

COMMISSION REGULATION (EEC) No 3689/92

of 21 December 1992

laying down detailed rules for the application of Council Regulation (EEC) No 719/91 on the use in the Community of TIR carnets and ATA carnets as transit documents and of Council Regulation (EEC) No 3599/82 on temporary importation arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 719/91 of 21 March 1991 on the use in the Community of TIR carnets and ATA carnets as transit documents⁽¹⁾, and in particular Article 12 thereof,

Having regard to Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements⁽²⁾, as amended by Regulation (EEC) No 1620/85⁽³⁾, and in particular Article 33 thereof,

Whereas it is necessary to lay down the conditions for the operation of the system for guaranteeing payment of duties and taxes envisaged in the Customs Convention on the ATA Carnet for the Temporary Admission of Goods, hereinafter referred to as the 'ATA Convention';

Whereas with the removal of the internal frontiers of the Community and the abolition of formalities attending the crossing of those frontiers specific procedures have been laid down to determine which Member State has jurisdiction, in the event of an offence or irregularity, for the recovery of duties and other charges; whereas those procedures are laid down in Article 10 of Regulation (EEC) No 719/91 and Article 13 of Commission Regulation (EEC) No 2365/91 of 31 July 1991 laying down the conditions for use of the ATA carnet for the temporary importation of goods into the customs territory of the Community or their temporary exportation from that territory⁽⁴⁾;

Whereas, however, the removal of internal frontiers leaves in existence the 12 guaranteeing associations in the Community, with each one still linked with the customs administration of the country in which it has its headquarters; whereas, consequently, the measures aimed at determining the place where an offence or irregularity occurred lead to the risk of multiple guarantee claims being made in respect of a consignment of goods covered by a single carnet; whereas it is necessary, accordingly, to make uniform arrangements for the provision of informa-

tion and the transfer of proceedings between Member States;

Whereas to that end it is expedient to make provision for the establishment in each Member State of a coordinating office for proceedings on claims relating to ATA carnets;

Whereas the uniform and coordinated operation of all the time limits laid down in the ATA Convention requires that action for recovery should be commenced no sooner than three months after the date of expiry of an ATA carnet;

Whereas the risk of multiple claims in respect of the same goods covered by the same carnet can be diminished by the coordinating office which makes the claim sending an information memo to the coordinating office of the Member State of temporary admission, or whenever such information is necessary; whereas it is necessary to provide a model of this information memo;

Whereas it is also necessary, for the purposes of harmonizing procedures, to make provision for the introduction of a single taxation form for collecting the amount of duties and taxes due;

Whereas a procedure for transferring proceedings between Member States must be instituted for cases where the offence or irregularity is eventually found to have been committed in a Member State other than the one in which the recovery proceedings were originally initiated; whereas it is necessary to lay down the detailed rules applying according to the point in time at which the proceedings are transferred;

Whereas the measures provided for in this Regulation are in accordance with the opinions of the Committee for Customs Procedures with Economic Impact and the Committee on Community Transit,

HAS ADOPTED THIS REGULATION:

Article 1

Designation of a coordinating office

1. The customs authorities shall designate a coordinating office in each Member State for any action concerning infringements or irregularities relating to ATA carnets pursuant to Article 10 of Regulation (EEC) No 719/91 and Article 13 of Regulation (EEC) No 2365/91.

⁽¹⁾ OJ No L 78, 26. 3. 1991, p. 6.

⁽²⁾ OJ No L 376, 31. 12. 1982, p. 1.

⁽³⁾ OJ No L 155, 14. 6. 1985, p. 54.

⁽⁴⁾ OJ No L 216, 3. 8. 1991, p. 24.

Those authorities shall inform the Commission of the designation of the coordinating offices together with their full address. A list of the offices shall be published in the *Official Journal of the European Communities*, 'C' series.

2. Where an infringement or irregularity may be held under Article 10 of Regulation (EEC) No 719/91 or Article 13 of Regulation (EEC) No 2365/91 to have been committed in more than one Member State, the Member State where the goods were found or, where the goods have not been found, the Member State whose coordinating office holds the most recent voucher shall be competent to recover duties and taxes.

Article 2

Time of claim

Where the competent authorities of a Member State find that goods covered by an ATA carnet have not been re-exported or regularly discharged within the period laid down in the ATA Convention ⁽¹⁾, a claim shall be sent to the guaranteeing association with which that Member State is linked at the earliest three months after the date of expiry of the carnet, whether it concerns non-discharge of a transit operation or of a temporary importation operation. If the competent authorities find another infringement or irregularity, the claim shall be sent as soon as possible to the guaranteeing association ⁽²⁾.

