

## COMMISSION REGULATION (EEC) No 2365/91

of 31 July 1991

laying down the conditions for use of the ATA carnet for the temporary importation of goods into the customs territory of the Community or their temporary exportation from that territory

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements <sup>(1)</sup>, as amended by Regulation (EEC) No 1620/85 <sup>(2)</sup>, and in particular Article 33 thereof,

Having regard to Council Regulation (EEC) No 754/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community <sup>(3)</sup>, as last amended by Regulation (EEC) No 1147/86 <sup>(4)</sup>, and in particular Article 15 (2) thereof,

Whereas Commission Regulation (EEC) No 1751/84 of 13 June 1984 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements <sup>(5)</sup>, as last amended by Regulation (EEC) No 1516/89 <sup>(6)</sup>, contained provisions relating to the use of the ATA carnet established by virtue of the Customs Convention of 6 December 1961 on the ATA carnet for the temporary admission of goods, hereinafter referred to as the 'ATA Convention';

Whereas removal of the Community's internal frontiers and abolition of formalities related to the crossing of those frontiers mean provisions must be adopted to designate the Community as a single territory for the purposes of applying the rules relating to the ATA carnet; whereas it is accordingly necessary to lay down new rules for use of the ATA carnet for the temporary importation of goods pursuant to Regulation (EEC) No 3599/82;

Whereas the ATA carnet will continue to be issued in the customs territory of the Community as a temporary importation document until 31 December 1992; whereas the requirements governing the use of that document must, in the interests of uniformity, be identical to those laid down in this Regulation; whereas the same procedure must, accordingly, apply to goods in respect of which an ATA carnet has been issued in one Member State, and which are intended to be used in one or more other Member States;

Whereas rules should likewise be laid down to govern use of the ATA carnet for the temporary exportation of goods from the customs territory of the Community and their subsequent re-importation;

Whereas all such rules must be compatible with the ATA Convention, to which all the Community's Member States are Contracting Parties;

Whereas for practical reasons and in the interests of consistency, the conditions for using an ATA carnet to carry out a temporary export operation, from its inception until re-importation of the goods into the customs territory of the Community, should be laid down in the same text as the conditions governing temporary importation of goods into the customs territory of the Community under cover of an ATA carnet;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for Customs Procedures with Economic Impact and the opinion of the Committee on Duty Free Arrangements,

HAS ADOPTED THIS REGULATION:

## TITLE I

## GENERAL

*Article 1*

This Regulation lays down the conditions for use of the ATA carnet for the temporary importation of goods into the customs territory of the Community and the temporary exportation of goods from that territory. The ATA carnet may be issued in the Community only for Community goods. The goods which can be temporarily imported on presentation and acceptance of an ATA carnet are listed in the Annex.

*Article 2*

For the purposes of this Regulation:

- (a) *ATA carnet* means the international customs document for temporary importation established by virtue of the ATA Convention;

<sup>(1)</sup> OJ No L 376, 31. 12. 1982, p. 1.

<sup>(2)</sup> OJ No L 155, 14. 6. 1985, p. 54.

<sup>(3)</sup> OJ No L 89, 2. 4. 1976, p. 1.

<sup>(4)</sup> OJ No L 105, 22. 4. 1986, p. 1.

<sup>(5)</sup> OJ No L 171, 29. 6. 1984, p. 1.

<sup>(6)</sup> OJ No L 148, 1. 6. 1989, p. 50.

- (b) *Office of entry* means the customs office via which goods accompanied by an ATA carnet enter the customs territory of the Community;
- (c) *Office of temporary importation* means the customs office where goods under cover of an ATA carnet are entered for the temporary importation procedure;
- (d) *Office of re-exportation* means the customs office where goods under cover of an ATA carnet are presented to discharge a temporary import operation;
- (e) *Office of temporary exportation* means the customs office where goods under cover of an ATA carnet are entered for temporary exportation;
- (f) *Office of re-importation* means the customs office where goods under cover of an ATA carnet are presented to discharge a temporary export operation;
- (g) *Office of exit* means the customs office via which goods accompanied by an ATA carnet leave the customs territory of the Community;
- (h) *Office of destination* means the customs office at which the ATA carnet must be presented in order to complete a transit operation carried out under cover of an ATA carnet used as a transit document;
- (i) *Community goods* means goods:
- wholly obtained or produced in the customs territory of the Community and not incorporating goods imported from countries or territories not forming part of the customs territory of the Community,
  - from countries or territories not forming part of the customs territory of the Community which have been released for free circulation in a Member State,
  - obtained or produced in the customs territory of the Community, either from goods referred to in the second indent alone or from goods referred to in the first and second indents.

