

COUNCIL REGULATION (EEC) No 1855/89

of 14 June 1989

on the temporary importation of means of transport

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 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 temporary importation allowing the use without payment of import duties of certain means of transport which do not satisfy the conditions of Article 9 (2) of the Treaty, where such means of transport are intended for re-export, is provided for in the law of the majority of the Member States; whereas such arrangements are also the subject of several multilateral international conventions to which some or all Member States are contracting parties; whereas the requirements of the customs union make it desirable for a uniform arrangement for the temporary importation of means of transport to be established;

Whereas Regulation (EEC) No 3599/82 ⁽⁴⁾, as amended by Regulation (EEC) No 1620/85 ⁽⁵⁾, established arrangements for temporary importation which did not include means of transport;

Whereas the means of transport which do not meet the conditions laid down by this Regulation may nevertheless be covered by the said arrangements;

Whereas it is necessary to ensure the uniform implementation of this Regulation and therefore make provision for a Community procedure for the adoption of implementing rules; whereas close and effective cooperation in this field between the Member States and the Commission should be organized through the Committee for Customs Procedures with Economic Impact established by Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing arrangements ⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

TITLE I

General provisions

Article 1

1. The arrangements for the temporary importation of means of transport shall permit the importation, in accordance with the procedures and conditions laid down in this Regulation and free of all import duties, of means of transport which it is intended will stay temporarily in the customs territory of the Community and then be re-exported.

2. For the purposes of this Regulation:

- (a) 'person' shall mean:
- a natural person, or
 - a legal person, or
 - when the possibility is provided for in the rules in force, an association of persons recognized as having legal capacity but lacking the status in law of a legal person;
- (b) 'person established outside the customs territory of the Community' shall mean a natural person having his normal residence outside the customs territory of the Community or a legal person having his registered place of business outside that territory;
- (c) 'import duties' shall mean the duties defined in Article 1 (2) of Regulation (EEC) No 3599/82;
- (d) 'business use' shall mean the use of a means of transport in direct exercise of an activity carried out for consideration or financial gain;
- (e) 'private use' shall mean use for purposes other than business use as defined in (d);
- (f) 'means of transport' shall mean any means used for the transport of persons or goods. 'Means of transport' shall cover spare parts and normal accessories and equipment, including the equipment used to stow, secure or protect goods, imported with the means of transport;
- (g) 'customs authority' shall mean any authority competent to apply customs rules even if that authority is not part of the customs administration.

⁽¹⁾ OJ No C 4, 7. 1. 1984, p. 3.

⁽²⁾ OJ No C 104, 16. 4. 1984, p. 116.

⁽³⁾ OJ No C 248, 17. 9. 1984, p. 6.

⁽⁴⁾ OJ NO L 376, 31. 12. 1982, p. 1.

⁽⁵⁾ OJ No L 155, 14. 6. 1985, p. 54.

⁽⁶⁾ OJ No L 188, 20. 7. 1985, p. 1.

Article 2

The temporary importation of means of transport shall be authorized without formalities as soon as they enter the customs territory of the Community, subject to the conditions laid down in this Regulation.

In exceptional cases, however, a customs authority may make the grant of temporary importation subject to the completion of special formalities.

Article 3

The placing of means of transport under temporary importation arrangements shall not be subject to the provision of a security in order to ensure payment of any customs debt which may be incurred.

In exceptional cases, however, a customs authority may make such placing subject to the provision of a security.

TITLE II

Means of road transport

Article 4

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to road vehicles for business use.

2. For the purposes of this Article, 'vehicles' shall mean all road vehicles and all trailers which can be coupled to such vehicles.

3. Without prejudice to paragraph 4, admission under the temporary importation arrangements referred to in paragraph 1 shall be subject to the condition that the vehicles are:

- (a) imported by a person established outside the customs territory of the Community or on his behalf;
- (b) used for business purposes by such a person or on his behalf; and
- (c) registered outside the customs territory of the Community in the name of a person established outside that territory. However, if the vehicles are not registered, the above condition shall be deemed to be met where the vehicles in question belong to a person established outside the customs territory of the Community;
- (d) used exclusively for transport which begins or ends outside the customs territory of the Community, save for the cases to be determined in accordance with the procedure laid down in Article 21.

4. Where a trailer is coupled to a motor vehicle registered within the customs territory of the Community, it shall be

admitted under these arrangements even if the conditions set out in subparagraphs 3 (a) and (b) are not satisfied.

5. The vehicles referred to in paragraph 1 may remain in the customs territory of the Community subject to the conditions laid down in paragraph 3 during the time required for carrying out the operations for which temporary admission is being requested, e.g. dispatching, picking up and setting down of passengers, loading and unloading goods, transport and maintenance.