Article 3

Information memo

Where a claim is made in accordance with Article 2 the coordinating office making the claim shall at the same time, as far as possible, send to the coordinating office in the jurisdiction of which the office of temporary admission is situated, pursuant to the last part of Article 13 (1) of Regulation (EEC) No 2365/91, an information memo drawn up in accordance with the model shown in Annex I.

The information memo shall be accompanied by a copy of the undischarged voucher, if the coordinating office has it in its possession. The information memo may also be used whenever this is deemed necessary.

Article 4

Collection of duties and taxes — Taxation form

1. The amount of duties and taxes arising from the claim referred to in Article 2 shall be calculated by means of the model taxation form set out in Annex II,

completed in accordance with the instructions attached to it.

The taxation form may be sent later than the claim, though not more than three months from the claim and in any event not more than six months from the date on which the customs authorities initiate the recovery proceedings.

2. In accordance with Article 5 of this Regulation and as provided therein, the sending of this form to a guaranteeing association by the customs administration with which that association is connected shall not release the other guaranteeing associations in the Community from an obligation to pay duties and taxes if it is found that the offence or irregularity was committed in a Member State other than the one in which the proceedings were initiated.

3. The taxation form shall be completed in duplicate or triplicate, as necessary. The first copy shall be for the guaranteeing association connected with the customs authority of the Member State in which the claim is made. The second copy shall be retained by the issuing coordinating office. Where necessary the issuing coordinating office shall send the third copy to the coordinating office in whose jurisdiction the office of temporary admission is situated pursuant to the final part of Article 13 (1) of Regulation (EEC) No 2365/91, or whenever such action is deemed necessary.

Article 5

Transfer of proceedings between Member States

1. Where it is established that the offence or irregularity was committed in a Member State other than the one in which the proceedings were initiated, the coordinating office of the first Member State shall close the file as far as it is concerned.

2. For the purposes of closure it shall send to the coordinating office of the second Member State the contents of the file in its possession and if necessary shall refund to the guaranteeing association with which it is connected any sums which that association may have deposited or provisionally paid.

However, the file shall be closed only if the coordinating office of the first Member State receives a discharge from the coordinating office of the second Member State indicating that claim proceedings have been initiated in the latter Member State, in accordance with the rules of the ATA Convention. This discharge shall be drawn up in accordance with the model in Annex III.

⁽¹⁾ Customs Convention on the ATA Carnet for the Temporary Admission of Goods, Brussels, 6 December 1961, Article 6.

⁽²⁾ Suggested by DG XX.

3. The coordinating office of the Member State where the offence or irregularity was committed shall take over the recovery proceedings and where necessary collect from the guaranteeing association with which it is connected the amount of duties and taxes due at the rates in force in the Member State where this office is situated.

4. The proceedings must be transferred within a period of one year counting from the expiry of the carnet on condition that payment has not become definitive pursuant to Article 7 (2) or (3) of the ATA Convention. Should this time limit be exceeded the third and fourth paragraphs of Article 10 (3) of Regulation (EEC)

No 719/91 and the third and fourth paragraphs of Article 13 (2) of Regulation (EEC) No 2365/91 shall apply.

Article 6

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

It shall apply from 1 January 1993.

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

Done at Brussels, 21 December 1992.

For the Commission
Christiane SCRIVENER
Member of the Commission

*ANNEX I***MODEL OF THE INFORMATION MEMO REFERRED TO IN ARTICLE 3**

Letter heading of the coordinating office initiating the dispute

Addressee : coordinating office covering the office of temporary importation, or other coordinating office

SUBJECT: ATA CARNET — SUBMISSION OF CLAIM

Be informed that a claim for payment of duties and taxes under the ATA Convention ⁽¹⁾ was sent on⁽²⁾ to our guaranteeing association in respect of:

1. ATA carnet No :
2. Issued by the Chamber of Commerce of :
City :
Country :
3. On behalf of :
Holder :
Address :
4. Expiry date of the carnet :
5. Date set for re-exportation ⁽³⁾ :
6. Number of transit/import voucher ⁽⁴⁾ :
7. Date of endorsement of voucher :

Signature and stamp of the issuing coordinating office.

⁽¹⁾ Article 7 of the ATA Convention, Brussels, 6 December 1961.

⁽²⁾ Enter date of dispatch.

