

COMMISSION REGULATION (EEC) No 2249/91

of 25 July 1991

laying down provisions for the implementation of Council Regulation (EEC) No 1855/89 for the temporary importation of means of transport

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1855/89 of 14 June 1989 on the temporary importation of means of transport, and in particular Article 21 thereof⁽¹⁾,

Whereas it is necessary to establish the conditions on which means of transport can be covered by the temporary importation procedure pursuant to Regulation (EEC) No 1855/89;

Whereas the requirement to present a customs document and lodge a security should be restricted to cases where there is a serious risk of non-compliance with the obligation to re-export a means of transport brought into the customs territory of the Community;

Whereas pallets by their nature constitute a special case; whereas a special authorization procedure should be laid down for pallets which are not readily identifiable;

Whereas exhaustive rules should be laid down for derogations pursuant to Article 13 of Regulation (EEC) No 1855/89 and a presumption established that derogations not provided for pursuant to Regulation shall be unacceptable;

Whereas the customs services of the Member States should have discretionary powers to assess on a case-by-case basis the facts which enable certain derogations provided for by this Regulation to be applied and/or the period for which a means of transport shall be admitted under the temporary importation procedures pursuant to those derogations;

Whereas the measures provided for by this Regulation are in accordance with the opinion of the Committee for Customs Procedures with Economic Impact,

HAS ADOPTED THIS REGULATION:

TITLE I:

GENERAL PROVISIONS

Article 1

For the purposes of this Regulation:

(a) 'basic Regulation' means Council Regulation (EEC) No 1855/89;

(b) 'person established in the customs territory of the Community' means a natural person having his normal

residence in the customs territory of the Community or a legal person having his registered place of business in that territory;

(c) 'internal traffic' means the carriage of persons or goods picked up or loaded within the customs territory of the Community for setting down or unloading within that territory.

Article 2

1. Without prejudice to Articles 3, 16 and 17 of this Regulation, the arrangements for the temporary importation of means of transport pursuant to the basic Regulation shall apply without formalities once the said means of transport have been brought into the customs territory of the Community.

2. (a) Means of transport which are placed under the temporary importation arrangements upon discharge of inward processing arrangements in the Community shall be treated in the same way as means of transport imported into the customs territory of the Community.

(b) The means of transport referred to in (a) shall be placed under temporary importation arrangements on the date on which they are first used under the arrangements.

(c) For the purposes of drawing up the discharge provided for under the inward processing relief arrangements the person covered by the temporary importation arrangements shall issue to the holder of the inward processing authorization a certificate replacing the documents provided for in Article 61 (3) of Council Regulation (EEC) No 3677/86⁽²⁾.

Article 3

1. For the purposes of the first paragraph of Article 2 and the first paragraph of Article 3 of the basic Regulation, where the customs service, when carrying out a check, considers that there is a serious risk of non-compliance with the requirement that a means of transport be re-exported, the temporary importation arrangements shall apply subject to the production of a document provided for in an international convention or the lodging of a declaration on a form established in accordance with the procedure provided for by Council Regulation (EEC) No 717/91⁽³⁾. The customs authority may request a guarantee during the presentation of the declaration.⁽¹⁾ OJ No L 186, 30. 6. 1989, p. 8.⁽²⁾ OJ No L 351, 12. 12. 1986, p. 1.⁽³⁾ OJ No L 78, 26. 3. 1991, p. 1.

2. For the purposes of Article 17 of the basic Regulation, the document or declaration shall be presented to the customs service along with the means of transport within the time limit established by the service where the document was produced or the declaration lodged.

Article 4

Article 12 of the basic Regulation shall apply *mutatis mutandis* to legal persons having their registered place of business in the customs territory of the Community.

TITLE II:

MEANS OF ROAD TRANSPORT

Chapter I:

Means of road transport for business use

Article 5

1. For the purposes of application of Article 4 of the basic Regulation, business use shall include the carriage of persons for a consideration or the industrial and commercial carriage of goods whether for a consideration or free of charge.

2. For the purposes of Article 4 (3) (a) and (b) of the basic Regulation, persons acting on behalf of a person established outside the customs territory of the Community shall be duly authorized by the person concerned.

3. Pursuant to Article 13 of the basic Regulation:

(a) subject to the requirements of paragraph 2, vehicles for business use may be driven by natural persons established in the customs territory of the Community;

(b) the supervising service may agree that:

- in exceptional cases, a person established in the customs territory of the Community may import and use vehicles for business use under temporary importation arrangements for a limited period established by the said service according to the circumstances of the case under consideration;
- a natural person established in the customs territory of the Community and employed by a person established outside that territory may import and use in that territory, for business use, a vehicle belonging to the latter. The vehicle admitted under the temporary importation arrangements may also be used for private purposes where such

use is occasional, subsidiary to the business use and provided for in the contract of employment;

(c) vehicles for business use may be used in internal traffic where the provisions in force in the field of transport, in particular those concerning admission and operations, so provide.

