# COUNCIL DIRECTIVE

## of 25 June 1979

## on the harmonization of provisions laid down by law, regulation or administrative action relating to customs debt

(79/623/ECC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof,

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

Having regard to the opinion of the European Parliament (2),

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

Whereas the Community is based upon a customs union;

Whereas, without prejudice to the transitional measures provided for in Chapter I of Title I of Part Four of the Act of Accession, the establishment of this customs union is governed mainly by Chapter I of Title I of Part Two of the Treaty; whereas that chapter contains a series of specific provisions dealing, in particular, with the abolition of customs duties between Member States, the establishment and progressive introduction of a common customs tariff and the autonomous alteration or suspension of the duties thereunder;

Whereas, while Article 27 of the Treaty provides that before the end of the first stage Member States shall, in so far as may be necessary, take steps to approximate their provisions laid down by law, regulation or administrative action in respect of customs matters, it does not empower the institutions of the Community to adopt binding provisions in that field; whereas, however, the thorough survey undertaken jointly with Member States has shown the need in certain fields to establish, by binding Community Acts, measures essential for the introduction of customs rules which will ensure uniform application of the duties on the import and export of goods which are the subject of trade between the Community and third countries;

Whereas the amount of the duties to which imports and exports are subject under the provisions in force must be paid by a natural or legal person, on whom there is an obligation to pay the said amount, which is hereinafter referred to as 'customs debt';

Whereas the moment when the customs debt is incurred is that which should be taken into consideration in many cases to determine certain criteria on which the taxation of the goods depends, in particular their description, quantity and value; whereas it is therefore necessary to establish common rules for determining the moment when the customs debt is incurred, in order to ensure uniform application of the Community provisions in force on imports and exports;

Whereas the moment when the customs debt is incurred must be defined in the light of the essentially economic nature of the duties on imports and exports;

Whereas the moment when the customs debt is incurred on imports should be defined in terms of the conditions under which the goods liable to import duties are integrated into the economy of the Community; whereas, to this end, reference should be made in particular, according to the circumstances, either to the provisions governing the entry into free circulation in the customs territory of the Community of goods from third countries, or to the obligations resulting from Council Directive 68/312/EEC of 30 July 1968 on harmonization of the provisions laid down by law, regulation or administrative action relating to customs treatment of goods entering the customs territory of the Community, and temporary storage of such goods (4) or to the obligations relating to the customs supervision or the utilization of the goods applicable by virtue of recourse being had to the customs regime under which the said goods are placed;

Whereas the moment when the customs debt is incurred on exports should be defined in terms of the conditions under which the goods liable to export duties leave the geographical territory of the Community; whereas it is

(1) OJ No C 128, 10. 6. 1976, p. 48.
(2) OJ No C 238, 11. 10. 1976, p. 42.
(3) OJ No C 299, 18. 12. 1976, p. 14.
(4) OJ No L 194, 6. 8. 1968, p. 13.

therefore necessary to draw a distinction depending on whether the goods in question are or are not the subject of a customs entry with a view to their exportation and, where appropriate, on whether they are or are not actually used for the purpose shown in that entry;

Whereas it is necessary to fix the moment to be taken into consideration for the determination of the amount of the customs debt and that at which payment thereof may be demanded by the competent authorities and to specify in what circumstances the customs debt may be deemed not to have arisen or to be extinguished; whereas except where the amount of the customs debt is paid or subject to the operation of a time bar in accordance with the provisions in force, the reasons for this extinction must be based on the recorded fact that the goods have not been used for the economic purpose which justified the application of import or export duties;

Whereas inasmuch as goods complying with the conditions of Articles 9 and 10 (1) of the Treaty are liable to customs or agricultural charges when traded between Member States, the provisions of this Directive should be observed in respect of the customs debt arising from the existence of such a charge,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive determines the rules which must be incorporated in the Member States' provisions laid down by law, regulation or administrative action, in respect of:

— the incurrence of a customs debt,

— the moment to be taken into consideration for the determination of the amount of a customs debt and its liability for payment,

— the extinction of a customs debt.

2. For the purposes of this Directive, the following definitions shall apply:

(a) 'customs debt' means the obligation on a natural or legal person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation) which apply under the provisions in force to goods liable to such duties;

(b) 'import duties' means customs duties and charges having equivalent effect, and agricultural levies and other import charges laid down under the common agricultural policy or under the specific regimes applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products;

(c) 'export duties' means agricultural levies and other export charges laid down under the common agricultural policy or under the specific regimes applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products;

(d) 'entry in the accounts' means the administrative act by which the amount of the import or export duties to be levied by the competent authorities is duly determined.

## TITLE I

## INCURRENCE OF THE CUSTOMS DEBT

### A. Customs debt on importation

*Article 2*

A customs debt on importation shall be incurred by:

(a) the placing of goods liable to import duties in free circulation in the customs territory of the Community;

(b) the introduction into the customs territory of the Community of goods liable to import duties in violation of the provisions adopted in implementation of Article 2 of Directive 68/312/EEC.

Any goods coming from a free zone — within the meaning of Article 1 (2) of Council Directive 69/75/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to free zones [1] — situated in the customs territory of the Community, shall be treated in the same way as goods introduced into the customs territory of the Community;

(c) the removal of goods liable to import duties from the customs supervision involved in the temporary storage of the goods or their being placed under a customs regime which involves such supervision;

(d) the non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs regime under which they are placed, or non-compliance with a condition to which the grant of the regime is subject, unless the competent authorities are satisfied that these failures have no

(1) OJ No L 58, 8. 3. 1969, p. 11.