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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3/84

of 19 December 1983

introducing arrangements for movement within the Community of goods sent from one Member State for temporary use in one or more other Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 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 the introduction of arrangements for movement within the Community under which goods sent from one Member State may move and be used temporarily in one or more other Member States before being re-entered in the Member State of departure is a means of simplifying the formalities relating to their carriage and temporary stay;

Whereas, in order to achieve this objective, the arrangements must cover the widest possible range of goods, taking account, however, of the risk of fraud;

Whereas, in order to reduce the cost of intra-Community movement operations and to create conditions that resemble as closely as possible the conditions under which such movements take place within a Member State, users of the procedure can be exempted from the requirement to lodge a guarantee;

Whereas, in view of the exemption from the requirements to lodge a guarantee, the Member States in whose territory the goods are temporarily used should have the power to exert reasonable surveillance over them and to recover any charges payable;

Whereas the setting up of the arrangements for an experimental period will permit an assessment of the practical consequences; whereas the provisions should

be re-examined in the light of experience at the end of a period of three years;

Whereas it is essential to guarantee uniform application of the provisions of this Regulation and, to this end, to lay down a Community procedure under which the detailed rules for execution can be adopted in due course; whereas it is necessary to set up a committee to organize close and effective cooperation between the Member States and the Commission in this field;

Whereas this Regulation does not affect the provisions of the Treaty establishing the European Coal and Steel Community, in particular as regards the rights and obligations of the Member States, the powers of the institutions of the said Community and the rules laid down by the Treaty for the functioning of the common market in coal and steel; whereas, taking into account the Treaty establishing the European Economic Community, in particular Article 232 thereof, this Regulation shall apply to the goods listed in Annex I to the Treaty establishing the European Coal and Steel Community,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

1. Without prejudice to other Community provisions, the arrangements governing the movement of goods within the Community, hereinafter referred to as the 'arrangements', shall apply to the goods listed in the Annex, sent or transported from one Member State for the purposes of temporary use in one or more other Member States, which, pursuant to the Treaties and the rules deriving therefrom, are not subject to

⁽¹⁾ OJ No C 227, 8. 9. 1981, p. 3.

⁽²⁾ OJ No C 40, 15. 2. 1982, p. 35.

⁽³⁾ OJ No C 343, 31. 12. 1981, p. 1.

prohibitions or restrictions and which are intended to be re-entered without alteration to the territory of the Member State of departure.

2. In order to benefit from the arrangements, the goods referred to in Article 1 must :

- (a) satisfy the conditions laid down in Articles 9 and 10 of the Treaty establishing the European Economic Community or, in the case of goods within the province of the Treaty establishing the European Coal and Steel Community, be in free circulation ; and
- (b) have complied with the provisions in the Member State of departure, relating to turnover taxes, excise duties and any other tax on consumption ; and
- (c) have not benefited, by virtue of their exportation, from any exemption from turnover tax, excise duties or any other tax on consumption.

Article 2

For the purposes of this Regulation :

- (a) 'beneficiary' means the natural or legal person who, whether or not through a representative, carries out an intra-Community movement operation ;
- (b) 'Member State of departure' means the Member State in whose territory the goods are produced at the customs office, referred to in (c) ;
- (c) 'office of departure' means the customs office where the intra-Community movement operation starts ;
- (d) 'office of entry' means the customs office at which the goods enter the territory of the Member State where they are to be temporarily used, hereinafter referred to as the 'Member State of temporary use' ;
- (e) 'office of exit' means the customs office at which the goods leave the territory of a Member State in which they have been temporarily used ;
- (f) 'office of transit' means :
 - the customs office at which the goods enter the territory of a Member State for the purpose of a transit operation proper or leave it following such an operation,
 - the customs office at the point of exit from the Community for goods leaving the territory of the Community in the course of a transit operation proper by crossing a frontier between a Member State and third country.

Article 3

This Regulation shall not preclude :

- the use, at the discretion of the person concerned, of the procedure introduced by the Customs Convention on the ATA carnet for the temporary

admission of goods (ATA Convention) done at Brussels on 6 December 1961,

- arrangements between Member States introducing simpler procedures applicable to frontier zone traffic,
- the application of simpler procedures, used particularly for the temporary importation of travellers' personal effects, packages, private cars and other means of transport,
- the use, at the request of the person concerned, of a national procedure in the event of production to the office of entry of goods not covered by an ATA carnet or by the Community movement carnet, referred to in Article 5.

