

## COUNCIL DIRECTIVE

of 4 March 1969

on the harmonisation of provisions laid down by law, regulation or administrative action relating to free zones

(69/75/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;

Having regard to the Opinion of the European Parliament<sup>1</sup>;

Having regard to the Opinion of the Economic and Social Committee<sup>2</sup>;

Whereas the Community is based upon a customs union;

Whereas the establishment of the customs union is governed in the main by Chapter 1 of Title I Part Two of the Treaty; whereas that Chapter contains a series of specific provisions dealing, in particular, with the elimination of customs duties between Member States, the establishment and progressive introduction of a Common Customs Tariff and the autonomous alternation or suspension of the duties therein; whereas, while Article 27 provides that Member States shall, before the end of the first stage and in so far as may be necessary, take steps to approximate their provisions laid down by law regulation or administrative action in respect of customs matters, that Article does not empower the institutions of the Community to issue binding provisions in that field; whereas, however, a thorough examination undertaken jointly with Member States has shown the need in certain fields for decision, by binding acts of the Community, upon measures essential for the introduction of customs

legislation which will ensure uniform application of the Common Customs Tariff;

Whereas in all Member States there are provisions laid down by law, regulation or administrative action the application of which has led or may lead to the establishment of zones where goods are considered as being outside the customs territory of the Community

Whereas certain differences contained in those provisions could lead to deflection of trade and of customs receipts if they were to remain operative after the customs union has been fully achieved;

Whereas such provisions directly affect the establishment and operation of the common market;

Whereas the consumption of goods, their use, handling and treatment must be effected under the same economic conditions throughout the territory of the Community;

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive prescribes the rules that must be included in the provisions of Member States laid down by law, regulation or administrative action relating to free zones.

2. 'Free zone' means, whatever the expression used in Member States, any territorial enclave established by the competent authorities of Member States (hereinafter called the 'competent authorities') in order that goods therein may be considered as being outside the customs territory of the Community for purposes of applying customs duties, agricultural levies, quantitative restrictions or any charges or measures having equivalent effect.

<sup>1</sup> OJ No C 66, 2.7.1968, p. 12.

<sup>2</sup> OJ No C 75, 29.7.1968, p. 8.

3. This Directive shall apply to:

- (a) the territorial enclaves referred to in the Annex; and
- (b) such territorial enclaves referred to in paragraph 2 as may be established after notification of this Directive.

#### *Article 2*

1. Subject to the provisions of paragraphs 2 and 3, goods of every kind shall be admitted into free zones, whatever their quantity or their country of origin, consignment or destination.

2. The provisions of paragraph 1 shall not preclude:

- (a) the imposition of a prohibition or restriction justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property;
- (b) the right of the competent authorities to limit, for technical or administrative reasons, access to certain free zones or parts of free zones to certain goods only.

3. Goods introduced into the customs territory of the Community under inward processing arrangements and products obtained under those arrangements may be brought into and remain in free zones only if the competent authorities take charge of them to ensure that obligations incurred under those arrangements are fulfilled.

#### *Article 3*

It must be possible for goods placed in free zones to be the subject, under conditions laid down by the competent authorities, of:

- (a) loading, unloading, transshipment or storage;
- (b) the usual forms of handling referred to in Article 9 (1) of the Council Directive<sup>1</sup> of 4 March 1969 on the harmonisation of provisions laid down by law, regulation or administrative action relating to customs warehousing procedure;
- (c) destruction.

#### *Article 4*

1. Where goods placed in a free zone do not fulfil the conditions laid down by Articles 9 and 10 of the Treaty, they shall not be cleared for home use or used there under conditions other than those applicable in the remainder of the territory of the Member State in which the free zone is situated.

2. The goods referred to in paragraph 1 may be subjected in free zones to handling other than the usual forms of handling referred to in Article 3 (b) only under the conditions and in accordance with the rules applying to inward processing.

