

COUNCIL REGULATION (EEC) No 1990/76

of 22 July 1976

on the customs treatment applicable to goods imported for testing

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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⁾,

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

Whereas, in order to ascertain the composition, quality or other technical characteristics of goods which may be introduced into the Community, it may be useful and at times necessary to carry out tests on samples of such goods beforehand; whereas these tests may result in the samples being completely or partially expended or destroyed;

Whereas, because of the special nature of importations made for the purposes of testing, there appears to be no economic justification for subjecting goods for testing to import duties; whereas different customs treatment should nonetheless be applied according to whether the samples are completely expended or destroyed during testing or whether they can still be used in the condition in which they emerge from testing; whereas, with the agreement and under the supervision of the competent authorities, it should be possible for the products remaining to be reduced to waste or scrap or to be used for purposes enabling them to be totally or partially exempted from the import duties to which they would normally be liable;

Whereas the benefit of this customs treatment should not, however, be extended to testing which in itself constitutes sales promotion;

Whereas on 5 June 1972 the Customs Cooperation Council adopted a recommendation on this subject,

HAS ADOPTED THIS REGULATION:

Article 1

1. Goods admitted to free circulation upon importation into the Community with a view to being either:

- completely or partially expended or destroyed in the course of testing carried out to determine their composition, quality or other technical characteristics, or
- used in tests to ascertain whether Community equipment is capable of working or processing them in the required manner,

shall benefit from the customs treatment laid down in this Regulation.

2. For the purpose of this Regulation 'import duties' means customs duties and charges having equivalent effect as well as agricultural levies and other import charges provided for under the common agricultural policy or under the specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods obtained by processing agricultural products.

Article 2

Where the goods referred to in Article 1 (1) are completely expended or destroyed during testing, the import duties to which they would normally be liable shall not be payable.

Article 3

1. Where the goods referred to in Article 1 (1) are neither completely expended or destroyed during testing, import duties shall be payable on the products remaining according to their nature, quantity and value at the time of the completion of the testing.

2. The products remaining may, with the agreement and under the supervision of the competent authorities, be reduced to waste or scrap.

In this case the import duties to be levied shall be those applicable to the waste or scrap in question.

3. The products remaining may, with the agreement and under the supervision of the competent authorities, be either:

- completely destroyed or rendered commercially valueless on completion of testing, or

⁽¹⁾ OJ No C 140, 13. 11. 1974, p. 66.

⁽²⁾ OJ No C 16, 23. 1. 1975, p. 23.

- abandoned to the State without causing it any expense where this is provided for in the national legislation, or
- in exceptional circumstances for which there is proper justification, exported outside the customs territory of the Community.

In these cases no import duties shall be payable.

Article 4

The quantities of goods entitled to benefit from the provisions of this Regulation must not exceed those which are strictly necessary for the proposed testing.

Article 5

The competent authorities shall lay down in each instance, taking into account the nature of the testing involved, the quantities of goods necessary for such testing, the time limit within which the latter must be

carried out and the administrative formalities which must be complied with in order to ensure that the goods in question are used for the purposes specified.

Article 6

Goods used in testing which in itself constitutes sales promotion shall not benefit under the provisions of this Regulation.

Article 7

For as long as customs duties of a fiscal nature are retained in certain Member States, this Regulation shall not apply in those Member States to goods liable to such duties.

Article 8

This Regulation shall enter into force on 1 January 1977.

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

Done at Brussels, 22 July 1976.

For the Council

The President

L. J. BRINKHORST