## TITLE II

### USE OF THE ATA CARNET AS A TEMPORARY IMPORTATION DOCUMENT

#### Chapter I

##### Presentation of carnet on arrival

###### Article 3

1. ATA carnets shall be accepted by the customs authorities only if they are:

- (a) issued in a country which is a contracting party to the ATA Convention and endorsed and guaranteed by an association forming part of an international guarantee chain.

The Commission shall publish a list of the countries and associations concerned;

- (b) certified by the customs authorities in the appropriate section of the cover page, and
- (c) valid throughout the customs territory of the Community.

2. A guarantee furnished in accordance with the ATA Convention shall be accepted as sufficient for the purposes of Article 3 (1) of Council Regulation (EEC) No 3599/82.

###### Article 4

Upon arrival of the goods in the customs territory of the Community the ATA carnet shall be presented at the office of entry in order to permit use of the temporary importation procedure or to be used for a transit operation in that territory prior to or subsequent to a temporary importation operation carried out under cover of the said carnet.

#### Chapter II

### Authorizing use of the procedure; entry of goods for temporary importation

#### Section I

##### Application and procedure

###### Article 5

Presentation of the ATA carnet to the office of temporary importation in order to use the temporary importation procedure shall be equivalent to presentation of the application referred to in Article 1 of Commission Regulation (EEC) No 1751/84, and acceptance of the carnet shall be equivalent to authorization.

#### Section 2

### Entry of goods for the procedure

###### Article 6

1. Goods for which an ATA carnet has been issued shall be entered for the temporary importation procedure on presentation of the carnet at a customs office empowered to deal with temporary importation operations (office of temporary importation) and acceptance of the carnet by the said office.

2. To enter goods for the temporary importation procedure, ATA carnets shall be presented to the following customs offices :

- (a) in the case of the goods listed in points 2 to 9, 11 and 20 of the Annex, an office of temporary importation with competence for the place where the goods are to be used ;
- (b) in other cases, any duly empowered office of entry. In this case the office of entry shall act as the office of temporary importation.

Exceptionally, where the duly empowered office of entry is unable to check the fulfillment of all conditions to which the use of the temporary importation procedure are subject, it shall permit the goods to be carried to the office of destination able to carry out such checks under cover of the ATA carnet used as a transit document, in accordance with the procedure referred to in Article 14.

3. The customs authorities of the Member States shall empower customs offices to act as offices of temporary importation or offices of entry acting as offices of temporary importation.

The said authorities shall send the Commission lists of the offices empowered in accordance with the preceding subparagraph and of the duly empowered offices referred to in Article 9 (1). The lists shall be published in the C series of the *Official Journal of the European Communities*.

#### Article 7

When goods are entered for the temporary importation procedure, the office of temporary importation shall proceed as follows :

- (a) verify the information given in boxes A to G of the importation voucher ;
- (b) complete the counterfoil and box H of the importation voucher ; the final date for re-exportation of the goods, to be entered in box H (b), must not be later than the date on which the carnet's validity expires without prejudice to the special periods specified in Article 4 (1) of Regulation (EEC) No 3599/82 ;
- (c) enter the name and address of the office of temporary importation in box H (e) of the re-exportation voucher ;
- (d) retain the importation voucher.

### Chapter III

#### Use of the temporary importation procedure for goods to be used in a succession of places in the Community

##### Article 8

Where the goods referred to in Article 6 (2) (a) are to be used in more than one place in the Community, the places and Member States where the goods are to be used shall be entered at point 4 of the importation counterfoil and in box H (d) of the importation voucher. In this case the ATA carnet shall be presented for the purposes of the temporary importation procedure at the office of temporary importation competent for the first place where the goods are to be used. Entry of the goods for the temporary importation procedure at such office shall enable them to be used under the procedure at the other places indicated on the abovementioned counterfoil and voucher.

