Commission Implementing Regulation (EU) No 1225/2011 of 28 November 2011 for the purposes of Articles 42 to 52, 57 and 58 of Council Regulation (EC) No 1186/2009 setting up a Community system of reliefs from customs duty (codification)

COMMISSION IMPLEMENTING REGULATION (EU) No 1225/2011

of 28 November 2011

for the purposes of Articles 42 to 52, 57 and 58 of Council Regulation (EC) No 1186/2009 setting up a Community system of reliefs from customs duty

(codification)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty[(1)],

Whereas:

(1) Commission Regulation (EEC) No 2290/83 of 29 July 1983 laying down provisions for the implementation of Articles 50 to 59b, 63a and 63b of Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty[(2)] has been substantially amended several times[(3)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE

Article 1

This Regulation lays down provisions for the implementation of Articles 42 to 52, 57 and 58 of Regulation (EC) No 1186/2009.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1225/2011. (See end of Document for details)*

CHAPTER II

GENERAL PROVISIONS

SECTION 1

Obligations on the part of the establishment or organisation to which the goods are consigned

Article 2

1 The admission free of import duties of educational, scientific and cultural materials referred to in Article 43, 44(1) and 45 of Regulation (EC) No 1186/2009, hereinafter referred to as 'goods', shall entail the following obligations on the part of the establishment or organisation to which the goods are consigned:

a to dispatch the goods in question directly to the declared place of destination;

b to account for them in its inventory;

c to facilitate any verification which the competent authorities consider necessary in order to ensure that the conditions for granting admission free of import duties are satisfied, or remain satisfied.

In addition, in the case of goods referred to in Articles 44(1) and 45 of Regulation (EC) No 1186/2009, it shall entail the obligation on the part of the establishment or organisation to which the goods are consigned to use those goods exclusively for non-commercial purposes within the meaning of point (b) of Article 46 of that Regulation.

2 Heads of establishments or organisations to which the goods are consigned, or their authorised representatives, shall furnish the competent authorities with a statement declaring that they are aware of the various obligations listed in paragraph 1 and including an undertaking to comply with them.

The competent authorities may require that the statement referred to in the first subparagraph be produced for each import, or for several imports, or for all the imports to be carried out by the establishment or organisation to which the goods are consigned.

SECTION 2

Provisions to be applied where the goods are lent, hired out or transferred

Article 3

1 Where the first subparagraph of Article 48(2) of Regulation (EC) No 1186/2009 is applied, the establishment or organisation to which goods are lent, hired out or transferred shall, from the date of receipt of the goods, comply with the same obligations as those set out in Article 2 of this Regulation.

2 Where the establishment or organisation to which the goods are lent, hired out or transferred is situated in a Member State other than that in which the establishment that lent, hired out or transferred the goods is situated, upon the dispatch of such goods the competent customs office of the Member State of dispatch shall issue a T 5 control copy in accordance with the rules laid down in Articles 912*a* to 912*g* of Commission Regulation (EEC) No 2454/93[(4)] in order to ensure that such goods are put to a use entitling them to continue to qualify for admission free of import duties.

For this purpose, the T 5 control copy shall include, in box 104 under the heading 'other', one of the entries listed in Annex I.

3 Paragraphs 1 and 2 shall apply *mutatis mutandis* to the loan, hire or transfer of spare parts, components or specific accessories for scientific instruments or apparatus, and to tools for the maintenance, control, calibration or repair of scientific instruments or apparatus, which have been admitted free of import duties under Article 45 of Regulation (EC) No 1186/2009.

CHAPTER III

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF EDUCATIONAL, SCIENTIFIC OR CULTURAL MATERIALS IN ACCORDANCE WITH ARTICLE 43 OF REGULATION (EC) No 1186/2009

Article 4

In order to obtain admission free of import duties of goods in accordance with Article 43 of Regulation (EC) No 1186/2009, the heads of the establishments or organisations to which the goods are consigned, or their authorised representatives, shall submit an application to the competent authority of the Member State in which the establishment or organisation is situated.

Such application shall be accompanied by all information which the competent authority considers necessary for the purpose of determining whether the conditions laid down for granting admission free of import duties are fulfilled.

CHAPTER IV

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF SCIENTIFIC INSTRUMENTS AND APPARATUS UNDER ARTICLES 44 AND 46 OF REGULATION (EC) No 1186/2009

Article 5

For the purposes of point (a) of Article 46 of Regulation (EC) No 1186/2009, the objective technical characteristics of a scientific instrument or apparatus shall be understood to mean those characteristics resulting from the construction of that instrument or apparatus or from adjustments to a standard instrument or apparatus which make it possible to obtain high-level performances above those normally required for industrial or commercial use.

