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## COUNCIL REGULATION (EEC) No 1445/72

of 24 April 1972

concerning the nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States (NIMEXE)

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,

Having regard to the opinion of the European Parliament,

Whereas a thorough examination of the situation has shown the need to establish a nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States;

Whereas, since the external trade statistics of the Community and the statistics of trade between Member States are collected and prepared not by the institutions of the Community but by the Member States themselves, detailed and homogeneous data for the Community can only be obtained from national data which are or may be analyzed on the basis of a single nomenclature;

Whereas, as between Member States and between Member States and the institutions of the Community, the exchange of statistical data in conjunction with the application of modern methods for the transmission of information can only be effected in a rational way if it is based on a single nomenclature or, if this is not possible, on a number of national nomenclatures which can be transposed into a single nomenclature;

Whereas the introduction of a nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States is likely to simplify formalities and facilitate the move-

ment of goods, since users will be able to use a single nomenclature of goods in the future instead of referring to various different nomenclatures;

Whereas the Member States are contracting parties to the convention of 15 December 1950 on the nomenclature for the classification of goods in customs tariffs (Brussels Nomenclature); whereas, furthermore, they have accepted the recommendation of the Customs Cooperation Council of 8 December 1960 on correlation between the Brussels Nomenclature and the standard international trade classification, revised, adopted during 1960 by the Economic and Social Council of the United Nations; whereas, as a result, the nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States must conform with the Brussels Nomenclature, in its current or future form, so that the external trade statistical data of the Community and statistics of trade between Member States can be furnished on the basis of those two international nomenclatures;

Whereas, in order to facilitate the subsequent setting up of a coordinated nomenclature system relating to various statistical sectors and the incorporation within this system of the nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States, correlation between the latter and other nomenclatures of goods must be maintained and improved;

Whereas a nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States must apply both to imports into and exports from the Community and to trade between Member States; whereas external trade statistics of the Community with third countries are instrumental in the attainment of the common commercial policy; whereas statistics of trade between Member States are required for the harmonious functioning of the common market; whereas the Treaty does not confer the powers enabling a Community nomenclature for such statistics to be introduced;

Whereas the nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States should be applied uniformly and should be directly binding;

Whereas it is important to ensure that the provisions under consideration be applied uniformly and to introduce for this purpose a Community procedure whereby detailed rules for their application may be adopted within appropriate time limits;

Whereas, in order that the statistical subdivisions of the nomenclature and the headings thereof introduced for special purposes may be amended when necessary, a committee should be set up to ensure close and effective cooperation between the Member States and the Commission,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. The nomenclature of goods for the external trade statistics of the Community and statistics of trade between Member States (hereinafter called 'NIMEXE') shall comprise:

- (a) headings which correspond to the headings of the nomenclature for the classification of goods in customs tariffs (Brussels Nomenclature), or to the subheadings of the nomenclature of the Common Customs Tariff, or to the statistical subdivisions of these headings or subheadings, and also headings which do not so correspond but are introduced for special purposes;
- (b) notes to sections and chapters of the Brussels Nomenclature and additional notes to the nomenclature of the Common Customs Tariff;
- (c) rules for the interpretation of the nomenclature.

2. NIMEXE shall be annexed to this Regulation and shall form an integral part thereof.

#### *Article 2*

1. NIMEXE shall be used by the Community and by the Member States for the external trade statistics of the Community and statistics of trade between Member States.

2. On a proposal from the Commission, the Council acting unanimously shall, not later than 31 December 1974, lay down detailed rules for its application by the Member States.

Until the date of entry into force of such rules, Member States may continue to use their national

nomenclature for external trade statistics of the Community and statistics of trade between Member States. In that case they must, however, ensure that each heading of their national nomenclature can be transposed into the appropriate NIMEXE heading.

3. By way of derogation from paragraphs 1 and 2, Belgium, Luxembourg and the Netherlands need not apply NIMEXE when drawing up trade statistics on their mutual trade.

#### *Article 3*

1. A Committee on NIMEXE (hereinafter called '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 4*

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

#### *Article 5*

1. There shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3 the provisions necessary for:

- the classification of goods under the statistical subdivisions of NIMEXE relating to a tariff subheading or, in the absence of any subheading, to a tariff heading, and under the NIMEXE headings introduced for special purposes,
- any amendment of NIMEXE intended to maintain or improve correlation between NIMEXE and other nomenclatures of goods or required in order to adapt to commercial trends the statistical breakdown of the tariff subheadings or headings reproduced in NIMEXE and the NIMEXE headings introduced for special purposes.