### Chapter IV

#### Discharge of the procedure

##### Article 9

1. In order to discharge the temporary importation procedure by re-exportation from the customs territory of the Community, the office of re-exportation authorized by the customs authorities of the Member States shall carry out the following formalities :

- (a) complete the counterfoil and box H of the re-exportation sheet ;
- (b) retain the re-exportation voucher and return it without delay to the office of temporary importation.

2. Where the formalities required to discharge the temporary importation procedure are carried out at an office of re-exportation other than the office of exit, the goods may be carried between those two offices under cover of an ATA carnet used as a transit document, in accordance with the procedure referred to in Article 14.

##### Article 10

In order to discharge the temporary importation procedure by assignment of the goods to one of the customs-approved treatments referred to in Articles 28 and 29 of Regulation (EEC) No 3599/82 other than re-exportation as referred to in Article 9, and without prejudice to the formalities required for such assignment, the ATA carnet shall be presented to the office competent to enter the goods for the procedure concerned. The said office shall carry out the formalities prescribed in Article 9 (1).

## Chapter V

### Other provisions concerning temporary importation of goods under cover of an ATA carnet

#### Article 11

Without prejudice to the provisions of Article 12 or to use of the ATA carnet for a transit operation in accordance with Article 14, movement within the customs territory of the Community of goods entered for the temporary importation procedure under cover of the carnet shall require no further customs formality until those required for discharge of the arrangements in accordance with Article 9.

#### Article 12

Where use of the temporary importation procedure in more than one place in the Community involves crossing the territory of a third country, the formalities for discharge of the procedure or entry of the goods for the procedure shall be carried out, respectively, at the points where the goods leave and re-enter the customs territory of the Community.

## Chapter VI

### Offences and irregularities

#### Article 13

1. If an offence or irregularity is found to have been committed in a specific Member State in the course of or in connection with a temporary import operation under cover of an ATA carnet, the duties and other Community or national charges which may be payable shall be recovered by that Member State in accordance with the ATA Convention. The said Member State shall inform the office of temporary importation, which may be situated in another Member State, of the initiation of recovery proceedings and the result.

2. If it is not possible to determine where the offence or irregularity was committed, such offence or irregularity shall be deemed to have been committed in the Member State where it was detected unless proof is furnished to the satisfaction of the competent authorities, in accordance with Articles 5 to 8 of the ATA Convention, of the regularity of the temporary importation operation or of the place where the offence or irregularity was actually committed.

Where no such proof is furnished and the offence or irregularity is thus deemed to have been committed in the Member State where it was detected that Member State shall initiate the recovery procedure laid down in paragraph 1.

Where the Member State in which the said offence or irregularity was actually committed is subsequently deter-

mined, the duties and other charges, excluding those levied by way of the Community's own resources, to which the goods are subject in that Member State shall be refunded by the Member State which initially recovered them. In that case, any overpayment shall be repaid to the person who initially paid the charges.

Where the amount of duties and other charges initially levied and refunded by the Member State which recovered them is less than the amount of duties and other charges payable in the Member State in which the offence or irregularity was actually committed, that Member State shall levy the difference in accordance with Community or national law.

Member States shall take such measures as are necessary to combat all offences or irregularities and to impose effective penalties in respect thereof.

## TITLE III

### USE OF THE ATA CARNET AS A TRANSIT DOCUMENT

#### Article 14

1. Where an ATA carnet is presented to an office of entry for a transit operation, in accordance with Article 4, the goods may be conveyed from the said office of entry to the office of temporary importation, which in this case shall also be the office of destination, under cover of the ATA carnet used as a transit document, in accordance with Council Regulation (EEC) No 719/91<sup>(1)</sup>.

