

COUNCIL REGULATION (EEC) No 1028/79

of 8 May 1979

on the importation free of Common Customs Tariff duties of articles for the use of
handicapped persons

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the draft Regulation submitted by the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

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

Whereas, in order to facilitate the education, employment and social integration of physically or mentally handicapped persons, the articles specially designed for those purposes should, whenever possible, be allowed admission free of Common Customs Tariff duties;

Whereas on 26 November 1976 the 19th General Conference of Unesco adopted a Protocol to the Agreement on the importation of educational, scientific and cultural materials which makes provision for such duty-free admission;

Whereas Annex E to the said Protocol provides that in order to be granted duty-free entry:

- articles specially designed for the educational, scientific or cultural advancement of the blind must be imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles,
- articles specially designed for the education, employment and social advancement of other physically or mentally handicapped persons must be imported directly by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose

of duty-free entry of these types of articles; whereas, furthermore, the granting of duty-free entry in this case is subject to the condition that equivalent articles are not being manufactured in the importing country;

Whereas, in accordance with paragraph 14 (a) of the said Protocol, the term 'importing country' must be taken to refer to the whole of the territories of the Member States which constitute the European Economic Community;

Whereas, to the extent that the granting of customs duty-free admission is not liable to prejudice Community production, it possibly need not, where articles for the use of handicapped persons other than the blind are concerned, be made systematically subject to the condition that equivalent articles are not being manufactured in the Community; whereas in any event this condition need not be imposed if the articles in question are sent as a gift to an approved institution or organization without any commercial consideration on the part of the donor;

Whereas in order fully to attain the desired objective, the approved institutions or organizations should be authorized on a non-profit-making basis to lend, hire out or transfer the articles imported duty free to the blind or other handicapped persons with whom they are concerned;

Whereas in the interest of logic and clarity all the provisions governing the duty-free importation of articles for the use of the blind or other physically or mentally handicapped persons should be brought together in a single Regulation; whereas it is therefore necessary to include in this Regulation those provisions of Council Regulation (EEC) No 1798/75 of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific and cultural articles ⁽⁴⁾ which concern blind persons;

Whereas, in order to permit verification at Community level that the conditions imposed for the granting of duty-free admission have been fulfilled, a Community procedure of consultation within a Committee should be used to allow close and effective collaboration between the Member States and the Commission;

⁽¹⁾ OJ No C 187, 5. 8. 1978, p. 2.

⁽²⁾ OJ No C 296, 11. 12. 1978, p. 57.

⁽³⁾ OJ No C 105, 26. 4. 1979, p. 38.

⁽⁴⁾ OJ No L 184, 15. 7. 1975, p. 1.

whereas it is also important to ensure the uniform implementation of the provisions of this Regulation and to adopt detailed rules for its implementation; whereas for this purpose it is necessary to have recourse to the Committee on Duty Free Arrangements established by Regulation (EEC) No 1798/75,

HAS ADOPTED THIS REGULATION:

TITLE I

Articles for the use of the blind

Article 1

Articles specially designed for the educational, scientific or cultural advancement of blind persons, as specified in Annex I hereto, shall be admitted free of Common Customs Tariff duties whatever their intended use.

Article 2

1. Articles specially designed for the education or scientific or cultural advancement of blind persons, as specified in Annex II hereto, shall be admitted free of Common Customs Tariff duties provided they are intended for institutions or organizations concerned with the education of or the provision of assistance to the blind, approved by the competent authorities of the Member States for the purpose of duty-free entry of these types of articles.

The duty-free admission referred to in the first subparagraph shall apply to spare parts, components or accessories specifically for the articles in question provided that such spare parts, components or accessories are imported at the same time as the said articles or, if they are imported at a later date, that they are recognizably intended for articles previously admitted duty free, or eligible to be so admitted.

2. The duty-free admission referred to in paragraph 1 shall be granted directly, on application from the recipient institution or organization, by the competent authority of the Member State in whose territory it is situated.

TITLE II

Articles for the use of other handicapped persons

Article 3

1. Articles specially designed for the education, employment and social advancement of physically or

mentally handicapped persons other than blind persons shall be admitted free of Common Customs Tariff duties when:

- (a) they are intended for institutions or organizations that are principally engaged in the education of or the provision of assistance to handicapped persons and are authorized by the competent authorities of the Member States to receive such articles duty free, and
- (b) equivalent articles are not being manufactured in the Community.

However, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 7 (2), a derogation may be made from condition (b), provided the granting of duty-free admission does not prejudice the production of equivalent articles within the Community.

2. The duty-free admission referred to in paragraph 1 shall apply to spare parts, components or accessories specifically for the articles in question provided that such spare parts, components or accessories are imported at the same time as the said articles or, if they are imported at a later date, that they are recognizably intended for articles previously admitted duty-free, or eligible to be so admitted.

3. For the purpose of this Article:

- whether articles are equivalent shall be assessed by comparing the essential technical characteristics of the article for which duty-free admission is requested with those of the corresponding article manufactured in the Community to determine whether the latter could be used for the same purposes as those for which the article in respect of which duty-free admission is requested is intended and whether its performance would be comparable,
- an article shall be regarded as being manufactured in the Community where its delivery period from the time of the order is not, account being taken of commercial practices in the manufacturing sector under consideration, appreciably longer than the delivery period of the article for which duty-free admission is requested, or where this period does not exceed the latter to such an extent that the intended purpose or use for which the article was initially intended would be appreciably affected thereby.

