

COUNCIL DIRECTIVE

of 27 November 1978

on the harmonization of provisions laid down by law, regulation or administrative action in respect of standard exchange of goods exported for repair

(78/1018/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from 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 on 18 December 1975 the Council adopted Directive 76/119/EEC on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing ⁽⁴⁾; whereas these arrangements may be applied only where it is possible for the competent authorities to identify the exported goods as having been incorporated in the compensating products;

Whereas it is economically justifiable in certain limited cases to allow standard exchange arrangements, that is to say the importation with total or partial relief from import duties of replacements for goods exported for the purpose of being repaired, including restoring them to their original condition and putting them in order; whereas, however, standard exchange cannot be allowed unless the goods exported fall within one of the situations referred to in Article 9 (2) of the Treaty;

Whereas, by their very nature, agricultural products or goods resulting from the processing of agricultural products can hardly be repaired; whereas, furthermore, standard exchange is not compatible with the common agricultural policy or with the specific arrangements applicable, pursuant to Article 235 of the Treaty, to goods resulting from the processing of agricultural products; whereas the products and goods subject to that policy or to those arrangements should therefore be excluded from the scope of standard exchange;

Whereas common rules must be laid down in the Member States in respect of standard exchange; whereas these arrangements resemble in their aims and detailed provisions those for outward processing; whereas they should in these circumstances be subject to the same rules as those provided for by Directive 76/119/EEC, except where the present Directive lays down special provisions; whereas these special provisions concern in particular the scope of the arrangements and the right to import replacements (equivalent compensation), including the right to do so before the goods to be repaired are exported; whereas under standard exchange, in order to facilitate control, the triangular system may not be used unless provisions allowing its use are adopted in accordance with the procedure set out in Article 28 (2) and (3) of Directive 69/73/EEC ⁽⁵⁾;

Whereas it is important to ensure that such rules are applied in a uniform manner and therefore provision should be made for a Community procedure whereby the appropriate implementing provisions may be adopted within a suitable period of time,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive determines the rules which must be incorporated in the provisions laid down by law, regulation or administrative action in Member States in respect of arrangements for standard exchange of goods exported for repair, hereinafter called 'standard exchange arrangements'.

Article 2

1. Standard exchange arrangements means the customs arrangements whereby replacements for goods of whatever kind and whatever origin exported outside the customs territory of the Community for repair, including restoring them to their original condition and putting them in order, may be imported wholly or partly free of import duties. Such goods are hereinafter referred to as 'export goods'.

⁽¹⁾ OJ No C 182, 30. 7. 1977, p. 4.

⁽²⁾ OJ No C 299, 12. 12. 1977, p. 41.

⁽³⁾ OJ No C 59, 8. 3. 1978, p. 48.

⁽⁴⁾ OJ No L 24, 30. 1. 1976, p. 58.

⁽⁵⁾ OJ No L 58, 8. 3. 1969, p. 1.

2. Standard exchange arrangements shall be subject to rules identical to those provided for by Directive 76/119/EEC, with the exception of such special provisions as are provided for in the present Directive.

3. Standard exchange arrangements shall not apply to goods which have entered the Community under inward processing arrangements, or to goods falling under the common agricultural policy or the specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products.

Article 3

1. Where circumstances so warrant, replacements may, under conditions laid down by the competent authorities, be imported before the export goods are exported. Such prior importation shall be treated in the same way as the importation referred to in Article 2 (1).

2. The prior importation of a replacement shall require the provision of a guarantee covering the amount of the import duties. The guarantee shall be discharged on payment of the import duties due pursuant to Article 8.

Article 4

1. Replacements must fall within the same tariff subheading, be of the same commercial quality and have the same technical characteristics as the export goods if the latter had undergone the repair in question.

2. Where the export goods have been used before exportation, the replacements must also have been used and may not be new products.

The competent authorities may, however, waive this rule, if the replacement has been supplied free of charge either because of a guarantee imposed by contract or by statute or because of a manufacturing defect, on condition that the importation of the replacement takes place within 12 months of the date when the export goods were first put into free circulation.

However, the competent authorities may permit this time limit to be exceeded in duly substantiated exceptional cases.

Article 5

1. The competent authorities of the exporting Member State shall, by means of general or special

authorizations, allow standard exchange arrangements to be applied upon request before the exportation of the goods or the prior importation of the replacements.

2. The competent authorities may allow standard exchange arrangements to be applied to goods already exported under an outward processing authorization upon request submitted not later than the time of importation of the replacement.

3. The competent authorities shall decide that standard exchange arrangements may not be applied where they would give rise to an unjustified advantage as regards exemption from import duties.

Article 6

1. The period within which the importation of replacements must take place shall not exceed six months. However, this period may be extended by the competent authorities on submission of a duly substantiated request by the holder of the authorization, provided that the total period does not exceed 12 months. This period shall be calculated from the date of acceptance by the competent authorities of the export document for the export goods.

2. In the case of prior importation, the period within which the export goods must be exported shall not exceed two months. However, this period may be extended by the competent authorities on submission of a duly substantiated request by the holder of the authorization, provided that the total period does not exceed four months. This period shall be calculated from the date of acceptance by the competent authorities of the import document for the replacements.

Article 7

1. The importation of the replacements may be carried out only by the holder of the authorization or on his behalf.

2. Replacements must be imported into the Member State from which the export goods have been or are to be exported.

3. The competent authorities may prescribe in the authorization that the export and import transactions must be carried out at the same customs office.

4. However, provisions permitting replacements to be imported into a Member State other than that of export may be adopted in accordance with the procedure laid down in Article 10.

Article 8

1. The total or partial relief from import duties referred to in Article 2 shall be granted in accordance with the rules laid down by Articles 10 and 11 of Directive 76/119/EEC, the replacements being treated in the same way as the reimported products referred to in the said Articles.

2. However, in the case of prior importation of the replacements, the amount of the import duties which would be applicable to the export goods if they were imported into the Community from the country from which the replacements come shall be determined by reference to the rate or the amount applicable on the date of acceptance by the competent authorities of the export document for the goods in question. This date shall also be taken to determine the quantity, type and value of the said goods.

Article 9

The Committee for Customs Processing Arrangements, set up by Article 26 of Directive 69/73/EEC, may examine any matter relating to the application of this Directive which is brought to its attention by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 10

The provisions necessary for the implementation of this Directive shall be adopted in accordance with the procedure laid down in Article 28 (2) and (3) of Directive 69/73/EEC.

Article 11

Member States shall bring into force the laws, regulations or administrative provisions needed in order to comply with this Directive within six months of its notification.

Member States shall communicate to the Commission the provisions which they adopt in order to implement this Directive. The Commission shall inform the other Member States thereof.

Article 12

This Directive is addressed to the Member States.

Done at Brussels, 27 November 1978.

For the Council

The President

H. EHRENBERG