## TITLE IV

### USE OF THE ATA CARNET AS A TEMPORARY EXPORT DOCUMENT

## Chapter I

### Presentation of carnet

#### Article 15

For the purposes of this Title, ATA carnets shall be accepted by the customs authorities only if they are:

- (a) issued in a Member State of the Community and endorsed and guaranteed by an association established in the Community forming part of an international guarantee chain.

The Commission shall publish a list of the associations concerned;

<sup>(1)</sup> OJ No L 78, 26. 3. 1991, p. 6.

## (b) applicable to goods :

- which have not been subject on export from the customs territory of the Community to customs export formalities with a view to the payment of refunds or other export amounts under the common agricultural policy, or
- in respect of which no other financial benefit has been granted under the common agricultural policy, coupled with an obligation to export the said goods, or
- in respect of which no request for repayment has been submitted.

## Chapter II

## Authorization and entry of goods for temporary exportation

## Section 1

## Application and authorization

## Article 16

1. ATA carnets issued in the Community in conformity with Article 15 may be used for temporary exportation from the customs territory of the Community instead of an export declaration.
2. Presentation of the ATA carnet to a duly empowered customs office for a temporary export operation shall be equivalent to presentation of an application for temporary exportation, and acceptance of the carnet shall be equivalent to authorization.
3. Use of an ATA carnet instead of an export declaration shall not absolve the person concerned from the obligation to produce any other documents required to carry out the temporary export operation, in particular for goods the exportation of which is subject to an authorization.

## Section II

## Entry of goods for temporary exportation

## Article 17

1. When goods under cover of an ATA carnet are entered for temporary exportation, the office of temporary exportation shall carry out the following formalities :
  - (a) verify the information given in boxes A to G of the exportation voucher against the goods under cover of the carnet ;

- (b) if necessary, complete the box on the cover page of the carnet headed 'Certificate by Customs Authorities' ;
- (c) complete the counterfoil and box H of the exportation voucher ;
- (d) enter the name of the office of temporary exportation in box H (b) of the re-importation voucher, and
- (e) retain the exportation voucher.

2. Where the office of temporary exportation is not the office of exit, it shall carry out the formalities prescribed in paragraph 1, but shall not complete box 7 of the exportation counterfoil, which must be completed at the office of exit.

## Article 18

The final date for re-importation of the goods entered by the competent authorities in box H (b) of the exportation voucher shall be not later than the date on which the carnet's validity expires.

## Chapter III

## Discharge of the temporary export operation

## Article 19

1. ATA carnets issued in the Community in conformity with Article 15 may be used for re-importation of goods into the customs territory of the Community instead of an import declaration.
2. When discharging temporary exportation in respect of the goods, the office of re-importation shall carry out the following formalities :
  - (a) verify the information given in boxes A to G of the re-importation voucher ;
  - (b) complete the counterfoil and box H of the re-importation sheet ;
  - (c) retain the re-importation voucher.

3. Where the formalities discharging a temporary export operation in respect of Community goods are carried out at an office of re-importation other than the office of entry, conveyance of the goods from the office of entry to the said office of re-importation shall require no formality.

## Article 20

1. Goods under cover of an ATA carnet issued in the Community shall be treated on re-importation into the customs territory of the Community as prescribed by Regulation (EEC) No 754/76.

2. Presentation of the ATA carnet on re-importation of goods shall replace production of an export document or information sheet (INF 3) pursuant to Article 6 (1) (a) or 6 (1) (b) of Commission Regulation (EEC) No 2945/76 (1).

The requirement to produce evidence pursuant to Article 6 (2) of the abovementioned Regulation shall continue to apply where an ATA carnet is presented.

#### TITLE V

#### TRANSITIONAL PROVISIONS

##### *Article 21*

1. Until 31 December 1992: the provisions of Title II shall apply, *mutatis mutandis*, to goods covered by an ATA carnet issued in a Member State and used as a temporary importation document in one or more other Member States.

The formalities for discharge of the temporary importation procedure shall be carried out in the last Member State in which the goods covered by the ATA carnet are used. The goods may be carried from the Member State where the ATA carnet was issued to the first Member State in which they are used, and from the last Member State in which they are used to the Member State where the ATA carnet was issued, in accordance with Council Regulation (EEC) No 719/91.