Member States may, however, in so far as is necessary, adapt methods of control to take into account conditions of operation and customs supervision in the free zones.

3. In derogation from the first subparagraph of paragraph 2, processing in the territory of the Old Free Port of Hamburg shall not be subject to conditions of an economic nature.

However, if conditions of competition in a specific economic sector within the Community are affected as a result of this derogation, the Council, acting in accordance with the procedure laid down in Article 100 of the Treaty, shall decide that the conditions of an economic nature laid down for the Community with regard to inward processing shall apply to the corresponding economic sector in the territory of the Old Free Port of Hamburg.

#### *Article 5*

1. Unless national provisions provide otherwise, goods which have been placed in free zones and which fulfil the conditions laid down in Articles 9 and 10 of the Treaty may be subjected there to handling other than the usual forms of handling referred to in Article 3 (b).

2. Where the goods referred to in paragraph 1 are intended to be cleared for home use in the Community after handling other than the usual forms of handling referred to in Article 3 (b), such handling may be carried out only after the competent authorities have taken charge of the said goods and under conditions laid down by those authorities.

#### *Article 6*

The period for which goods may remain in free zones shall not be limited. However, where necessary, in particular by reason of the nature of the goods, the competent authorities may place a limit on that period and take all necessary steps to ensure that the limit is observed.

<sup>1</sup> OJ No L 58, 8.3.1969, p. 7.

*Article 7*

It must be possible for ownership of goods placed in free zones to be transferred under the conditions and in accordance with the procedure established by national provisions laid down by law, regulation or administrative action.

*Article 8*

1. Where goods placed in free zones are cleared for home use, the customs duties, charges having equivalent effect and agricultural levies chargeable on importation shall be collected on the basis of the rates or amounts applicable on the date of the clearance of the goods for home use, according to their nature, and their value for customs purposes and quantity as ascertained or accepted on that date by the customs authorities. However, costs of warehousing and preserving the goods during their period in free zones borne by a purchaser shall not be included in the value for customs purposes where the price paid or payable by that purchaser is taken as the basis for valuation.

2. In derogation from paragraph 1, goods which have been subjected in free zones to handling other than the forms of handling referred to in Article 3 (b) may be cleared for home use only under the conditions and in accordance with the rules applicable to inward processing.

Member States may, however, adopt measures providing for taxation of the compensating products obtained, according to their nature, and their value for

customs purposes and quantity ascertained or accepted on the date when they are cleared for home use; the amount of customs duties, charges having equivalent effect and agricultural levies collected at that time must, however, be at least equal to the amount which would have been collected under the rules in force for inward processing.

*Article 9*

Member States shall bring into force not later than 10 October 1969 measures necessary to comply with this Directive.

*Article 10*

Each Member State shall inform the Commission of the provisions it is making in implementation of this Directive.

The Commission shall communicate the information to the other Member States.

*Article 11*

This Directive is addressed to the Member States.

Done at Brussels, 4 March 1969.

*For the Council*

*The President*

G. THORN

---

 ANNEX

(Article 1 (3) (a))

- |   |   |
|---|---|
| 1. <i>Federal Republic of Germany</i><br>Freihäfen  | (Zollgesetz, § 86)  |
| 2. <i>Kingdom of Belgium</i><br>Entrepôts francs / Vrije entrepots  | (Loi of 4 March 1846, Article 26)   |
| 3. <i>French Republic</i><br>— Zones franches du pays de Gex et de la Haute-Savoie<br>— Zones franches maritimes et fluviales | (Code des douanes Articles 286 to 298)  |
| 4. <i>Italian Republic</i><br>Punti franchi, depositi franchi   | (Legge doganale of 25 September 1940, No 1424, Article 1)                       |
| 5. <i>Kingdom of the Netherlands</i><br>Publieke en particuliere entrepots  | (Algemene Wet inzake de douane en de accijnzen of 26 January 1961, Chapter III) |
-