4. Vehicle maintenance and repair operations which must be carried out during a journey to or within the customs territory of the Community may be carried out while the vehicle is under these temporary importation arrangements.

Chapter II:

Means of road transport for private use

Article 6

1. For the purposes of Article 5 (3) (a) and (b) of the basic Regulation, road vehicles for private use shall not be hired, lent or made available following their importation or, if they were on hire, on loan or made available at the time of their importation, they shall not be re-hired or sub-hired or lent or made available to another person in the customs territory of the Community for any purpose other than immediate re-exportation.

Accordingly, vehicles for private use belonging to a hire firm whose head office is situated outside the customs territory of the Community may be re-hired to a natural person established outside the customs territory of the Community with a view to their re-exportation within a period to be set at the discretion of the customs service, where they are within the customs territory of the Community following performance of a contract of hire.

2. Notwithstanding the first subparagraph of paragraph 1, the spouse and the relatives in the direct ascending and descending lines of a person established outside the customs territory of the Community who have their normal residence outside that territory may use a private vehicle imported under temporary importation arrangements.

Article 7

Pursuant to Article 13 of the basic Regulation:

1. notwithstanding the provisions of the first subparagraph of Article 6 (1) of this Regulation, a vehicle for private use may be used occasionally by a natural person established in the customs territory of the Community where such person is acting on behalf of and on the instructions of the user of the arrangements, who is himself in that territory;

2. the temporary importation arrangements provided for in the second subparagraph of Article 6 (1) of this Regulation may be used by natural persons established in the customs territory of the Community; vehicles may also be returned from the customs territory of the Community by an employee of the hire firm resident in that territory;
3. a natural person established in the customs territory of the Community may, for the purpose of returning to the Member State where he has his residence, hire or borrow outside that territory a vehicle for private use meeting the conditions laid down in Article 5 (3) (c) of the basic Regulation. The period within which the vehicle must be re-exported shall be established by the customs service according to the circumstances of the case under consideration;
4. the customs service may allow the temporary importation arrangements referred to in Article 5 (4) of the basic Regulation to be used by natural persons established in the customs territory of the Community preparing to transfer their normal residence out of that territory under the following conditions:
 - the person concerned shall provide evidence of the transfer of residence by any means acceptable to that service;
 - the vehicle must be exported within three months of the date of registration.
5. Article 5 (4) of this Regulation shall apply to road vehicles for private use.

Article 8

For the purposes of Article 5 (6) (a) of the basic Regulation, in order to interrupt the period in which a vehicle imported under the arrangements remains in the customs territory of the Community, the user of the temporary importation arrangements shall so inform the customs service and shall comply with the measures considered appropriate by that service to prevent use of the vehicle on a temporary basis.

Article 9

Articles 6 and 7 shall apply *mutatis mutandis* to saddle or draught animals and the vehicles drawn by them entering the customs territory of the Community.

TITLE III:

MEANS OF RAIL TRANSPORT

Article 10

Pursuant to Article 13 of the basic Regulation:

1. the means of rail transport may be placed at the disposal of a person established in the customs terri-

tory of the Community on condition that they are used jointly under an agreement whereby each network may use the rolling stock of the other networks as its own rolling stock. Temporary importation arrangements shall be discharged when means of rail transport of the same type as those which had been placed at the disposal of a person established in the customs territory of the Community are exported or placed, with a view to subsequent exportation, in a free zone or under one of the arrangements referred to in Article 17 (1) of the basic Regulation;

2. in exceptional cases, the customs service may allow a person established in the customs territory of the Community to import and use wagons intended for the carriage of goods which have been placed under the temporary importation arrangements for a limited period established by the said service according to the circumstances of the case under consideration.

TITLE IV:

MEANS OF AIR TRANSPORT

Article 11

1. Article 5 of this Regulation shall apply *mutatis mutandis* to aircraft for business use. In particular, pursuant to Article 13 of the basic Regulation, the customs service may, in exceptional cases, allow a person established in the customs territory of the Community to import and use aircraft placed under temporary importation arrangements for a limited period established by the said service according to the circumstances of the case under consideration.

2. Articles 6, 7 and 8 of this Regulation shall apply *mutatis mutandis* to aircraft for private use.

TITLE V:

SEA AND INLAND WATERWAY TRANSPORT

Article 12

1. Article 5 of this Regulation shall apply *mutatis mutandis* to vessels for business use in sea or inland waterway transport. In particular, pursuant to Article 13 of the basic Regulation, the customs service may, in exceptional cases, allow a person established in the customs territory of the Community to import and use vessels placed under temporary importation arrangements for a limited period established by the said service according to the circumstances of the case under consideration.