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

Done at Brussels, 31 July 1991.

2. Where goods fulfilling the conditions laid down in Article 15 of this Regulation are exported from the customs territory of the Community in accordance with Title IV, they may, if necessary, be conveyed from the office of temporary exportation to the office of exit, which in this case shall also be the office of destination, under cover of an ATA carnet used as a transit document, in accordance with Regulation (EEC) No 719/91. That Regulation shall also apply to the said goods if, on re-importation into the customs territory of the Community, they are conveyed from the office of entry to the office of re-importation, which in this case shall also be the office of destination.

#### TITLE VI

#### FINAL PROVISIONS

##### *Article 22*

Article 12 (2) and (3) and Article 14 (2) of Regulation (EEC) No 1751/84 are hereby repealed.

##### *Article 23*

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

It shall apply from 1 January 1992.

*For the Commission*

Christiane SCRIVENER

*Member of the Commission*

(1) OJ No L 335, 4. 12. 1976, p. 1.

## ANNEX

## List of goods referred to in the second paragraph of Article 1

1. Professional equipment  
(Article 7 of Regulation (EEC) No 3599/82).
2. Goods for display or use at an exhibition, fair, symposium or similar event  
(Article 9 of Regulation (EEC) No 3599/82).
3. Teaching aids  
(Article 10 of Regulation (EEC) No 3599/82).
4. Scientific equipment  
(Article 11 of Regulation (EEC) No 3599/82).
5. Medical, surgical and laboratory equipment  
(Article 12 of Regulation (EEC) No 3599/82).
6. Materials for use in countering the effects of disasters  
(Article 13 of Regulation (EEC) No 3599/82).
7. Packings in respect of which a written declaration may be required  
(Article 14 of Regulation (EEC) No 3599/82).
8. Goods of any kind which are to be subjected to tests, experiments or demonstrations, including the tests and experiments required for type-approval procedures, but excluding any tests, experiments or demonstrations constituting a gainful activity  
(Article 15 (c) of Regulation (EEC) No 3599/82).
9. Goods of any kind to be used to carry out tests, experiments or demonstrations, but excluding any tests, experiments or demonstrations constituting a gainful activity  
(Article 15 (d) of Regulation (EEC) No 3599/82).
10. Samples which are representative of the particular category of goods and which are intended for demonstration purposes with a view to obtaining orders for similar goods  
(Article 15 (e) of Regulation (EEC) No 3599/82).
11. Works of art imported for the purposes of exhibition, with a view to possible sale  
(Article 16 (c) of Regulation (EEC) No 3599/82).
12. Replacement means of production made temporarily available free of charge to the importer on the initiative of the supplier of similar means of production to be subsequently imported for release into free circulation or of means of production re-installed after repair.  
(Article 17 of Regulation (EEC) No 3599/82).
13. Positive cinematograph films, printed and developed, intended for projection prior to commercial use  
(Article 18 (a) of Regulation (EEC) No 3599/82).
14. Films, magnetic tapes and wires which are intended to be provided with a soundtrack, dubbed or copied  
(Article 18 (b) of Regulation (EEC) No 3599/82).
15. Films demonstrating the nature of products or the operation of foreign equipment, provided that they are not intended for public showing for charge  
(Article 18 (c) of Regulation (EEC) No 3599/82).

16. Carrier material for recorded sound and data-processing, including punched cards, made available free of charge to a person whether or not established in the customs territory of the Community  
(Article 18 (d) of Regulation (EEC) No 3599/82).
  17. Live animals of any species imported for dressage, training or breeding purposes or in order to be given veterinary treatment  
(Article 20 (a) of Regulation (EEC) No 3599/82).
  18. Tourist publicity material  
(Article 20 (d) of Regulation (EEC) No 3599/82).
  19. Welfare material for seafarers  
(Article 21 of Regulation (EEC) No 3599/82).
  20. Various equipment used, under the supervision and responsibility of a public authority, for the building, repair or maintenance of infrastructure of general importance in border zones  
(Article 22 of Regulation (EEC) No 3599/82).
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