Article 4

The duty-free admission referred to in Article 3 shall be granted, on application from the recipient institution or

organization, by the competent authority of the Member State in whose territory such institution or organization is situated.

Without prejudice to the last subparagraph of Article 3 (1), the granting of duty-free admission shall be conditional on its being established, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 7 (2), that articles equivalent to those for which duty-free admission is requested are not being manufactured in the Community.

Article 5

The granting of duty-free admission in respect of articles sent as gifts to the institutions or organizations referred to in Article 3 (1) (a) shall not be subject to the conditions laid down in Article 3 (1) (b) or the second paragraph of Article 4.

However, it must be established, under the conditions laid down by implementing provisions adopted in accordance with the procedure referred to in Article 7 (2), that the gift of the articles in question has not been prompted by any commercial consideration on the part of the donor.

TITLE III

Common provisions

Article 6

1. Articles which have been admitted duty free in accordance with the conditions laid down in Articles 2 to 5 may be lent, hired out or transferred by the beneficiary institutions or organizations on a non-profit-making basis to the persons referred to in

Titles I and II with whom they are concerned without payment of the corresponding customs duties.

2. No loan, hire or transfer, whether for a consideration or free of charge, may be effected under conditions other than those provided for in paragraph 1 unless the competent authorities have first been informed.

Should an article be lent, hired out or transferred to an institution or organization itself entitled to benefit from exemption pursuant to Article 2 (1) or 3 (1) (a), the exemption shall continue to be granted provided the latter uses the article for purposes giving entitlement to such exemption. In other cases, the loan, hire or transfer shall be subject to prior payment of customs duties, at the rate applying on the day of the loan, hire or transfer, on the basis of the type of goods and the customs value ascertained or accepted on that date by the competent customs authorities.

Article 7

1. The Committee on Duty Free Arrangements provided for in Article 7 of Regulation (EEC) No 1798/75 shall examine such matters relating to, the implementation of this Regulation as are put to it by its chairman, whether on his own initiative or at the request of the representative of a Member State.

2. The provisions necessary for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 9 (2) and (3) of Regulation (EEC) No 1798/75.

Article 8

This Regulation shall enter into force on 1 January 1980.

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

Done at Brussels, 8 May 1979.

For the Council

The President

P. BERNARD-REYMOND

ANNEX I

CCT heading No	Description
ex 49.03	Children's picture books and painting books, printed in relief for the blind and partially sighted
49.11	Other printed matter, including printed pictures and photographs: ex B. Other, printed in relief for the blind and partially sighted

ANNEX II

CCT heading No	Description
48.01	Paper and paperboard (including cellulose wadding), in rolls or sheets: ex F. Other: — Braille paper
48.15	Other paper and paperboard, cut to size or shape: ex B. Other: — Braille paper
ex 66.02	Walking-sticks (including climbing-sticks and seat-sticks), canes, whips, riding-crops and the like: — White canes for the blind and partially sighted
84.51	Typewriters, other than typewriters incorporating calculating mechanisms; cheque-writing machines: ex A. Typewriters: — Adapted for the use of the blind and partially sighted
ex 84.53	Automatic data-processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included: — Equipment for the mechanical production of braille and recorded material for the blind and partially sighted
ex 90.13	Optical appliances and instruments (but not including lighting appliances other than searchlights or spotlights), not falling within any other heading of this Chapter; lasers, other than laser diodes: — Television enlargers for the blind and partially sighted

CCT heading No	Description
90.19	Orthopaedic appliances, surgical belts, trusses and the like; splints and other fracture appliances; artificial limbs, eyes, teeth and other artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability:
ex B. II.	Other:
ex 90.21	— Electronic orientation and obstacle detection appliances for the blind and partially sighted
ex 90.21	Instruments, apparatus or models, designed solely for demonstrational purposes (for example, in education or exhibition), unsuitable for other uses:
ex 91.01	— Teaching aids and apparatus specifically designed for the use of the blind and partially sighted
ex 91.01	Pocket-watches, wrist-watches and other watches, including stop-watches:
92.11	— Braille watches with cases other than of precious metals
92.11	Gramophones, dictating machines and other sound recorders or reproducers, including record-players and tape decks, with or without sound-heads; television image and sound recorders or reproducers:
ex A. II.	Sound reproducers:
92.12	— Record-players and cassette players specially designed or adapted for the blind and partially sighted
92.12	Gramophone records and other sound or similar recordings; matrices for the production of records, prepared record blanks, film for mechanical sound recording, prepared tapes, wires, strips and like articles of a kind commonly used for sound or similar recordings:
ex B. II. a) 2.	Other:
ex B. II. b) 2.	— Talking books
ex B. II. b) 2.	Other:
97.04	— Talking books
Various	— Magnetic tapes and cassettes for the production of braille and talking books
97.04	Equipment for parlour, table and funfair games for adults or children (including billiard tables and pintables and table-tennis requisites):
ex B.	Other:
Various	— Table games and accessories specially adapted for the use of the blind and partially sighted
Various	— Electronic reading machines for the blind and partially sighted
Various	— All other articles specially designed for the educational, scientific or cultural advancement of the blind and partially sighted