a number of import or export transactions — and furnished by a natural or legal person approved by the said competent authorities.

Article 3

1. Without prejudice to Articles 4, 5 and 6, the deferment of payment referred to in Article 2 shall be 30 days following the date on which the amounts due by the person liable for payment are entered in the accounts by the competent authorities.
2. The entry in the accounts referred to in paragraph 1 must be made later than the second day following that on which the authorization was given to remove the goods to which the amounts concerned apply or not later than the second day following any other act in lieu of such authorization in accordance with the customs provisions in force.

However, if the competent authorities deem it necessary, the entry in the accounts may be made within a further period which may not exceed 12 days. In such a case, the deferment of payment referred to in paragraph 1 shall be reduced by the number of days corresponding to the length of the additional period.

Article 4

1. The amounts due as import duties or export duties for goods for which removal has been authorized during a given period, which may not exceed 31 days, may be dealt with by one single entry in the accounts at the end of the period by the competent authorities. In this case:

- this entry in the accounts must be made within the time limits laid down in Article 3 (2);
- the length of the deferment referred to in Article 3 (1) shall be reduced by the number of days equal to one half of the number of days in the period in question. In those cases where the second subparagraph of Article 3 (2) is applied the length of the deferment thus calculated shall be reduced by the number of days equal to the additional period for entry into the accounts of the various amounts concerned;
- the deferment shall be calculated from the date of the entry in the accounts.

2. Where the number of days in the period referred to in paragraph 1 is an odd number, the number of days to be deducted shall be equal to one half of the even number immediately below that odd number.

Article 5

1. Deferred payment of import duties or export duties may be granted generally by the competent authorities, in respect of the total amounts entered in the accounts, on the conditions specified in Article 3 (2), over a given period which may not exceed 31 days. In this case, the length of the deferment referred to in Article 3 (1) shall be reduced by the number of days equal to one half of the number of days in the period in question. The deferment shall be calculated from the expiry of the period. In those cases where the second subparagraph of Article 3 (2) is applied the length of the deferment thus calculated shall be reduced by the number of days equal to the additional period for entry into the accounts of the various amounts concerned.
2. Where the number of days in the period referred to in paragraph 1 is an odd number, the number of days to be deducted shall be equal to one half of the even number immediately below that odd number.

Article 6

If the date for payment, determined in accordance with Articles 3, 4 and 5, falls on a non-working day, the deferment shall be extended until the first working day following that date.

Article 7

Where a Member State grants further payment facilities in addition to the deferred payment referred to in Articles 1 to 6, the expenses borne by the person liable for payment for the granting of these facilities, and in particular any interest, must be calculated in such a way that the amounts are equivalent to those which would be charged for this purpose on the money market or financial market in the State concerned.

Article 8

This Directive shall not apply to amounts due as import duties or export duties from the person liable for payment when these amounts, as a result of special circumstances are not entered in the accounts by the competent authorities within the time limit laid down in Article 3 (2).

However, these amounts may give rise to the application of Article 7.

Article 9

The Member States shall bring into force not later than 1 January 1979 the measures necessary to comply with this Directive.

Article 10

Each Member State shall inform the Commission of the provisions it adopts in implementation of this Directive.

The Commission shall communicate this information to the other Member States.

Article 11

Directive 69/76/EEC shall be repealed with effect from 1 January 1979.

References to that Directive should be read as references to the present Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels, 22 May 1978.

For the Council

The President

K. HEINESEN