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(Acts whose publication is obligatory)

REGULATION (EEC) No 1798/75 OF THE COUNCIL

of 10 July 1975

on the importation free of Common Customs Tariff duties of educational, scientific and cultural materials

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;

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 facilitate the free exchange of ideas as well as the exercise of cultural activities and scientific research within the Community, it is necessary to allow, by all possible means, the admission free of Common Customs Tariff duties of educational, scientific and cultural materials; whereas, moreover, the Florence Agreement, drawn up under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO), which entered into force on 21 May 1952 and which provides a basis for the relative provisions to be implemented in the majority of the Member States, makes provision for such customs duty free admission to be granted;

Whereas, customs duty-free admission of educational, scientific and cultural materials must be uniform throughout the Community;

Whereas, especially so far as scientific instruments and apparatus are concerned, in order to take account of the possibility of manufacture by Community industry, the grant of duty free admission must be subject to the condition that instruments or apparatus of equivalent scientific value are not available

anywhere in the Community, not merely in the Member State in which importation takes place;

Whereas this condition need not be imposed in the case of instruments or apparatus sent as a gift to an establishment entitled to benefit from exemption; whereas, however, in order to avoid any abuse, it is necessary that the granting of duty free admission should be conditional upon the gift in question not having been prompted by any commercial considerations on the part of the donor;

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 under a Committee should be set up to allow close and effective collaboration between the Member States and the Commission in this respect;

Whereas it is important to ensure the uniform implementation of the provisions of this Regulation and for this purpose to make provision for a Community procedure to allow the adoption of methods of implementation for it within the appropriate period of time,

HAS ADOPTED THIS REGULATION:

Article 1

Educational, scientific and cultural materials listed in Annex I shall be admitted free of Common Customs Tariff duties whatever their intended use.

Article 2

1. Educational, scientific and cultural materials listed in Annex II shall be admitted free of Common Customs Tariff duties when they are intended:

⁽¹⁾ OJ No C 85, 18. 7. 1974, p. 10.

⁽²⁾ OJ No C 109, 19. 9. 1974, p. 27.

- either for public educational, scientific or cultural establishments and organizations,
- or for the establishments or organizations in the categories specified opposite each article in column 3 of the said Annex, approved by the competent authorities of the Member States to receive such articles duty free.

2. The duty free admission referred to in paragraph 1 may be granted on the application of the recipient establishment or organization by the competent authority of the Member State in whose territory it is situated.

Article 3

1. Scientific instruments and apparatus not included in Article 2 imported exclusively for educational purposes or for pure scientific research may be admitted free of Common Customs Tariff duties provided:

(a) they are intended for:

- either public establishments principally engaged in education or scientific research, including those departments of public establishments which are principally engaged in education or scientific research;
- or private scientific or educational establishments authorized by the competent authorities of the Member States to receive such articles duty-free

and provided:

(b) instruments or apparatus of equivalent scientific value are not being manufactured in the Community.

2. Subject to the production of satisfactory evidence, the duty free admission referred to in paragraph 1 shall apply to the components, spare parts and accessories required for the operation of scientific instruments and apparatus which qualify for duty-free admission.

3. For the purposes of this Article:

- 'pure scientific research' shall mean research carried out for non-commercial purposes;
- 'equivalent scientific value' shall be assessed by comparing the characteristics and specifications of the instrument or apparatus for which application is made for the exemption referred to in Article 4 with those of the corresponding instrument or apparatus manufactured in the Community to

determine whether the latter could be used for the same scientific purposes as those for which the instrument or apparatus for which the application for exemption is intended and whether its performance would be comparable to that expected of the latter;

- a scientific instrument or apparatus 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 instrument or apparatus for which application is made for the exemption referred to in Article 4 or where this period does not exceed the latter to such an extent that the intended purpose or use for which the instrument or apparatus was initially intended would be appreciably affected thereby.

4. Normal equipment shall in all cases be excluded from duty free admission unless it has certain characteristics not found in equipment manufactured in the Community.