2. Articles 6, 7 and 8 shall apply *mutatis mutandis* to vessels for private use in sea or inland waterway transport.

3. Pursuant to Article 13 of the basic Regulation, in exceptional cases where lake harbour infrastructure outside the customs territory of the Community is no adequate to allow the mooring of means of inland waterway transport for private use, the customs service may allow a natural person established in the customs territory of the Community to import a vessel placed under temporary importation arrangements and use it on Community waters in a lake within the said territory adjacent to the country in which the vessel is registered. The person concerned shall provide evidence of the inadequacy of lake harbour infrastructure by any means acceptable to the customs service.

TITLE VI:

PALLETS

Chapter 1:

Special provisions applicable to the temporary importation of pallets pursuant to the first paragraph of Article 2 and the first paragraph of Article 3 of the basic Regulation

Article 13

1. The temporary importation of pallets pursuant to the first paragraph of Article 2 and the first paragraph of Article 3 of the basic Regulation shall apply to pallets which are identifiable.
2. The pallets or an equal number of pallets of the same type or of substantially equal value must be exported or re-exported from the customs territory of the Community. Where pallets are used jointly under an agreement, the temporary importation arrangements shall also be discharged when pallets of equivalent value to those covered by the temporary importation arrangements are placed, with a view to subsequent exportation, in a free zone or under one of the procedures referred to in Article 17 (1) of the basic Regulation.

Article 14

For the purposes of the first paragraph of Article 2 and the first paragraph of Article 3 of the basic Regulation, the user of the temporary importation arrangements shall:

- (a) be represented in the customs territory of the Community and provide each Member State in which pallets are present with particulars allowing identification of his representative and that person's powers;
- (b) at the request of the customs authority of the Member State in which pallets are present, provide information

concerning the place and date of entry of the pallets into the customs territory of the Community, the place and date of their exit from that territory and the movement of the pallets within each Member State.

Article 15

Pallets placed under temporary importation arrangements may remain in the customs territory of the Community for a period of 12 months, which may be reduced at the request of the user.

However, where the user of the arrangements provides evidence that the pallets have not been in use for some time, such non-use shall be considered to be a circumstance justifying an extension of the time limit, in accordance with Article 14 of the basic Regulation.

Chapter II:

Special provisions applicable to the temporary importation of other pallets

Article 16

1. To qualify for temporary importation arrangements for pallets other than those referred to in Article 13 (1) of this Regulation, the operator or his representative shall apply to the customs service of the Member State in which the pallets intended to be placed under the arrangements are brought into the customs territory of the Community.
2. Application shall be made in writing by any means acceptable to the customs authorities. Such application shall contain the following particulars:
 - (a) the name, business name and address of the operator or his representative;
 - (b) the obligation for which provision is made in Article 14 (b) of this Regulation;
 - (c) the number and description of the pallets.
3. The application may be of a general nature and cover a number of temporary importation operators.

Article 17

1. The customs service to which the application referred to in Article 16 is made shall decide thereon and shall, where appropriate, issue a temporary importation authorization, hereinafter referred to as 'the authorization'.
2. The authorization shall be signed by the competent customs service, which shall retain a copy thereof.
3. The authorization may be of a general nature and cover a number of temporary importation operations.

Article 18

Pallets placed under temporary importation arrangements may remain in the customs territory of the Community for a period of six months, which may be reduced at the request of the user.

The second paragraph of Article 15 shall apply *mutatis mutandis* to such pallets.

TITLE VII:

OTHER PROVISIONS

Article 19

1. To qualify for temporary importation arrangements the items referred to in Article 11 of the basic Regulation shall be subject to the formalities provided for in Article 3 of this Regulation, without prejudice to more extensive facilities provided for by agreements in force.

2. Spare parts imported together with or separately from the means of transport for which they are intended must be used solely to carry out minor repair and routine maintenance of those means of transport. The customs service may at any time verify the end-use of the spare parts imported under the arrangements.

3. New parts which are defective or damaged shall be assigned one of the treatments provided for in Article 17 (1) and (2) of the basic Regulation.

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

Done at Brussels, 25 July 1991.

Article 20

For the purposes of Article 14 of the basic Regulation, 'circumstances' means any occurrence which makes it necessary for a means of transport to be used for an additional period in order to attain the objective of its temporary importation.

Article 21

For the purposes of Article 16 of the basic Regulation, the customs authority may withdraw a temporary importation authorization where, without prejudice to the derogations provided for by this Regulation and any more extensive facilities provided for by agreements in force, it finds *inter alia*:

- that means of road transport for business use have been used in internal traffic,
- that means of transport for private use have been used for business purposes,
- that means of transport have been hired, lent or made available subsequent to their importation or, if they were on hire, on loan or made available at the time of importation, have been re-hired or sub-hired or lent or made available to another person in the customs territory of the Community for any purpose other than immediate re-exportation.

Article 22

This Regulation shall enter into force on 1 January 1992.

It shall be applicable from 1 January 1993.

For the Commission

Christiane SCRIVENER

Member of the Commission