2. The representative of the Commission shall submit to the committee a draft of the measures 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 12 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote,

3. (a) The Commission shall adopt the measures under consideration if they are in accordance with the opinion of the committee;
- (b) If the measures under consideration do not conform to the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures 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 measures shall be adopted by the Commission.

*Article 6*

Without prejudice to Article 5, Member States may, under the NIMEXE headings, use statistical subdivisions introduced for national purposes.

*Article 7*

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 Luxembourg, 24 April 1972.

*For the Council*

*The President*

G. THORN

## PRELIMINARY PROVISIONS

1. NIMEXE headings correspond either to headings of the nomenclature for the classification of goods in customs tariffs (Brussels Nomenclature or BTN), or to subheadings of the Common Customs Tariff (CCT), in so far as these have not been grouped together or replaced by statistical subdivisions, or to statistical subdivisions of headings of the BTN or of subheadings of the CCT. In addition, certain headings which do not so correspond have been introduced for specific purposes (for example, goods carried by post, goods declared as ships' stores, goods insufficiently specified).
2. Each NIMEXE heading consists of a code number a text and, where appropriate, a supplementary unit.
3. The code number is made up of six digits; the first four are those of the BTN heading (in some cases, such as headings 27.05 *bis* and 73.15, the numbering has had to be modified for technical reasons) and the last two identify the NIMEXE heading.
4. NIMEXE incorporates alphanumeric references to the nomenclature of the CCT.
5. Each NIMEXE heading is accompanied by the five-digit code number of the relevant item in the CST — i.e. the statistical and tariff classification for international trade, which is the version of the standard international trade classification, revised, used in the Community.
6. The interpretation of NIMEXE, down to the level of the CCT subheadings, is governed by general rules A and C of the CCT. By analogy, these rules also apply to the statistical subdivisions.
7. Amendments to NIMEXE shall enter into force only on 1 January of each year.

## INTERPRETATIVE RULES

The rules for the interpretation of the nomenclature of the Common Customs Tariff of the European Communities apply to the headings and subheadings of that tariff. They also apply *mutatis mutandis* when determining the appropriate statistical subdivision within a tariff heading or subheading. These rules are as follows:

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.
  2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as imported, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or failing to be classified as complete or finished by virtue of this rule), imported unassembled or disassembled.  
(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.
  3. When for any reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:
    - (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.
    - (b) Mixtures and composite goods which consist of different materials or are made up of different components and which cannot be classified by reference to 3 (a) shall be classified as if they consisted of the material or component which gives the goods their essential character, in so far as this criterion is applicable.
  - (c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which involves the highest rate of duty and if this rate is the same for several headings, they shall be classified under that one of such headings which occurs latest in the nomenclature of the tariff.
  4. Goods not falling within any heading of the tariff shall be classified under the heading appropriate to the goods to which they are most akin.
  5. The above rules shall also apply *mutatis mutandis* when determining the appropriate subheading within a heading.
  6. The dutiable weight, in the case of goods chargeable by weight, and the weights by reference to which the scope of certain headings or subheadings is defined, shall be taken to be:
    - (a) in the case of a reference to 'gross weight', the aggregate weight of the goods and of all packings thereof;
    - (b) in the case of a reference to 'net weight' or simply to 'weight' without qualification, the weight of the goods themselves without packing of any kind.
- For the purposes of paragraphs (a) and (b) above, 'packing' means any external or internal containers, holders, wrappings or supports, other than transport devices (e.g. transport containers), tarpaulins, tackle or ancillary transport equipment.
7. The unit of account (u.a.) by reference to which certain specific customs duties are expressed or the scope of certain headings or subheadings is defined has a value of 0.88867088 gramme of fine gold. The exchange rate to be used in converting the unit of account into Belgian francs, Danish kroner, Dutch guilders, French francs, German marks, Irish pounds, Italian lira, Luxembourg francs or pounds sterling shall be that corresponding to the par value communicated to and recognized by the International Monetary Fund in respect of these currencies.