Article 4

The duty free admission referred to in Article 3 may be granted at the application of the recipient establishment or organization by the competent authority of the Member State in whose territory it is situated.

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 9, that instruments or apparatus of equivalent scientific value to those instruments or apparatus for which duty free admission is requested are not being manufactured in the Community.

Article 5

The granting of duty free admission to scientific instruments and apparatus sent as a gift to the establishments referred to in Article 3 (1) (a) shall not be subject to the conditions laid down in Article 3 (1) (b) and in the second subparagraph 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 9, that the gift of scientific instruments or apparatus under consideration has not been prompted by any commercial considerations on the part of the donor.

Article 6

1. The articles listed in Annex II and the scientific instruments and apparatus which have been admitted duty free in accordance with the conditions laid down in Articles 3 to 5 may not be lent, hired out or transferred either for a consideration or free of charge without the prior agreement of the competent authority of the Member State referred to in either Article 2 (2) or 4.

2. Should an article be lent, hired out or transferred either for a consideration or free of charge to an establishment or organization 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, instrument or apparatus for purposes which confer the right to such exemption.

In other cases the loan, hire or transfer either for a consideration or free of charge 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 authority referred to in either Article 2 (2) or 4.

However, no customs duty shall be charged when the articles listed in Annex II (C) are lent, hired out or transferred on a non-profit basis to blind persons.

Article 7

1. A Committee on Duty Free Arrangements, hereinafter referred to as 'the committee' shall be set up. It shall consist of representatives of the Member States with a representative of the Commission as chairman.

2. The committee shall draw up its own rules of procedure.

Article 8

The committee 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.

Article 9

1. The provisions necessary for the implementation of Articles 2 and 3, the second paragraph of Article 4, the second paragraph of Article 5 and Article 6 shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall give its opinion on this draft within a time limit to be fixed by the chairman in accordance with the urgency of the matter in question. It shall decide by a majority of 41 votes, the votes of the Member States being weighted as stipulated in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the proposed measures where they conform with the opinion of the committee.

(b) If the proposed measures do not conform with the opinion of the committee, or in the absence of any such opinion, the Commission shall forthwith submit a proposal to the Council in respect of the measures to be taken. The Council shall act by a qualified majority.

(c) If, within three months of the proposal being placed before it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 10

This Regulation shall enter into force on 1 August 1975.

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

Done at Brussels, 10 July 1975.

For the Council

The President

E. COLOMBO

ANNEX I

A. Books, publications, documents and other printed matter

CCT heading No	Description of articles
49.11	<p>Other printed matter, including printed pictures and photographs :</p> <p>ex B. Other :</p> <ul style="list-style-type: none"> — Books and documents other than those falling within heading No 49.01, produced by processes other than printing including micro-copies on opaque materials — Official government publications, that is, official, parliamentary and administrative documents published in their country of origin — Travel posters and travel literature (pamphlets, guides, time-tables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the territory of the European Communities — Publications whose purpose is to stimulate study outside the territory of the European Communities — Catalogues of books and publications, being books and publications offered for sale by publishers or booksellers established outside the territory of the European Communities — Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character, being catalogues issued by or on behalf of the United Nations or any of its specialized agencies

Note :

The following are excluded from duty free admission in as far as they come under heading No 49.11.

- (a) books, publications and documents (except catalogues, travel posters and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes ;
- (b) newspapers and periodicals in which the advertising matter is in excess of 70 % by space ;
- (c) all other items (except catalogues referred to above) in which the advertising matter is in excess of 25 % by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.