Article 4

1. Only natural or legal persons established in the Member State of departure shall be eligible for the arrangements.

However, the competent authorities of the Member State of departure shall in principle disqualify from benefit under the arrangements persons who, to their knowledge, have committed a serious infringement of customs or fiscal legislation.

The competent authorities of the Member State of temporary use may revoke benefit under the arrangements in the instances referred to in the second subparagraph. They shall inform the competent authorities of the Member State of departure of the grounds for such revocation.

2. Persons benefiting under the arrangements shall :

- (a) ensure that the procedure referred to in Title II is correctly carried out and that the arrangements are settled before expiry of the period of validity of the carnet referred to in Article 5 ;
- (b) if failure to comply with the conditions laid down in this Regulation is ascertained or suspected, supply the competent authorities of the Member States, whose territory the goods have entered, with any necessary document or information concerning the goods subject to the movement arrangements ;
- (c) at the first written request of the competent authorities, pay any charges which have fallen due following an irregularity or infringement, unless he can prove that this request is unfounded.

TITLE II

Procedure

Article 5

1. For the purposes of movement under the arrangements, goods shall be covered by a Community movement carnet, hereinafter referred to as 'carnet', issued by the competent authorities of the Member State of departure.

2. The carnet shall be so designed as to enable the competent authorities in the Member States whose territory is to be entered during an intra-Community movement operation to control, in particular by means of transit, entry and exit sheets, the dispatch, transit, entry, temporary use, return to and re-entry of the goods into the Member State of departure, and must include the commitment entered into by the beneficiary to make the payment provided for in Article 4 (2) (c).

3. The specimen of the movement carnet shall be drawn up in accordance with the procedure laid down in Article 15.

4. Issue of the said carnet shall not give rise to the payment of any fees other than those resulting from the cost of its production.

Article 6

1. The carnet, duly completed and signed by the beneficiary, shall be produced at the office of departure at the same time as the goods it covers so that a check can be made that the goods match the details on the sheet constituting a temporary clearance certificate and the carnet can be validated.

This carnet constitutes an internal Community transit document, testifying to the Community nature of the goods to which it applies.

2. The competent authorities of the Member State of departure shall :

- take such measures for identification as they deem necessary,
- fix the period of validity of the carnet, which may not exceed 12 months,
- retain the sheet constituting a temporary clearance certificate.

3. The competent authorities of the Member States whose territory is entered during the intra-Community movement operation may at the request of the beneficiary extend the period of validity of the carnet on the basis of the expected duration and nature of the temporary use operation planned.

Article 7

1. When goods covered by a carnet merely cross the territory of a Member State without being temporarily used there, the beneficiary shall deliver a 'transit' sheet of the carnet to the offices of transit.

2. Paragraph 1 above shall not apply to goods :

- transported under cover of an International Consignment Note, an International Express

Parcels Consignment Note, or a Community Transit Transfer Note,

- transported by air under cover of an airwaybill, or
- sent through the post.

3. The duration of the transit operation shall be laid down in accordance with the rules relating to Community transit.

Article 8

1. When goods covered by a carnet are to be temporarily used on the territory of a Member State, the beneficiary shall produce them and the carnet at the offices of entry and exit of the Member State and deliver to the said offices, as appropriate, the entry or exit sheet, after completing the boxes relating to the places where temporary use is planned and the duration and nature of such use.

2. By way of derogation from paragraph 1, goods transported or dispatched under the conditions described in Article 7 (2) must be produced, as is appropriate, to the customs offices with jurisdiction over the station of arrival or of departure, the airport of arrival or of departure, or the post office of arrival or of departure of the Member State on the territory of which the goods will be or have been used temporarily.

The entry and exit sheets must be returned to the respective offices.

3. The office of entry shall determine the period for which the goods may remain in the territory of the Member State within which it operates on the basis of the length of stay planned by the beneficiary, although this period may not exceed the period of validity of the carnet, unless the said period has been extended in accordance with Article 6 (3).

