

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EEC) No 4235/88**

of 21 December 1988

amending Regulation (EEC) No 918/83 setting up a Community system of reliefs from duty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof.

Having regard to the proposal from the Commission,

Whereas international cooperation in the field of scientific research is rapidly expanding; whereas such contacts, which are of considerable importance to the world both now and in the future, should be encouraged;

Whereas one form scientific cooperation takes is for research establishments based in a Member State to place their installations, often the result of considerable investment, at the disposal of researchers from other countries, including third countries; whereas this enables them to carry out joint research programmes in the context of cooperation agreements concluded between research establishments in various countries; whereas, in order to complete their work successfully, researchers require certain equipment which they import for long-term use in Community research establishments;

Whereas, owing to the length of the periods for which the equipment is used, such imports do not qualify for the Community temporary import arrangements introduced by Regulation (EEC) No 3599/82<sup>(1)</sup>, as last amended by Regulation (EEC) No 1620/85<sup>(2)</sup>;

Whereas the research in question is of a non-commercial nature; whereas the equipment imported is not intended to improve the Community establishments' own installations which serve as a framework for the abovementioned cooperation agreements; whereas the equipment imported remains the property of a natural or legal person resident in a third country; whereas the situations referred to are exceptional and not covered by Articles 52 to 59 of

Regulation (EEC) No 918/83<sup>(3)</sup>, as last amended by Regulation (EEC) No 1315/88<sup>(4)</sup>; whereas specific measures should therefore be introduced for granting relief from import duties,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following Articles are hereby inserted in Regulation (EEC) No 918/83:

*Article 59a*

1. Equipment imported for non-commercial purposes by or on behalf of a scientific research establishment or organization based outside the Community shall be admitted free of import duties.
2. The relief shall be granted provided the equipment:
  - (a) is intended for use by or with the agreement of the members or representatives of the establishments and organizations referred to in paragraph 1 in the context and within the limits of scientific cooperation agreements the purpose of which is to carry out international scientific research programmes in scientific research establishments based in the Community and approved for that purpose by the competent authorities of the Member States;
  - (b) remains the property of a natural or legal person resident outside the Community during its stay in the customs territory of the Community.
3. Within the meaning of this Regulation:
  - equipment is taken to mean instruments, apparatus, machines and their accessories including spare parts and tools specially designed for their maintenance,

<sup>(1)</sup> OJ No L 376, 31. 12. 1982, p. 1.

<sup>(2)</sup> OJ No L 155, 14. 6. 1985, p. 54.

<sup>(3)</sup> OJ No L 105, 23. 4. 1983, p. 1.

<sup>(4)</sup> OJ No L 123, 17. 5. 1988, p. 2.

- inspection, calibration or repair, used for the purpose of scientific research,
- equipment intended for use for the purpose of scientific research carried out for non-profit making purposes is considered to be 'imported for non-commercial purposes'.

*Article 59b*

1. Equipment referred to in Article 59a which has been admitted duty-free in accordance with the conditions laid down in the said Article may not be lent, hired out or transferred, whether for a consideration or free of charge, without prior notification to the competent authorities.
2. Should equipment be lent, hired out or transferred to an establishment or organization entitled to benefit from relief pursuant to Article 59a, the relief shall continue to be granted provided the establishment or organization uses the equipment for purposes which confer the right to such relief.

In other cases, and without prejudice to the application of Articles 52 and 53, loan, hiring out or transfer shall be subject to prior payment of import duties, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of equipment and the customs value ascertained or accepted on that date by the competent authorities.

3. Establishments or organizations referred to in Article 59a (1) which no longer fulfil the conditions to

qualify for relief or which are proposing to use equipment admitted duty-free for purposes other than those provided for by that Article shall so inform the competent authorities.

4. Equipment used by establishments or organizations which cease to fulfil the conditions giving entitlement to relief shall be liable to the relevant import duties at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of article and the customs value ascertained or accepted on that date by the competent authorities.

Without prejudice to Articles 52 and 53, equipment used by the establishment or organization benefiting from the relief for purposes other than those provided for in Article 59a shall be liable to the relevant import duties calculated as applicable on the date on which it is put to another use, on the basis of the type of equipment and the customs value ascertained or accepted on that date by the competent authorities.'

*Article 2*

This Regulation shall enter into force on 1 January 1989.

It shall apply with effect from 1 July 1989.

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

Done at Brussels, 21 December 1988.

*For the Council*  
*The President*  
V. PAPANDEOU