

COUNCIL REGULATION (EEC) No 3357/91

of 7 November 1991

**amending Regulation (EEC) No 918/83 setting up a Community system of reliefs
from customs 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 the administrative simplification provided for in Article 27 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⁾, must, if it is to be effective, be applied to all imports of consignments made up of goods of negligible value;

Whereas Article 27 of Regulation (EEC) No 918/83 should be amended accordingly;

Whereas the provisions of Articles 52 to 57, 63a and 63b, and 72 to 77 of Regulation (EEC) No 918/83 should be revised in the light of experience in order to remove conditions which are expensive and complicated to apply and thus to facilitate imports of the goods in question;

Whereas the condition of non-equivalence of Community products should therefore be abolished, since, where it is still really applied, it does not succeed in providing effective protection as it comes too late in the process of development of these products, and since its implementation is fraught with disputes amongst experts which can sensibly be settled only by more or less systematically giving way to the importer's interests and by recognizing his right to a relief owing to the special circumstances surrounding his import,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 918/83 is hereby amended as follows:

1. Article 27 shall be replaced by the following:

Article 27

Subject to Article 28, any consignments made up of goods of negligible value dispatched direct from a third country to a consignee in the Community shall be admitted free of import duties.

"Goods of negligible value" means goods the intrinsic value of which does not exceed a total of ECU 22 per consignment."

2. Articles 52, 53 and 54 shall be replaced by the following:

Article 52

1. Subject to Articles 53, 54, 56, 57 and 58, scientific instruments and apparatus which are not included in Article 51 shall be admitted free of import duties when they are imported exclusively for non-commercial purposes.

2. The relief referred to in paragraph 1 shall be limited to scientific instruments and apparatus which are intended for:

- either public establishments principally engaged in education or scientific research and those departments of public establishments which are principally engaged in education or scientific research,
- or private establishments principally engaged in education or scientific research and approved by the competent authorities of the Member States to receive such articles duty free.

Article 53

The relief shall also apply to:

- (a) spare parts, components or accessories specifically suitable for scientific instruments or apparatus, provided that such spare parts, components or accessories are imported at the same time as such instruments or apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus:
 - which have previously been admitted duty free, provided that such instruments or apparatus are still of a scientific nature at the time when relief is requested for the specific spare parts, components or accessories, or
 - which would be entitled to relief at the time when such relief is requested for the specific spare parts, components or accessories;

- (b) tools to be used for the maintenance, checking, calibration or repair of scientific instruments or apparatus, provided that these tools are imported at the same time as such instruments and apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus:

⁽¹⁾ OJ No L 105, 23. 4. 1983, p. 1.

⁽²⁾ OJ No L 373, 31. 12. 1988, p. 1.

- which have previously been admitted duty free, provided that such instruments or apparatus are still of a scientific nature at the time when relief is requested for the tools, or
- which would be entitled to relief at the time when such relief is requested for the tools.

Article 54

For the purposes of Articles 52 and 53 :

- "scientific instrument or apparatus" means any instrument or apparatus which, by reason of its objective technical characteristics and the results which it makes possible to obtain, is mainly or exclusively suited to scientific activities,
- "imported for non-commercial purposes" shall be considered to apply to scientific instruments or apparatus intended to be used for non-profit-making scientific research or educational purposes.

3. Article 55 shall be deleted.

4. Articles 56 and 57 shall be replaced by the following :

Article 56

If necessary, certain instruments or apparatus may, in accordance with the procedure laid down in Article 143 (2) and (3), be excluded from entitlement to relief, where it is found that duty-free admission of such instruments or apparatus is detrimental to the interests of Community industry in the production sector concerned.

Article 57

1. The articles referred to in Article 51 and the scientific instruments or apparatus which have been admitted duty-free in accordance with the conditions laid down in Articles 53, 54 and 56 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 an article be lent, hired out or transferred to an establishment or organization entitled to benefit from relief pursuant to Article 51 or 52 (2), the relief shall continue to be granted provided the establishment or organisation uses the article, instrument or apparatus for purposes which confer the right to such relief.

In other cases, 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 goods and the customs value ascertained or accepted on that date by the competent authorities.

