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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 150/2003
of 21 January 2003
suspending import duties on certain weapons and military equipment

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular Article 26 thereof,

Having regard to the proposal from the Commission [1],

Whereas:

(1) The Community is based upon a customs union, which requires the consistent application of the Common Customs Tariff on imports of products from third countries by all Member States unless specific Community measures provide otherwise.

(2) It is in the interests of the Community as a whole that Member States are able to procure for their military forces the most technologically advanced and suitable weapons and military equipment. In view of the rapid technological developments in this industrial sector worldwide it is normal practice of the Member States authorities in charge of national defence to procure weapons and military materials from producers or other suppliers located in third countries. Given the security interest of the Member States it is compatible with the interests of the Community that certain of these weapons and equipment may be imported free of import duties.

(3) In order to ensure consistent application of such duty suspension it is appropriate to establish a common list of weapons and military equipment eligible for the duty suspension. It is also appropriate in view of the specific nature of the products concerned that parts, components or subassemblies for incorporation in or fitting to goods included in the list or for the repair, refurbishment or maintenance of such goods as well as goods for use in training or testing of goods included in this list could be imported free of customs duties. Imports of military equipment, which are not covered by this Regulation, are subject to the appropriate duties in the Common Customs Tariff.

(4) Given the different organisational structures of the competent authorities in the Member States it is necessary solely for customs-related purposes to define end uses for the imported materials in accordance with the provisions of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [2] and its implementing regulations (herein after called the 'Customs Code'). In order to limit the administrative burden for the authorities concerned it is appropriate to set a time limit for the end use customs supervisions.

(5) In order to take account of the protection of the military confidentiality of the Member States it is necessary to lay down specific administrative procedures for the granting of the benefit of the suspension of duties. A declaration by the competent authority of the Member State for whose forces the weapons or military equipment are destined, which could also be used as customs declaration as required by the Customs Code, would constitute an appropriate guarantee that these conditions are fulfilled. The declaration should be given in the form of a certificate. It is appropriate to specify the form, which such certificates must take and to allow also the use of means of data processing techniques for the declaration.

(6) It is necessary to lay down rules for the Member States in order to provide information on the quantity, the value and the number of certificates issued and the procedures for the implementation of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the conditions for the autonomous suspension of import duties on certain weapons and military equipment imported by or on behalf of the authorities in charge of the military defence of the Member States from third countries.

[1] OJ C 265, 12.10.1988, p. 9.

[2] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and the Council (OJ L 311, 12.12.2000, p. 17).

Article 2

1. The duties of the Common Customs Tariff applicable to imports of the goods listed in Annex 1 shall be totally suspended when they are used by, or on behalf of the military forces of a Member State, individually or in cooperation with other States, for defending the territorial integrity of the Member State or in participating in international peace keeping or support operations or for other military purposes like the protection of nationals of the European Union from social or military unrest.

2. Such duties shall also be totally suspended for:

(a) parts, components or subassemblies imported for incorporation in or fitting to goods included in the list in Annex I and II or parts, components or subassemblies thereof, or for the repair, refurbishment or maintenance of such goods;

(b) goods imported for training or testing of goods included in the list at Annex I and II.

3. The imported goods as defined in Annex I and in paragraph 2 of this Article shall be subject to end use conditions laid down in Articles 21 and 82 of Regulation (EEC) No 2913/92 and its implementing legislation. Customs supervision of the end use shall end three years after the date of release for free circulation.

4. The use of the goods listed in Annex I for training purposes or the temporary use of these goods in the customs territory of the Community by the military forces or other forces for civil purposes due to unforeseen or natural disasters shall not constitute a violation of the end use determined in paragraph 1.

Article 3

1. The request for entry for free circulation of goods for which the benefit of a duty suspension under the provisions of Article 2 is claimed shall be accompanied by a certificate issued by the competent authority of the Member State for whose military forces the goods are destined. The certificate as set out in Annex III shall be submitted to the customs authorities of the importing Member State together with the goods to which it refers. It may replace the customs declaration required by Articles 59 to 76 of Regulation (EEC) No 2913/92.

2. Notwithstanding paragraph 1, for reasons of military confidentiality, the certificate and the imported goods may be submitted to other authorities designated by the importing Member State for this purpose. In such cases the competent authority issuing the certificate shall send before 31 January and 31 July of each year a summary report to the customs authorities of its Member State on such imports. The report shall cover a period of 6 months immediately preceding the month on which the report has to be submitted. It shall contain the number and issuing date of the certificates, the date of importation and the total value and gross weight of the products imported with the certificates.

3. For the issuing and the presentation of the certificate to the customs authorities or to other authorities in charge of customs clearance data processing technique may be used in accordance with Article 292(3) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 [1].

4. This Article applies *mutatis mutandis* to imported goods listed in Annex II.

Article 4

Except in cases of Article 2(4) any diversion of goods listed in Annex 1 and Article 2(2) from the use specified in Article 2(1) within the period of customs supervision shall be notified by the competent authority issuing the certificate or using the goods to the customs authorities of its Member State in accordance with Article 21 and 87 of Regulation (EEC) No 2913/92.

Article 5

1. Each Member State shall communicate to the Commission the names of the authorities, which are competent to issue the certificate referred to in Article 3(1) together with a specimen of the stamp used by the said authorities. Each Member State shall also forward to the Commission the name of the authority, which can release the imported goods in cases referred to in Article 3(2). The Commission shall forward this information to the customs authorities of the other Member States.

2. Where the goods are entered for free circulation in a Member State other than that in which the certificate was issued, a copy of the certificate shall be forwarded by the customs authorities of the importing Member State to the customs administration of the Member State whose competent authority issued the certificate.

Where goods have been released by other authorities in accordance with Article 3(2) in a Member State other than that in which the certificate was issued, a copy of the certificate shall be forwarded directly by these authorities to the authority issuing the certificate.

3. The authority of each Member State authorised to issue the certificate referred to in Article 3(1) shall keep a copy of the certificates issued and the documentary evidence necessary to demonstrate the correct application of the suspension for a period of three years following the date of expiry of the customs supervision of the goods.

[1] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

Article 6

The Commission shall inform Member States of any request lodged by a Member State in view of presenting a proposal to amend the lists in Annexes I and II.

Article 7

1. Each Member State shall inform the Commission about the administrative implementation of this Regulation within six months after its entry into force.

2. They shall also transmit to the Commission no later than three months after the end of each calendar year information on the total number of certificates issued together with the total value and gross weight of goods imported under the provisions of this Regulation.

Article 8

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

It shall apply as from 1 January 2003.

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

Done at Brussels, 21 January 2003.

For the Council

The President

N. CHRISTODOULAKIS