II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DIRECTIVE

of 4 May 1976

relating to the triangular system of the outward processing procedure

(76/447/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 76/119/EEC of 18 December 1975 on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing [1], and in particular Article 14 thereof,

Whereas Article 7 thereof provides for the possibility of re-importing compensating products which result from a processing operation, into a Member State other than that from which the goods were temporarily exported;

Whereas the competent authorities of the Member State of re-importation must be able to have at their disposal all the elements necessary to identify the exported goods in the compensating products; whereas they must also have all the information necessary to determine the basis of taxation relating to the goods temporarily exported, for the purpose of granting total or partial relief from the import duties applicable to the compensating products; whereas in the absence of such elements and information the rules relating to the triangular system of the outward processing procedure will not be uniformly applied;

Whereas to meet these needs it is necessary to set up a reciprocal information procedure between the competent authorities of the different Member States; whereas a single Community form should therefore be introduced to provide all necessary information, in particular that relating to the tariff classification, the value and the quantity of the goods;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee on Customs Processing Arrangements,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is the adoption of certain measures of application relating to Articles 4 (2) and 7 of Council Directive 76/119/EEC of 18 December 1975 on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing, hereinafter called 'the basic Directive'.

Article 2

1. The authorization to export goods temporarily outside the customs territory of the Community, with a view to their being re-imported in the form of compensating products into a Member State other than the one from which the temporary exportation took place, shall be granted, under the terms of this Directive, by the competent authorities of the Member State of export.

2. For the purposes of this Directive, the movement of goods referred to in paragraph 1 shall be called 'the triangular system'.

[1] OJ No L 24, 30. 1. 1976, p. 58.

3. The competent authorities of Member State of export shall authorize recourse to the triangular system :

(a) either under the outward processing authorization provided for in Article 4 (2) of the basic Directive ;

(b) or on the express application of the holder of the authorization, presented subsequent to such authorization but prior to re-importation.

4. At the request of the holder of the authorization, the competent authorities shall certify as correct the copies of the outward processing authorization presented to them.

Article 3

1. The competent authorities of the Member State of export shall only authorize the triangular system when they consider it possible for the competent authorities of the Member State of re-importation to identify in the compensating products the goods which have been, or are to be, temporarily exported.

2. Unter the triangular system, the competent authorities of Member States shall use and recognize the following means of identification :

(a) statement or description of special marks or manufacturer's numbers ;

(b) affixing of plombs, seals, clip-marks, or other distinctive marks ;

(c) the taking of samples, illustrations or technical description of goods in the same state ;

(d) use of the information sheet to facilitate the temporary exportation of goods sent from one country for manufacture, processing or repair in another, as provided for in the recommendation of the Customs Cooperation Council of 3 December 1963.

3. The identity of goods in the same state in the compensating products may also be recognized by the competent authorities of the Member State of re-importation by means of other factors, especially if the means of identification provided for in paragraph 2 have been damaged or have disappeared.

4. Where the method of identification referred to in paragraph 2 (c) is used, the competent authorities of the Member State of export shall take all measures necessary to ensure the authenticity of the means of identification. They shall return these objects to the holder of the authorization so that they can be put at the disposal of the competent authorities of the Member State of re-importation.

Article 4

1. On application by the holder of the authorization for outward processing, the competent authorities of the Member State of export shall take all measures necessary to allow the competent authorities of the Member State of re-importation to grant the benefit of total or partial relief from import duties provided for in Article 10 of the basic Directive.

2. The application referred to in paragraph 1 shall be submitted to the competent authorities in the form of the information sheet (INF 2 sheet), provided for in Article 8.

3. The competent authorities shall endorse the information sheet up to the amount of the goods to be exported, or exported and not yet re-imported. They shall return the original to the holder and retain one copy.

4. Where it is foreseen that the re-importations will be carried out in split consignments at different customs offices, the holder of the authorization may apply for the issue of several sheets, up to the quantity of the goods to be exported.

