COUNCIL DIRECTIVE

of 9 October 1990

amending the Directive 79/695/EEC on the harmonization of procedures for the release of goods for free circulation

(90/504/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, with regard to the procedures for the release of goods for free circulation, Title II of Directive 79/695/EEC (4), as last amended by Regulation (EEC) No 4046/89 (5), provides for special procedures, containing, in particular, in subtitles A, B and C, provisions concerning exemption from written entries, the drawing up of general, periodic or recapitulative entries and release of goods before lodging of entry;

Whereas the said provisions indicate in what manner and under what conditions the competent authorities may authorize use of simplified procedures for the release of goods for free circulation;

Whereas the conditions under which importers are entitled to use such a procedure should be defined as precisely as possible; whereas a distinction must be drawn between two types of procedure, namely the local clearance procedure and the simplified declaration procedure;

Whereas specific Community provisions apply where goods previously placed under a customs procedure with economic impact are released for free circulation;

Whereas the simplified procedures for the release of goods for free circulation are of considerable economic importance to the customs union and the internal market; whereas, in a single market, importers must be able to enjoy the same facilities irrespective of where goods are released for free circulation;

Whereas Directive 79/695/EEC should be amended accordingly;

(1) OJ No C 235, 13. 9. 1989, p. 16.
(2) OJ No C 38, 19. 2. 1990, p. 49 and OJ No C 260, 15. 10. 1990.
(3) OJ No C 62, 12. 3. 1990, p. 5.
(4) OJ No L 205, 13. 8. 1979, p. 19.
(5) OJ No L 388, 30. 12. 1989, p. 24.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 79/695/EEC is hereby amended as follows:

1. Articles 16 to 20 are replaced by the following:

'*Article 16*

Except where Articles 16a to 22 provide otherwise, Title I shall apply to the special procedures laid down in those Articles.

Article 16a

Without prejudice to the special provisions laid down in respect of consignments sent by parcel or letter post, and with the exception of cases where an import licence, permit or certificate has to be presented, a written declaration shall, in the cases and under the conditions to be established pursuant to the procedure laid down in Article 26 (2) and (3), be unnecessary for goods imported for non-commercial purposes or goods of low value.

Article 17

1. The local clearance procedure shall enable goods to be released for free circulation at the premises of the person concerned or at other places designated or approved by the competent authorities.

The simplified declaration procedure shall enable goods to be released for free circulation on presentation of a simplified declaration with later presentation of a supplementary declaration which may be of a general, periodic or recapitulative nature, as appropriate.

2. The procedures referred to in paragraph 1 shall be applied in accordance with Articles 18 to 20a and do not preclude the exercise by the customs services of any controls they deem necessary to ensure the proper conduct of operations,

LOCAL CLEARANCE PROCEDURE

Article 18

Authorization to use the local clearance procedure shall be granted in accordance with the conditions and in the manner laid down in Articles 18a, 18b and 18c

to any person who wishes to have goods released for free circulation at his premises or at other places designated or approved by the competent authorities, who submits a written request to this end containing all the particulars necesary for the grant of the authorization

— in respect of goods subject to the Community transit procedure and in respect of which the person referred to above is authorized to use the simplified procedures to be carried out at the office of destination in accordance with Articles 71 to 77 of Commission Regulation (EEC) No 1062/87 (1), as last amended by Regulation (EEC) No 1159/89 (2);

— in respect of goods previously placed under a customs procedure with economic impact, without prejudice to the relevant specific provisions applicable;

— in respect of goods which are consigned, after having been presented to customs pursuant to Article 5 of Regulation (EEC) No 4151/88 (3), to those premises or places, in accordance with a transit procedure other than that referred to in the first indent;

— in respect of goods which are bought into the customs territory of the Community with an exemption from the requirement that they be presented to customs, pursuant to Article 6 (b) of Regulation (EEC) No 4151/88.

(1) OJ No L 107, 22. 4. 1987, p. 1.
(2) OJ No L 119, 29. 4. 1989, p. 1.
(3) OJ No L 367, 31. 12. 1988, p. 1.

Article 18a

1. The authorization referred to in Article 18 shall be granted provided that:

— the applicant's records enable the customs authorities to carry out an effective check, in particular checks at a later date,

— it is possible to guarantee an effective check on import prohibitions or restrictions or compliance with any other provisions governing release for free circulation.

2. Authorization shall in principle be refused where the applicant

— has committed a serious infringement or repeated infringements of customs rules,

— declares goods for release for free circulation only occasionally.

3. An authorization shall be revoked, when,

(a) a condition laid down for its issue has not been, or is no longer, fulfilled; or

(b) its holder fails to fulfil an obligation imposed under the arrangements.

However, the customs authority may refrain from revoking the authorization when:

— the holder fulfils his obligations within any time limit set by the customs authority, or

— the failure to fulfil an obligation is without any real consequence as regards the correct operation of the arrangements.

4. An authorization shall, in principle, also be revoked where the case referred to in the first indent of paragraph 2 arises.

5. An authorization may be revoked where the case referred to in the second indent of paragraph 2 arises.

6. The customs authorities shall set out the grounds for decisions refusing or revoking authorization.

Article 18b

1. To enable the competent authorities to satisfy themselves as to the proper conduct of operations, the authorized person referred to in Article 18 shall, upon arrival of the goods at the place designated for that purpose:

(a) duly notify the competent authorities of such arrival in the form and manner specified by them for the purpose of obtaining release of the goods;

(b) enter the said goods in his records. Such entry may be replaced by any other formality laid down by the competent authorities and offering similar guarantees. The entry shall indicate the date on which it is made and the particulars necessary for identification of the goods; such entry or the act in place of it has the same force in law as the acceptance of the declaration referred to in Article 3;

(c) make available to the competent authorities all documents, the production of which may be required for the application of the Community provisions governing the release of goods for free circulation.

2. On condition that checking on the proper conduct of operations is not thereby affected, the competent authorities may:

(a) permit the notification referred to in paragraph 1 (a) to be effected as soon as the arrival of the goods becomes imminent;