5. Title XIVa shall be replaced by the following :

TITLE XIVa

INSTRUMENTS AND APPARATUS INTENDED FOR MEDICAL RESEARCH, ESTABLISHING MEDICAL DIAGNOSES OR CARRYING OUT MEDICAL TREATMENT

Article 63a

1. Instruments and apparatus intended for medical research, establishing medical diagnoses or carrying out medical treatment which are donated either by a charitable or philanthropic organization or by a private individual to health authorities, hospital departments or medical research institutions approved by the competent authorities of the Member States to receive such articles duty free, or which are purchased by such health authorities, hospitals or medical research institutions entirely with funds supplied by a charitable or philanthropic organization or with voluntary contributions, shall be admitted free of import duties, always provided that it is established that :

- (a) the donation of the instruments or apparatus in question does not conceal any commercial intent on the part of the donor ;
- and
- (b) the donor is in no way connected with the manufacturer of the instruments or apparatus for which relief is requested.

2. The relief shall also apply, subject to the same conditions, to :

- (a) spare parts, components or accessories specifically suitable for the above instruments or apparatus, provided that these spare parts, components or accessories are imported at the same time as such instruments and apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus previously admitted duty free ;
- (b) tools to be used for the maintenance, checking, calibration or repair of instruments or apparatus, provided that these tools are imported at the same time as such instruments and apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus previously admitted duty free.

Article 63b

For the purposes of Article 63a, and in particular with regard to the instruments or apparatus and the recipient bodies referred to therein, Articles 56, 57 and 58 shall apply *mutatis mutandis*.

6. Articles 72 and 73 shall be replaced by the following :

Article 72

1. Articles specially designed for the education, employment or social advancement of physically or mentally handicapped persons other than blind persons shall be admitted free of import duties where they are imported :

- either by handicapped persons themselves for their own use ;
- or by institutions or organizations that are principally engaged in the education of or the provision of assistance to handicapped persons and are authorized by the competent authorities of the Member States to receive such articles duty free.

2. The relief referred to in paragraph 1 shall apply to spare parts, components or accessories specifically for the articles in question, and to the tools to be used for the maintenance, checking, calibration or repair of the said articles provided that such spare parts, components, accessories or tools are imported at the same time as the said articles, or, where they are imported subsequently, that they can be identified as being intended for articles which were previously admitted duty free, or which would be entitled to relief at the time when such relief is requested for the specific spare parts, components or accessories and tools in question.

Article 73

If necessary, certain articles may, in accordance with the procedure laid down in Article 143 (2) and (3), be excluded from entitlement to relief, where it is found that duty-free admission of such articles is detrimental to the interests of Community industry in the production sector concerned.'

7. Article 74 shall be deleted.

8. Articles 75, 76 and 77 shall be replaced by the following :

Article 75

The direct grant of relief, for their own use, to blind persons or to other handicapped persons, as provided for in the first indent of Article 71 and the first indent of Article 72 (1), shall be subject to the condition that the provisions in force in the Member States enable the persons concerned to establish their status as blind or handicapped persons entitled to such relief.

Article 76

1. Articles imported duty-free by the persons referred to in Articles 71 and 72 may not be lent, hired

out or transferred, whether for a consideration or free of charge, without prior notification thereof to the competent authorities.

2. Should an article be lent, hired out or transferred to a person, institution or organization entitled to benefit from relief pursuant to Articles 71 and 72, the relief shall continue to be granted provided the person, institution or organization uses the article for purposes which confer the right of such relief.

In other cases, 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 goods or equipment and the customs value ascertained or accepted on that date by the competent authorities.

Article 77

1. Articles imported by institutions or organizations eligible for relief in accordance with the conditions laid down in Articles 71 and 72 may be lent, hired out or transferred, whether for a consideration or free of charge, by these institutions or organizations on a non-profit-making basis to the blind and other handicapped persons with whom they are concerned, without payment of the corresponding customs duties.

2. No loan, hiring out or transfer may be effected under conditions other than those provided for in paragraph 1 unless the competent authorities have first been informed.

Should an article be lent, hired out or transferred to a person, institution or organization entitled to benefit from relief pursuant to the first paragraph of Article 71 or Article 72 (1), the relief shall continue to be granted provided the person, institution or organization uses the article for purposes which confer the right of such relief.

In other cases, loan, hiring out or transfer shall be subject to prior payment of customs duties, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods or equipment and the customs value ascertained or accepted on that date by the competent authorities.'

Article 2

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

It shall apply from 1 January 1992.

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

Done at Brussels, 7 November 1991.

For the Council

The President

P. DANKERT