Article 5

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to road vehicles for private use.

2. For the purposes of this Article, 'vehicles' shall mean all road vehicles, including caravans and trailers, which can be coupled to motor vehicles.

3. Admission under the temporary importation arrangements referred to in paragraph 1 shall be subject to the condition that the vehicles are:

- (a) imported by persons established outside the customs territory of the Community;
- (b) used for private purposes by the persons concerned; and
- (c) registered outside the customs territory of the Community in the name of a person established outside that territory. However, if the vehicles are not registered, the above condition shall be deemed to be met where the vehicles in question belong to a person established outside the customs territory of the Community.

4. Notwithstanding subparagraph 3, the arrangements shall also extend to vehicles not meeting the conditions laid down in Articles 9 and 10 of the Treaty which are registered in the customs territory of the Community under a temporary series with a view to re-exportation and carry a registration number plate issued to a person established outside that territory.

5. The temporary importation arrangements shall also apply in the following cases:

- (a) where a private vehicle registered in the country of normal residence of the user is used regularly for the journey from his residence to his place of work and vice versa in the customs territory of the Community. There shall be no other limitation on the period;
- (b) where a student uses a private vehicle registered in the country of his normal residence in the customs territory of the Community in which the student is residing for the sole purpose of pursuing his studies.

6. Without prejudice to paragraph 5 (a), the vehicles referred to in paragraph 1 may remain in the customs territory of the Community for:

- (a) a period of six months — whether continuous or not — in any 12 months;
- (b) the period the student stays in the customs territory of the Community in the cases referred to in paragraph 5 (b).

7. Paragraphs 5 (b) and 6 (b) shall apply *mutatis mutandis* to persons fulfilling assignments of a specified duration.

Article 6

1. Article 5 shall apply *mutatis mutandis* to saddle or draught animals and the vehicles drawn by them entering the customs territory of the Community.

2. The animals and the vehicles drawn by them referred to in paragraph 1 may remain in the customs territory of the Community for a period of three months.

TITLE III

Means of rail transport

Article 7

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to means of rail transport.

2. For the purposes of this Article, 'means of rail transport' shall mean all prime movers, railcars and multiple sets, and rolling stock of any description used for the transport of persons and goods.

3. Admission under the temporary importation arrangements referred to in paragraph 1 shall be subject to the condition that the means of rail transport:

- (a) belong to a person established outside the customs territory of the Community;
- (b) are registered on a railway network outside the customs territory of the Community.

4. Means of rail transport may remain in the customs territory of the Community for 12 months.

TITLE IV

Means of air transport

Article 8

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to means of air transport.

2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for the time required for carrying out the operations for which temporary admission is being requested, e.g. dispatching, boarding and landing passengers, loading and unloading goods, transport and maintenance.

3. Where the means of transport referred to in paragraph 1 are used for private air transport, the conditions laid down in Article 5 (3) shall apply.

4. The means of transport referred to in paragraph 3 may remain in the customs territory of the Community for a period of six months, whether continuous or not, in any 12-month period.

TITLE V

Sea and inland waterway transport

Article 9

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to means of sea and inland waterway transport.

2. The means of transport referred to in paragraph 1 may remain in the customs territory of the Community for the time required for carrying out the operations for which temporary admission is being requested, e.g. dispatching, boarding and landing passengers, loading and unloading goods, transport and maintenance.

3. Where the means of transport referred to in paragraph 1 are used for private sea or inland waterway transport, the conditions laid down in Article 5 (3) shall apply.

4. The means of transport referred to in paragraph 3 may remain in the customs territory of the Community for a period of six months, whether continuous or not, in any 12-month period.

TITLE VI

Pallets

Article 10

1. The temporary importation arrangements shall apply, in accordance with Articles 2 and 3, to pallets.

2. For the purposes of this Article, a 'pallet' shall mean a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transport or

of handling or stacking by means of mechanical appliances. The device consists either of two decks connected to each other by cross-braces, or of a deck supported by feet or of a special deck designed for air transport; its overall height is reduced to the minimum compatible with its handling by means of rollers, forklift trucks or pallet trucks; it may or may not have a superstructure.

TITLE VII

Other provisions

Article 11

Spare parts, accessories and normal equipment, including equipment which is used for the stowage, securing or protection of goods, imported separately from the means of transport for which they are intended, shall be admitted under the temporary importation arrangements.

Article 12

The means of transport referred to in Titles II, III, IV and V shall not be lent, hired, pledged, transferred or put at the disposal of any person having his normal residence in the customs territory of the Community.