5. Where the circumstances so justify, and on application by the holder of the authorization, the competent authorities of the Member State of export may issue, in replacement of the original INF 2 sheet, INF 2 sheets made out up to the quantity of the goods exported and not yet re-imported.

6. Where one or more replacement sheets are issued, the quantities contained therein shall be deducted from the quantities referred to in the original INF 2 sheet.

7. Where one or more replacement sheets are issued, the competent authorities shall indicate thereon the number and issuing office of the original sheet.

8. Where the competent authorities of the Member State of export consider that the competent authorities of the Member State of re-importation should know of certain factors of the authorization, which do not appear in the information provided in the sheet, they shall include these additional items on the said sheet.

Article 5

1. The importer of the compensating products shall present the sheet to the competent authorities of the Member State of re-importation on the date on which he expresses his wish to place the compensating products in free circulation, or to give them another destination authorized by the basic Directive.

The competent authorities of the Member State of re-importation may moreover require the presentation of a copy of the outward processing authorization, which has been certified as correct.

2. The competent authorities of the Member State of re-importation shall deduct on the sheet the quantity of goods re-imported.

3. Where the circumstances so justify, and on application by the holder of the authorization, the competent authorities of the Member State of re-importation may issue, in replacement of the original INF 2 sheet, INF 2 sheets made out up to the quantity of the goods exported and not yet re-imported.

4. Where one or more replacement sheets are issued, the quantities contained therein shall be deducted from the quantities referred to in the original INF 2 sheet.

5. Where one or more replacement sheets are issued, the competent authorities shall indicate thereon the number and issuing office of the original sheet.

Article 6

1. Where an INF 2 sheet has been issued it must be presented at the time of re-importation even if this takes place in the Member State of export.

2. In the event of the theft, loss or destruction of an INF 2 sheet, the holder of the outward processing authorization may apply to the competent authorities which issued it for a duplicate to be made out. The authorities shall grant the application, if the circumstances so justify, on condition that the quantity of goods exported and not yet re-imported is established to their satisfaction. Such a duplicate shall be endorsed with one of the following words : 'DUPLICATE', 'DUPLIKAT', 'DUPLICATA', 'DUPLICATO', 'DUPLICAAT'.

Article 7

The competent authorities of the Member State of re-importation shall be entitled to request the competent authorities which have endorsed the INF 2 sheets to carry out subsequent verification and/or to provide supplementary information. The latter authorities shall comply with such a request at the earliest possible moment.

Article 8

1. The information sheet shall be drawn up in one original and one copy on a form INF 2 supplemented, where necessary, by one or more INF 2 bis lists, corresponding to the specimens in the Annex.

2. The form shall be printed on white paper, free of mechanical pulp, dressed for writing purposes and shall weigh at least 40 g/m^3.

3. The size of the form shall be 210 × 297 mm, line spacing being 4·24 mm (1/6 of an inch); the lay-out of the form must be strictly observed.

4. Member States shall be responsible for having the form printed. The form INF 2 shall bear an individual serial number, whether preprinted or not.

5. The form shall be printed in one of the official languages of the Community designated by the competent authorities of the Member State issuing the INF 2 sheet. The part of the INF 2 sheet constituting the request shall be completed in one of the official languages of the Community designated by the competent authorities of the Member State issuing the sheet. The competent authorities of the Member State who have to supply the information or make use of it may request that the information contained in the forms submitted to them shall be translated into the official language, or one of the official languages, of that Member State.

Article 9

1. Member States shall being into force the measures necessary to comply with this Directive in such a way that the measures shall apply from the date on which the measures necessary to comply with the basic Directive are applied.

2. However this Directive shall only apply from 1 July 1977 where the goods are under inward processing arrangements in the Member State of export.

Article 10

1. Each Member State shall immediately notify the Commission of the provisions made to implement this Directive.

2. The Commission shall forward this information to the other Member States.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 4 May 1976.

For the Commission

Finn GUNDELACH

Member of the Commission