Where it is not possible to establish clearly on the basis of its objective technical characteristics whether an instrument or apparatus is to be regarded as a scientific instrument or apparatus, reference shall be made to the use of the instrument or apparatus for which admission free of import duties is requested. If this examination shows that the instrument or apparatus in question is used for scientific purposes, it shall be deemed to be of a scientific nature.

Article 6

1 In order to obtain admission free of import duties of a scientific instrument or apparatus under Article 44(1) of Regulation (EC) No 1186/2009, the heads of the establishments or organisations to which the goods are consigned, or their authorised representatives, shall submit

an application to the competent authority of the Member State in which the establishment or organisation is situated.

2 The application referred to in paragraph 1 shall contain the following information relating to the instrument or apparatus in question:

a the precise trade description of the instrument or apparatus used by the manufacturer, its presumed Combined Nomenclature classification and the objective technical characteristics on the basis of which the instrument or apparatus is considered to be scientific;

b the name or business name and address of the manufacturer and, if available, of the supplier;

c the country of origin of the instrument or apparatus;

d the place where the instrument or apparatus is to be used;

e the precise use for which the instrument or apparatus is intended;

f the price of the instrument or apparatus or its value for customs purposes;

g the quantity of the instrument or apparatus in question.

Documentary evidence providing all relevant information on the characteristics and technical specifications of the instrument or apparatus shall be furnished with the application.

Article 7

The competent authority of the Member State in which is situated the establishment or organisation to which the goods are consigned shall take a direct decision on applications under Article 6 in all cases.

Article 8

Authorisations for admission free of import duties shall be valid for a period of six months.

The competent authorities may, however, set a longer period in the light of the particular circumstances of each case.

CHAPTER V

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF SPARE PARTS, COMPONENTS, SPECIFIC ACCESSORIES AND TOOLS UNDER ARTICLE 45 OF REGULATION (EC) No 1186/2009

Article 9

For the purpose of Article 45(a) of Regulation (EC) No 1186/2009 specific accessories means those articles specially designed for use with a specific scientific instrument or apparatus for the purpose of improving its performance and scope.

Article 10

In order to obtain admission free of import duties under Article 45 of Regulation (EC) No 1186/2009, either of spare parts, components or specific accessories, or of tools, the heads of the establishments or organisations to which the goods are consigned, or their authorised representatives, shall submit an application to the competent authority of the Member State in which the establishment or organisation is situated.

This application shall be accompanied by all data deemed necessary by the competent authority for the purpose of determining whether the conditions laid down in Article 45 of Regulation (EC) No 1186/2009 are fulfilled.

Article 11

The competent authority of the Member State in which is situated the establishment or organisation to which the goods are consigned shall take a direct decision in respect of the application referred to in Article 10.

Article 12

Article 8 shall apply *mutatis mutandis* to authorisations for admission free of import duties issued under Article 45 of Regulation (EC) No 1186/2009.

CHAPTER VI

SPECIFIC PROVISIONS RELATING TO THE ADMISSION FREE OF IMPORT DUTIES OF MEDICAL INSTRUMENTS OR APPARATUS UNDER ARTICLES 57 AND 58 OF REGULATION (EC) No 1186/2009

Article 13

1 In order to obtain admission free of import duties of instruments or apparatus under Articles 57 and 58 of Regulation (EC) No 1186/2009, the heads of the establishments or organisations to which the goods are consigned, or their authorised representatives shall submit an application to the competent authority of the Member State in which the establishment or organisation is situated.

2 The application referred to in paragraph 1 shall contain the following information relating to the instrument or apparatus in question:

a the precise trade description of the instrument or apparatus used by the manufacturer, and its presumed classification in the Combined Nomenclature;

b the name or business name and address of the manufacturer and, if available, of the supplier;

c the country of origin of the instrument or apparatus;

d the place where the instrument or apparatus is to be used;

e the use to which the instrument or apparatus is to be put.

3 In the case of a gift, the application shall also include:

a the name or business name and address of the donor;

b a declaration by the applicant to the effect that:

(i) the donation of the instrument or apparatus in question does not conceal any commercial intent on the part of the donor;

(ii) the donor is in no way associated with the manufacturer of the instruments or apparatus whose admission free of import duties is requested.

Article 14

The competent authority of the Member State in which is situated the establishment or organisation to which the goods are consigned shall take a direct decision on applications in all cases.