

Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (codified version)

TITLE II

RELIEF FROM IMPORT DUTY

CHAPTER XI

Educational, scientific and cultural materials; scientific instruments and apparatus

Article 42

The educational, scientific and cultural materials listed in Annex I shall be admitted free of import duties whoever the consignee and whatever the intended use of such materials may be.

Article 43

The educational, scientific and cultural materials listed in Annex II shall be admitted free of import duties provided they are intended either:

- (a) for public educational, scientific or cultural establishments or organisations; or
- (b) for the establishments or organisations in the categories specified opposite each article in column 3 of Annex II, on condition that they have been approved by the competent authorities of the Member States to receive such articles duty-free.

Article 44

1 Subject to Articles 45 to 49, scientific instruments and apparatus which are not included in Article 43 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:

- a 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
- b private establishments principally engaged in education or scientific research and authorised by the competent authorities of the Member States to receive such articles duty free.

Article 45

The relief referred to in Article 44(1) 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:

- (i) 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
 - (ii) 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:
- (i) 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
 - (ii) which would be entitled to relief at the time when such relief is requested for the tools.

Article 46

For the purposes of Articles 44 and 45:

- (a) ‘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;
- (b) ‘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.

Article 47

If necessary, certain instruments or apparatus may, in accordance with the procedure referred to in Article 247a of Regulation (EEC) No 2913/92, 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 48

1 The articles referred to in Article 43 and the scientific instruments or apparatus which have been admitted duty-free in accordance with the conditions laid down in Articles 45, 46 and 47 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 organisation entitled to benefit from relief pursuant to Article 43 or 44(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.

Article 49

1 Establishments or organisations referred to in Articles 43 and 44 which cease to fulfil the conditions giving entitlement to relief, or which are proposing to use articles admitted duty-free for purposes other than those provided for by those Articles shall so inform the competent authorities.

2 Articles remaining in the possession of establishments or organisations 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.

Articles used by the establishment or organisation benefiting from the relief for purposes other than those provided for in Articles 43 and 44 shall be liable to the relevant import duties calculated as applicable on the date on which they are put to another use, on the basis of the type of articles and the customs value ascertained or accepted on that date by the competent authorities.

Article 50

Articles 47, 48 and 49 shall apply *mutatis mutandis* to the products referred to in Article 45.

Article 51

1 Equipment imported for non-commercial purposes by or on behalf of a scientific research establishment or organisation 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 organisations 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 For the purposes of this Article and Article 52:

- a 'equipment' means instruments, apparatus, machines and their accessories including spare parts and tools specially designed for their maintenance, inspection, calibration or repair, used for the purpose of scientific research;
- b 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 52

1 Equipment which has been admitted duty-free in accordance with the conditions laid down in Article 51 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 organisation entitled to benefit from relief pursuant to Article 51, the relief shall continue to be granted

provided the establishment or organisation uses the equipment for purposes which confer the right to such relief.

In other cases, and without prejudice to the application of Articles 44 and 45, 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 organisations referred to in Article 51(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 organisations 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 44 and 45, equipment used by the establishment or organisation benefiting from the relief for purposes other than those provided for in Article 51 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.