

COUNCIL DIRECTIVE

of 20 June 1991

amending Directive 83/643/EEC on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States

(91/342/EEC)

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 ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Directive 83/643/EEC ⁽⁴⁾, as amended by Directive 87/53/EEC ⁽⁵⁾, contains a set of measures designed to reduce waiting time for carriers of goods crossing internal Community frontiers;

Whereas Article 8a of the Treaty provides for the progressive establishment, over a period expiring on 31 December 1992, of an internal market comprising an area without internal frontiers in which the free movement of goods, *inter alia*, is ensured;

Whereas, pending the removal of internal frontiers, it is possible to make further early progress in simplifying and speeding up intra-Community movement of goods;

Whereas the principle stated in Directive 83/643/EEC that inspections should be carried out by means of spot checks except in duly justified circumstances applies only to physical inspections; whereas experience has shown that it is desirable to cut waiting time at frontiers to a minimum by defining the terms 'inspection', 'formalities' and lay down conditions for carrying out spot checks;

Whereas, in particular under the Community transit arrangements, operators may initiate the transit procedure inside the Member State of departure and/or opt for the release of the goods for home use or their entry for another procedure at a point inside the Member State of destination; whereas in this context the centralization of

different controls in a single place pursuant to Directive 83/643/EEC will improve the situation at frontiers only if it takes place preferably at the point of departure or destination of the goods, without prejudice to the operator's freedom of choice;

Whereas the minimum business hours of major inspection offices inside Member States should be extended in order to facilitate the completion of controls and formalities at the place of departure or destination of goods,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/643/EEC is hereby amended as follows:

1. the following paragraph shall be added to Article 1:

'3. For the purposes of this Directive:

— "inspection" means the carrying out by customs or any other supervisory department of an operation which consists of the physical examination, including visual inspection, of the means of transport and/or the goods themselves with the aim of checking that their nature, origin, state, quantity or value conform to the particulars given in the documents which have been presented,

— "formalities" means any formality imposed on operators by the administration, consisting in the presentation or examination of documents and certificates accompanying goods or other particulars, irrespective of form or medium, relating to the goods or means of transport';

2. Article 2 shall be replaced by the following:

Article 2

1. Member States shall take the necessary measures to ensure that in the course of any carriage operation the various inspections and formalities are carried out with the minimum of delay necessary and:

— as far as possible, in one place, preferably the place of departure and/or destination of the goods,

— with the inspections being carried out by means of spot checks, except in duly justified circumstances.

⁽¹⁾ OJ No C 204, 15. 8. 1990, p. 15.

⁽²⁾ OJ No C 19, 28. 1. 1991, p. 81 and Decision of 12 June 1991 (not yet published in the Official Journal).

⁽³⁾ OJ No C 69, 18. 3. 1991, p. 8.

⁽⁴⁾ OJ No L 359, 22. 12. 1983, p. 8.

⁽⁵⁾ OJ No L 24, 27. 1. 1987, p. 33.

2. For the purposes of the second indent of paragraph 1, the sample base for spot checks shall be the totality of consignments passing through a frontier post or presented at a customs office or department carrying out inspections in a given period, not the totality of goods in each consignment.

Spot checks must take into account the degree of risk connected with consignments passing through a frontier post or presented at a customs office or department carrying out inspections.

3. Member States shall facilitate, in circumstances which they deem appropriate, the use of simplified procedures, such as those laid down by the regulations for the despatch, distribution and release for consumption of goods, at the place of origin or destination of the goods.

4. Member States shall endeavour to deploy customs offices in such a way, including in the interior of their territory, as best to take account of the requirements of commercial operators.';

3. Article 5 (1) and (2) shall be replaced by the following:

'1. Where the volume of traffic so warrants, Member States shall see to it that:

(a) frontier posts are open, except when traffic is prohibited, in such a way that:

— frontiers can be crossed 24 hours a day, with corresponding provisions for the inspections and formalities relating to goods placed under a customs transit procedure and their means of transport, and to vehicles travelling unladen, save where frontier inspection is necessary to prevent the spread of disease,

— inspections and formalities relating to the movement of means of transport and goods which have not been placed under a customs transit procedure may be performed from Monday to Friday during an uninterrupted period of at least 10 hours, and on Saturday during an uninterrupted period of at least six hours, unless the day is a public holiday;

(b) customs offices and other services carrying out inspections and formalities in respect of the import or export of goods, which are situated inside the country, are open to enable inspections and formalities relating to goods presented to them to be performed daily from Monday to Friday during a period of at least 10 hours and on Saturday during a period of at least six hours, unless the day is a public holiday;

(c) as regards vehicles and goods transported by air, the hours referred to in the second indent of subparagraph (a) are adapted in such a way as to meet actual needs and for that purpose may be split in accordance with the flow of traffic;

(d) transshipments which, under existing regulations, customs services allow to be carried out without their immediate supervision can be effected at any time in such a way as to meet actual needs.

2. Where general compliance with the periods referred to in paragraph 1 (a), second indent, (b) and (c), poses problems for veterinary services, Member States shall see to it that, with at least 12 hours' notice from the carrier, a veterinary expert is available during those periods: in the case of the transport of live animals, however, this notice may be increased to eighteen hours.';

4. the following paragraph shall be added to Article 11:

'4. This Directive shall be repealed as from the date of implementation of Council Regulation (EEC) No 2726/90 of 17 September 1990 on Community transit (').

(*) OJ No L 262, 26. 9. 1990, p. 1.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 September 1991 at the latest.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the main provisions they adopt in the field governed by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 20 June 1991.

For the Council

The President

R. GOEBBELS