The competent authorities of the Member State of temporary use shall take every measure to ensure the control of the use of the goods on the territory of that Member State and of their exit before the expiry of the period laid down in the first subparagraph.

Article 9

1. The carnet must be produced in each Member State concerned whenever the competent authorities so request.

2. Entry and exit operations may be carried out through any office within the limits of its competence during its opening hours.

3. When goods need to enter the territory of a Member State without temporary-use operations occurring there, the transit sheets may be deposited at any office which is open as an office of transit.

Article 10

The competent authorities of the Member State in whose territory the goods are temporarily used may, at the request of the beneficiary:

- (a) extend the period during which the goods may remain in their territory, within the period of validity of the carnet;
- (b) allow the goods to be temporarily in their territory at one or more places other than that or those stated on the carnet;
- (c) by way of derogation from Article 1 (1), authorize repairs, including the replacement of defective parts, to the equipment temporarily used in their territory.

To this end, they shall enter the necessary particulars on the carnet.

TITLE III

Termination and administrative collaboration*Article 11*

1. The arrangements shall terminate when the goods have been produced again with the carnet before expiry of its period of validity at any competent customs office in the Member State of departure.

2. The arrangements shall also terminate when the goods:

- (a) have been totally destroyed or irretrievably lost by reason of the nature of the goods themselves or because of unforeseeable circumstances or *force majeure*; or
- (b) have been exported to a third country or placed in a free zone or under a customs warehousing procedure; or
- (c) have been destroyed under the control of the competent authorities; or
- (d) have been released for home use, in so far as Community or national provisions so allow.

Article 12

1. Where it is found that, in the course of or in connection with a movement operation, an irregularity has been committed in a particular Member State, recovery of any charges payable shall be effected by that Member State.

2. When a Member State on whose territory an irregularity has been committed in the course of or in connection with a movement operation cannot recover the charges due, the competent authorities of the Member State of departure shall recover on behalf of the other Member State the amount which the beneficiary is obliged to pay in accordance with Article 4 (2) (c). Such recovery shall be carried out by the Member State in accordance with its laws, regulations or administrative practices relating to the recovery of

fiscal debts. If the beneficiary contests the claim against him, he must address his appeal in the Member State which has made the request for recovery. No action for recovery shall be taken until the appeal proceedings have been concluded.

Alternatively the Member State which is recovering the debt may apply the provisions of Directive 76/308/EEC⁽¹⁾, as last amended by Directive 79/1071/EEC⁽²⁾.

3. Where at any moment during a movement operation the office of departure of the carnet notes an irregularity, it shall without delay inform the competent authorities of the Member State or Member States concerned thereof and communicate to them the documents and information relating to that irregularity.

TITLE IV

Provisions on the Committee on Arrangements for the Temporary Movement of Goods*Article 13*

1. A Committee on Arrangements for the Temporary Movement of Goods within the Community (hereinafter referred to as 'the Committee') is hereby set up, consisting of representatives of the Member States with a representative of the Commission as chairman.

2. The Committee shall adopt its own rules of procedure.

Article 14

The Committee may examine any question relating to the application of this Regulation submitted to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 15

1. The necessary provisions for implementing this Regulation and in particular for the specimen of the carnet shall be adopted in accordance with the procedure defined in paragraphs 2 and 3.

2. The representative of the Commission shall submit to the Committee a draft of the provisions to be adopted. The Committee shall deliver an opinion on the draft within a time limit set by the chairman, having regard to the urgency of the matter. Decisions shall be taken by a majority of 45 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the provisions envisaged if they are in accordance with the opinion of the Committee.

⁽¹⁾ OJ No L 73, 19. 3. 1976, p. 18.

⁽²⁾ OJ No L 331, 27. 12. 1979, p. 10.

- (b) If the provisions envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal with regard to the provisions to be adopted. The Council shall act by a qualified majority.
- (c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed provisions shall be adopted by the Commission.

TITLE V

Final provisions

Article 16

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

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

Done at Brussels, 19 December 1983.

For the Council

The President

G. VARFIS

It shall apply from 1 July 1985.

It shall be applicable for an initial experimental period until 30 June 1988 unless extended for a limited period to be decided upon, on a proposal from the Commission, by the Council acting by a qualified majority.