CCT heading No	Description of articles
ex 90.21	<p>Instruments, apparatus or models designed for demonstrating purposes (for example, in education or exhibition), unsuitable for other uses :</p> <ul style="list-style-type: none"> — Geographical hydrographical or astronomical relief maps and charts, produced by processes other than printing

B. Visual and auditory materials of an educational, scientific or cultural character

CCT heading No	Description of articles
37.04	Sensitized plates and films, exposed but not developed, negative or positive : A. Cinematograph films : ex II. Other positives, of an educational, scientific or cultural character, produced by the United Nations or any of its specialized agencies
ex 37.05	Plates, unperforated film and perforated film (other than cinematograph film), exposed and developed, negative or positive of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies
37.07	Other cinematograph film, exposed and developed, whether or not incorporating sound track, negative or positive : ex B. Other positives of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies
92.12	Gramophone records or 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 recording : B. Recorded : ex II. Other positives of an educational, scientific or cultural character, produced by the United Nations or any of its specialized agencies

C. Articles for the blind

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

ANNEX II

A. Visual and auditory materials of an educational, scientific or cultural character

CCT heading No	Description of articles	Entitled establishments or organizations
37.04	Sensitized plates and film, exposed but not developed, negative or positive : A. Cinematograph film : ex II. Other positives, of an educational, scientific or cultural character	Any organization (including broadcasting or television organizations) approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles, exclusively for exhibition by them or any public or private educational, scientific or cultural institution or society approved by the aforesaid authorities
ex 37.05	Plates, unperforated film and perforated film (other than cinematograph film), exposed and developed, negative or positive, of an educational, scientific or cultural character	Any organization (including broadcasting or television organizations) approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles, exclusively for exhibition by them or any public or private educational, scientific or cultural institution or society approved by the aforesaid authorities
37.07	Other cinematograph film, exposed and developed, whether or not incorporating sound track, negative or positive : B. Other positives : ex I. Newsreels (with or without sound track), depicting events of current news value at the time of importation, limited to two copies of each subject for copying purposes ex II. Other, of an educational, scientific or cultural character	Any organization (including broadcasting and television organizations) approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles Any organization (including broadcasting or television organizations) approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles, exclusively for exhibition by them or any public or private educational, scientific or cultural institution or society approved by the aforesaid authorities
49.11	Other printed matter, including printed pictures and photographs : ex B. Other : — Wall charts intended exclusively for demonstrating and teaching purposes	Public or private educational, scientific or cultural establishments approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles
ex 90.21	Instruments, apparatus or models designed for demonstrating purposes (for example, in education or exhibition), unsuitable for other uses : — Patterns, models and wall charts intended exclusively for demonstrating and teaching purposes	Public or private educational, scientific or cultural establishments approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles

CCT heading No	Description of articles	Entitled establishments or organizations
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 recording: ex B. Recorded: — Of an educational, scientific or cultural character	Any organization (including broadcasting or television organizations) or any public or private educational, scientific or cultural society approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles

B. Collector's pieces and works of art of an educational, scientific or cultural character

CCT heading No	Description of articles	Entitled establishments or organizations
Miscellaneous articles	Collectors' pieces and works of art not intended for sale	Museums, galleries and other public establishments approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles

C. Articles for the blind

CCT heading No	Description of articles	Entitled establishments or organizations
ex 66.02	Walking-sticks (including climbing-sticks and seat-sticks), canes, whips, riding-crops and the like: — White walking-sticks for the blind	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles
84.51	Typewriters, other than typewriters incorporating calculating mechanisms; cheque-writing machines: ex A. Typewriters: — Adapted for use by the blind	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles
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: B. Hearing aids and other appliances which are worn, carried, or implanted in the body to compensate for a defect or disability: ex II. Other: — Apparatus for guiding the blind	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles

CCT heading No	Description of articles	Entitled establishments or organizations
ex 91.01	Pocket watches, wrist watches and other watches, including stop-watches : — Braille watches for the blind with cases in materials other than precious metal	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles
97.04	Equipment for parlour, table and funfair games for adults or children (including billiard tables and pin tables and table-tennis requisites) : ex B. Other : — Tables for games and associated equipment adapted for use by the blind	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles
Miscellaneous articles	Other objects (for example, apparatus to facilitate reading for the blind) specially designed for the educational, scientific or cultural development of the blind	Any institution for the blind or organization concerned with the welfare of the blind approved by the competent authorities of the Member States for the purpose of duty-free admission of these types of articles