⁽³⁾ Details obtained from the undischarged transit or temporary importation voucher or, if no voucher is available, from the information available to the issuing coordinating office.

⁽⁴⁾ Delete whichever is not applicable.

ANNEX II

Taxation form No of

The following particulars must be given in the order shown :

- 1. ATA carnet No :
- 2. Number of transit/import voucher (!):
- 3. Date of endorsement of voucher :
- 4. Holder and address :
- 5. Chamber of commerce :
- 6. Country of origin :
- 7. Date of expiry of carnet :
- 8. Date set for the re-exportation of the goods :
- 9. Customs office of entry :
- 10. Customs office of temporary admission :
- 11. Trade description of goods :
- 12. CN code :
- 13. Number of pieces :
- 14. Weight or volume :
- 15. Value :
- 16. Breakdown of duties and taxes :

Type	Taxable amount	Rate	Amount	Exchange rate
				Total :

(Total in words :))

17. Customs office

Place and date :

Signature

Stamp

(!) Delete whichever is inapplicable.

Taxation Form A No _____ of _____

11. Trade description of goods:

12. CN code:

13. Number of pieces:

14. Weight or volume:

15. Value:

16. Breakdown of duties and taxes:

Type	Taxable amount	Rate	Amount	Exchange rate
Total :				

(Total in words:)

11. Trade description of goods:

12. CN code:

13. Number of pieces:

14. Weight or volume:

15. Value:

16. Breakdown of duties and taxes:

Type	Taxable amount	Rate	Amount	Exchange rate
Total :				

(Total in words:)

Summary

Type	Amount	Method of payment	Exchange rate
Total :			

(Total in words:)

PROVISIONS GOVERNING THE INFORMATION TO BE ENTERED ON THE TAXATION FORM

I. General

The taxation form shall bear the following letters, indicating the Member State issuing the form :

BE: Belgium
 DK: Denmark
 DE: Germany
 EL: Greece
 ES: Spain
 FR: France
 IE: Ireland
 IT: Italy
 LU: Luxembourg
 NL: Netherlands
 PT: Portugal
 UK: United Kingdom

The taxation form must include the following information under the appropriate headings. It must be completed legibly by the coordinating office referred to in Article 1 (1) of this Regulation.

Headings 1, 2, 3, 4, 5, 6, 7, 8, 11, 13 and 14: Enter the same information as appears on the transit voucher or the import voucher at the bottom of the voucher, at the bottom of the space reserved for customs and in boxes A, G (a), overleaf column 6, G (c), H (b), overleaf column 1, overleaf column 2, overleaf column 3 and overleaf column 4 respectively. If the coordinating office is not in possession of a voucher the information is entered according to the coordinating office's information. Where more than one kind of goods have to be entered on the form they are to be included on taxation form A, the headings on which are to be completed in accordance with these instructions.

Heading 9: State the name of the customs office which completed box H (a) to (e) of the transit voucher, or box H of the import voucher, as the case may be. Failing this, the customs office of entry is entered according to the coordinating office's knowledge of it.

Heading 10: State the name of the customs office which appears in box H (e) of the transit voucher or which completed box H of the import voucher, as the case may be. Failing this, the customs office of temporary admission is entered, according to the coordinating office's knowledge of it.

Heading 15: State the amount, in the currency laid down by the Member State in which the claim was made, of the value for customs purposes in accordance with Council Regulation (EEC) No 1224/80 (OJ No L 134, 31. 5. 1980, p. 1).

Heading 16: State on the taxation form the amounts of duty and other taxes claimed. The amounts are shown in such a way as to make clear customs duties and taxes (using the Community codes provided for the purpose), the surcharge referred to in Article 6 of the ATA Convention, expressed in both figures and words. The amounts have to be paid in the currency of the Member State issuing the form, the code for which is entered at the top of the second column:

BEF: Belgian francs
DEM: German marks
ESP: Spanish pesetas
IEP: Irish pounds
LUF: Luxembourg francs
PTE: Portuguese escudos
DKK: Danish kroner
GRD: Greek drachmas
FRF: French francs
IRL: Italian lire
NLG: Dutch guilders
GPB: Pounds sterling

Heading 17: State the name of the coordinating office and the date of completion of the form; place the stamp of the office and the signature of the authorized official in the appropriate places.

II. Remarks on form A

A. Form A is to be used only where several articles are being taxed. It must be submitted in conjunction with a principal form. Total duties etc. from the principal form and form A are entered under the heading 'Summary'.

B. The general remarks under I also apply to form A.