Article 17

1. Before the expiry of a period of three years as from the date of entry into force of this Regulation, the Commission shall submit a report to the Council on the application of the arrangements, based on information supplied by the Member States.

2. On the basis of the report referred to in paragraph 1, the Council, acting in accordance with Article 235 of the Treaty, shall decide on the definitive application of this Regulation and on any amendments to be made to its provisions, in particular for the purpose of simplifying the arrangements or modifying the Annex.

ANNEX

LIST OF GOODS ELIGIBLE UNDER THE ARRANGEMENTS

I. GOODS INTENDED FOR DISPLAY OR USE AT AN EXHIBITION, TRADE FAIR, CONGRESS OR SIMILAR EVENT

A. The following are eligible under the arrangements :

- (a) goods intended for display or demonstration at an event, provided that the beneficiary of the carnet is a public body ;
- (b) goods intended for use in connection with the display of products at an event such as :
 - 1. goods necessary for demonstration of machinery or apparatus to be displayed ;
 - 2. construction and decoration material, including electrical fittings, for the temporary stands of exhibitors ;
 - 3. advertising and demonstration material intended for use in publicizing the goods displayed, such as sound recordings, films and lantern slides as well as apparatus for use therewith ;provided that the beneficiary of the carnet is a public body ;
- (c) equipment including interpretation apparatus, sound recording apparatus and films of an educational, scientific or cultural character intended for use at international meetings, conferences or congresses.

B. 'Exhibition or similar event' means :

- (a) exhibitions, fairs, salons and similar events connected with trade, industry, agriculture and craft trades ;
- (b) exhibitions or events which are organized primarily for a charitable purpose ;
- (c) exhibitions or events organized for scientific, technical, handicraft, artistic, educational or cultural, sporting, religious purposes or for the purpose of religion, worship or in order to promote international understanding ;
- (d) meetings of representatives of international organizations or groups ;
- (e) official or commemorative ceremonies or gatherings ;

except exhibitions organized for private purposes in shops or business premises with a view to the sale of goods.

The following are excluded : alcoholic beverages, perfume, tobacco and fuel.

C. The benefit of the arrangements shall be granted provided that :

- (a) the goods are capable of identification on re-exportation ;
- (b) the number or quantity of identical articles is reasonable having regard to the purpose of importation ;
- (c) the goods are not lent or used in any way for hire or reward ;
- (d) the goods are not removed from the place of the event

II. PROFESSIONAL EQUIPMENT

A. Equipment for the press or for sound or television broadcasting

Definition

For the purposes of this Annex 'equipment for the press or for sound or television broadcasting' means equipment necessary for representatives of the press or of broadcasting or television organizations visiting another Member State for purposes of reporting or in order to transmit or record material for specified programmes.

- (a) Equipment for the press, such as :
 - 1. typewriters ;
 - 2. photographic or cinematographic cameras ;
 - 3. sound or image transmitting, recording or reproducing apparatus ;
 - 4. blank sound or image recording media.

- (b) Sound broadcasting equipment imported by official or approved bodies, such as :
1. transmission and communication apparatus ;
 2. sound recording or reproducing apparatus ;
 3. testing and measuring instruments and apparatus ;
 4. operational accessories (clocks, stop-watches, compasses, generating sets, transformers, batteries and accumulators, heating and ventilating apparatus, etc.) ;
 5. blank sound recording media.
- (c) Television broadcasting equipment imported by official or approved bodies, such as :
1. television cameras ;
 2. telekinema ;
 3. testing and measuring instruments and apparatus ;
 4. transmission and retransmission apparatus ;
 5. communication apparatus ;
 6. sound or image recording or reproducing apparatus ;
 7. lighting equipment ;
 8. operational accessories (clocks, stop-watches, compasses, generating sets, transformers, batteries and accumulators, heating and ventilating apparatus, etc.) ;
 9. blank sound or image recording media ;
 10. film 'rushes' ;
 11. musical instruments, costumes, scenery, and other stage properties.
- (d) Vehicles designed or specially adapted for the purposes specified above, imported by official or approved bodies.