Article 13

In accordance with the procedure laid down in Article 21, it may be permissible in special cases for a person to import and/or to use a means of transport in the customs territory of the Community without complying with this Regulation.

Article 14

Where the circumstances so justify, the customs authority may, at the request of the interested party, prolong the time limits provided for in this Regulation.

Article 15

Persons eligible for the temporary importation arrangements shall be obliged to submit to all surveillance and control measures specified by the customs authority.

Article 16

The customs authority may withdraw its authorization where it is established that the person concerned has not observed one of the conditions set for such arrangements to be granted.

Article 17

1. The arrangements for temporary importation shall terminate when the means of transport placed under these arrangements is re-exported out of the customs territory of the Community or placed, with a view to its subsequent re-exportation:

— in a free zone,

or made subject to arrangements pertaining to:

— customs warehouses,

— Community transit (external procedure) or one of the international transport procedures referred to in Article 7 (1) of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit⁽¹⁾, as last amended by Regulation (EEC) No 1674/87⁽²⁾, provided that the use of such a procedure is permitted by Community legislation,

— inward processing,

or when the means is abandoned without charge to the profit of public funds with the approval of the customs authority.

However, as regards pallets or means of rail transport used jointly under an agreement, the arrangements shall also be considered terminated when pallets of equivalent value or means of rail transport of the same type as those which are eligible for the temporary importation arrangements are exported or placed in a free zone with a view to subsequent exportation or are placed under one of the arrangements set out under the first subparagraph.

2. The customs authority may, where circumstances so warrant, authorize the release for free circulation or the destruction under customs supervision of means of transport admitted under the temporary importation arrangements, either immediately or after it has been placed in a free zone or after it has been placed under one of the procedures referred to in the first subparagraph of paragraph 1.

3. Paragraphs 1 and 2 shall also apply, without prejudice to the provisions regarding infringement of customs legislation, in cases where the authorization has been withdrawn under Article 16.

4. Parts replaced as a result of repair or maintenance must be disposed of in accordance with one of the procedures specified in paragraphs 1 and 2.

5. Without prejudice to the provisions concerning the infringement of customs legislation and duty-free arrangements, in cases where the means of transport admitted under the temporary importation arrangements are released for free circulation or in other cases where a customs debt is incurred under Council Regulation (EEC) No 2144/87 of 13 July 1987 on customs debt⁽³⁾, import duties

⁽¹⁾ OJ No L 38, 9. 2. 1977, p. 1.

⁽²⁾ OJ No L 157, 17. 6. 198, p. 1.

⁽³⁾ OJ No L 201, 22. 7. 1987, p. 15.

shall be charged according to the taxation characteristics of the means of transport when it was temporarily imported whether the release for free circulation took place then or after the means of transport had been placed in a free zone or under one of the procedures specified in paragraph 1.

However, in the case of waste or debris resulting from the destruction of the parts referred to in paragraph 4, the point to be used for the calculation of the customs debt shall be that referred to in Article 3 (f) of Regulation (EEC) No 2144/87.

TITLE VIII

Final provisions

Article 18

1. This Regulation shall not affect the provisions in force with regard to transport, in particular the conditions governing access to the market and the execution of the said transport.

2. Without prejudice to paragraph 1, the means of transport covered by this Regulation shall be admitted under the temporary importation arrangements free of import prohibitions or restrictions, on condition that they are to be re-exported.

3. This Regulation shall not preclude prohibitions or restrictions on imports, exports or goods in transit 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.

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

Done at Luxembourg, 14 June 1989.

Article 19

Until such time as Community provisions are established in the field in question, this Regulation shall not prevent the Member States applying:

- (a) greater facilitation arrangements for which current agreements make provision;
- (b) special reliefs granted to armed forces stationed in the territory of a Member State in accordance with Article 136 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty ⁽¹⁾, as last amended by Regulation (EEC) No 4235/88 ⁽²⁾.

Article 20

The Committee for Customs Procedures with Economic Impact may examine any question concerning the application of this Regulation which is raised by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 21

The provisions necessary for the implementation of this Regulation shall be adopted in accordance with the procedure provided for in Article 31 (1) and (2) of Regulation (EEC) No 1999/85.

Article 22

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

It shall become applicable one year after entry into force of the implementing provisions adopted in accordance with the procedure laid down in Article 21.

For the Council

The President

P. SOLBES

⁽¹⁾ OJ No L 105, 23. 4. 1983, p. 1.

⁽²⁾ OJ No L 373, 31. 12. 1988, p. 1.