COUNCIL DIRECTIVE

of 18 December 1975

on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing

(76/119/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the international division of labour requires recourse to outward processing arrangements, that is the exportation of goods and products with a view to their subsequent re-importation after processing, working or repair;

Whereas a certain number of Community undertakings use foreign industries which have the appropriate technical facilities or the exclusive use of a patent for carrying out processing operations;

Whereas the setting up of the customs union is essentially governed by the provisions of Title I, Chapter 1 of the second part of the Treaty;

Whereas the Commission, by its recommendation of 29 November 1961 (3) addressed to Member States, has laid down the principles to be applied, regarding tariff treatment, to products re-imported after temporary exportation;

Whereas the original Member States, pursuant to the above recommendation, have laid down laws, regulations and administrative provisions to permit persons established therein to export temporarily outside the national customs territory, with a view to their subsequent re-importation after processing, working or repair, goods of all kinds and of all origins fulfilling the conditions of Articles 9 (2) and 10 (1) of the Treaty, and of products which are subject to the inward processing arrangements and which, after that processing, must undergo further processing outside the customs territory of the Community; whereas, however, recourse to the said arrangements is had according to national procedures which are significantly different from one Member State to another;

Whereas this Directive may not prevent application of provisions adopted, particularly in the field of commercial policy, to limit the quantities of imports or exports;

Whereas the customs union set up by the Treaty necessitates the laying down of common rules for temporary exportation for outward processing;

Whereas it is necessary to set up a system of reliefs from import duties applicable to processed products in order to avoid, at the time of their re-importation, the taxation of goods exported from the Community for processing;

Whereas, notwithstanding the tariff protection afforded by the system of taxation envisaged, the implementation of the outward processing arrangements may be refused by the Member States from which the goods are temporarily exported where the essential interests of Community processors are likely to be seriously affected;

Whereas Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing (4), in Articles 22 and 23 thereof, envisaged the possibility that all or part of the compensating products, intermediate products or goods in the unaltered state may be temporarily exported with a view to further processing in a third country; whereas it is desirable to provide for the possibility of laying down, within the framework of this Directive, the specific provisions required for the coordination of the inward and outward processing arrangements;

(1) OJ No C 19, 12. 4. 1973, p. 51.
(2) OJ No C 36, 1. 6. 1973, p. 38.
(3) OJ No 3, 17. 1. 1962, p. 79/62.
(4) OJ No L 58, 8. 3. 1969, p. 1.

Whereas it is essential to guarantee the uniform application of these common rules and for that purpose, to provide for a Community procedure which would enable the rules for such application to be laid down within appropriate time limits;

Whereas, during the period of progressive introduction of the Common Customs Tariff by the new Member States, Irish industry will not be able to cope with the reduction of tariff protection resulting from the total or partial exemption provided for in this Directive in respect of trade with third countries and trade within the Community;

Whereas, therefore, provision should be made for Ireland to bring into force the measures required to comply with this Directive not later than 1 July 1977;

Whereas, pursuant to Article 46 of the Act of Accession [1], the provisions of this Directive relating to trade with third countries shall apply under the same conditions to trade within the Community for such time as customs duties are levied in that trade; whereas, accordingly, these provisions shall apply to trade between, on the one hand, the original Member States of the Community and, on the other hand, Denmark, the United Kingdom and — as from 1 July 1977 at the latest — Ireland, and also between Denmark and the United Kingdom and — as from 1 July 1977 at the latest — between each of these countries and Ireland,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

Article 2

1. Without prejudice to Article 46 of the Act of Accession, outward processing arrangements means the customs arrangements whereby goods of whatever kind or origin may be temporarily exported outside the customs territory of the Community with a view to their being re-imported in the form of compensating products, as defined in Article 3, wholly or partly free of import duties, after they have undergone one or more processing operations, as defined in Article 3, outside the customs territory of the Community.

Import duties means customs duties and charges having equivalent effect as well as agricultural levies and other import charges laid down within the framework of the specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products.

By way of derogation from the first subparagraph, the Directive shall not apply in the new Member States to customs duties of a fiscal nature or the fiscal element of such duties which are retained in those States, in accordance with the provisions of Article 38 (3) and (4) of the Act of Accession.

2. At the time of their temporary exportation the goods referred to in paragraph 1 must meet the conditions of Articles 9 (2) and 10 (1) of the Treaty, without this temporary exportation having given or giving rise to any remission or repayment of import duties or any Community export refund.

3. Outward processing arrangements shall also apply to goods held in the Community under inward processing arrangements in accordance with Articles 22 and 23 of Directive 69/73/EEC.

4. The measures necessary for the application of paragraph 3 shall be adopted in accordance with the procedure referred to in Article 14.

Article 3

Compensating products means products produced by one or more of the following processes:

(a) working of goods, including fitting or assembling them or adjusting them to other goods;

(b) processing of goods;

(c) repair of goods, including restoring them to their original condition and putting them in order.

Article 4

1. The benefit of outward processing arrangements shall be granted only to natural or legal persons established within the Community who have the processes referred to in Article 3 carried out.

2. The competent authorities of the Member State from which the goods are to be temporarily exported shall grant, under the conditions referred to in Article 5, the benefit of these arrangements upon application, before the temporary exportation of the goods, by general or special authorization.

[1] OJ No L 73, 27. 3. 1972, p. 14.