In order to be eligible for the arrangements, the abovementioned equipment must :

- (a) be owned by a natural or legal person established in a Member State other than the State of temporary use ;
- (b) be imported by a natural or legal person established in a Member State other than the State of temporary use ;
- (c) be capable of identification on return, provided that in the case of blank sound or image recording media the most flexible means of identification shall be applied ;
- (d) be used solely by or under the supervision of the person visiting the State of temporary use ;
- (e) not be the subject of a hire contract or similar arrangement to which a person resident or established in the State of temporary use is a party, provided that this condition shall not apply in the case of joint sound or television broadcasting programmes.

B. Cinematographic equipment

Definition

For the purposes of this Annex, 'cinematographic equipment' means equipment necessary for a person visiting another Member State in order to make a specified film or films.

- (a) Equipment such as :
1. cameras of all kinds ;
 2. testing and measuring instruments and apparatus ;
 3. camera 'dollies' and booms ;
 4. lighting equipment ;
 5. sound recording or reproducing apparatus ;
 6. blank image or sound recording media ;
 7. film 'rushes' ;
 8. operational accessories (clocks, stop-watches, compasses, generating sets, transformers, batteries and accumulators, heating and ventilating apparatus, etc.) ;
 9. musical instruments, costumes, scenery, and other stage properties.

- (b) Vehicles designed or specially adapted for the purposes specified above.

In order to be eligible for the arrangements, the abovementioned equipment must :

- (a) be owned by a natural or legal person established in a Member State other than the State of temporary use ;
- (b) be imported by a natural or legal person established in a Member State other than the State of temporary use ;
- (c) be capable of identification on return, provided that in the case of blank image or sound recording media the most flexible means of identification shall be applied ;
- (d) be used solely by or under the personal supervision of the person visiting the Member State of temporary use, provided that this condition shall not apply in the case of equipment imported for the production of a film under a co-production contract to which a person resident or established in the Member State of temporary use is a party and which is approved by the competent authorities of that Member State under an inter-governmental agreement concerning cinematographic co-production ;
- (e) not be the subject of a hire contract or similar arrangement to which a person resident or established in the Member State of temporary use is a party.

C. Other professional equipment

(a) *Definition*

For the purposes of this Annex 'other professional equipment' means equipment of a kind not referred to in sections I and II necessary for the exercise of the calling, trade or profession of a person visiting another Member State to perform a specified task.

It does not include equipment which is to be used for transport within a Member State or for the industrial manufacture or packaging of goods or (except in the case of hand-tools) for the exploitation of natural resources, for the construction, repair or maintenance of buildings or for earth moving and like projects.

(b) *List of equipment referred to in point (a)*

1. equipment for erection, testing, commissioning, checking, control, maintenance or repair of machinery, plant, means of transport, etc., such as : tools ; measuring, checking or testing equipment and instruments (temperature, pressure, distance, height, surface, speed, etc.) including electrical instruments (voltmeters, ammeters, measuring cables, comparators, transformers, recording instruments, etc.) and jigs ; apparatus and equipment for taking photographs of machines and plant during or after erection ; apparatus for survey of ships ;
2. equipment necessary for businessmen, business efficiency consultants, productivity experts, accountants and members of similar professions, such as : typewriters ; sound transmitting, recording or reproducing apparatus ; calculating instruments and apparatus ;
3. equipment necessary for experts undertaking topographical surveys or geophysical prospecting work, such as : measuring instruments and apparatus ; drilling equipment ; transmission and communication equipment ;
4. instruments and apparatus necessary for doctors, surgeons, veterinary surgeons, midwives and members of similar professions ;
5. equipment necessary for archaeologists, paleontologists, geographers, zoologists and other scientists ;
6. equipment necessary for entertainers, theatre companies and orchestras, including all articles used for public or private performances (musical instruments, costumes, scenery, animals, etc.) ;
7. equipment necessary for lecturers to illustrate their lectures ;
8. vehicles designed or specially adapted for the purposes specified above, such as mobile inspection units, travelling workshops and travelling laboratories, etc.

In order to be eligible for the arrangements, the abovementioned equipment must :

- (a) be owned by a natural or legal person established in a Member State other than the State of temporary use ;
 - (b) be imported by a natural or legal person established in a Member State other than the State of temporary use and be accompanied by its owner if a natural person or by an authorized representative in the case of a legal person ;
 - (c) be capable of identification on return ;
 - (d) be used solely by the natural person or authorized representative in question for the purposes of his calling, trade or profession.
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