COMMISSION DIRECTIVE

of 26 March 1973

applying Articles 13 and 14 of the Council Directive of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing

(73/95/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Directive No 69/73 (1) (EEC) of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing, and in particular Article 28 thereof;

Whereas pursuant to Article 13 of that Directive, processing under inward processing arrangements shall be considered as completed when, in accordance with the terms of the authorization to grant such processing, the compensating products are either exported outside the territory of the Community, or placed under one of the procedures referred to in that Article with a view to their being subsequently exported;

Whereas pursuant to Article 15 (1) of the same Directive, such may also be the case for intermediate products and goods in the unaltered state;

Whereas when those products or goods are entered for home use in accordance with Article 14 of the same Directive, the provisions of that Article require that the amount of customs duties, charges having equivalent effect and agricultural levies be at least equal to the amount which would have been charged pursuant to Article 16 of the same Directive;

Whereas, due to the fact that, generally, processing adds to the value of the processed goods and often leads to a higher rate being applied to compensating products, the amount of customs duties, charges having equivalent effect and agricultural levies relating to those products is higher than the amount relating to imported goods there are, however, instances where the amount resulting from the application of customs duties, charges having equivalent effect and agricultural levies relating to the compensating products when they are entered for home use is less than the amount which would be payable under Article 16 of the abovementioned Directive;

Whereas in order to ensure in such instances that customs duties, charges having equivalent effect and agricultural levies are charged in accordance with the rules of the Directive, it should be provided that when compensating products, intermediate products or goods in the unaltered state are placed under the Community transit procedure (external procedure), document T1 should include particulars so to inform the competent authorities of the Member State; whereas when the said products or goods are placed under one of the other international transit procedures referred to in the first subparagraph of Article 7 (1) of Council Regulation (EEC) No 542/69 (2) of 18 March 1969 on Community transit, the documents relating to those international transit procedures are accompanied by the control copy referred to in Article 1 of Commission Regulation (EEC) No 2315/69 (3) of 19 November 1969 on the use of Community transit documents for the purpose of applying Community measures for verifying the use and/or destination of goods; whereas certain rules should be laid down for the use of this control copy;

Whereas moreover where goods and products are authorized to be entered for home use the necessary provisions should be laid down so that the customs duties, charges having equivalent effect and agricultural levies payable may be determined in accordance with Articles 14 and 16 of the abovementioned Directive, either at the request of the holder of the authorization granting the benefit of inward processing arrangements where Article 14 (a) applies, or automatically in order to ensure the correct application of Article 14 (b);

Whereas to this effect provision should be made to enable the competent authority of the Member State granting the benefit of inward processing arrangements to notify the competent authority of the Member State which will in due course allow the goods to be entered for home use, of the amount of customs duties, charges having equivalent effect and agricultural levies to be charged pursuant to Article 16 of the aforementioned Directive; whereas such information is supplied at the request of the

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

(2) OJ No L 77, 29. 3. 1969, p. 1.
(3) OJ No L 295, 24. 11. 1969, p. 14.

competent authority which will allow the goods to be entered for home use; whereas such information may also be supplied at the request of the holder of the authorization granting the benefit of the inward processing procedure; whereas the necessary measures should in any case be taken so that the information be supplied within a reasonable time limit;

Whereas the information should be given on a special form, instructions for the use of the form should be laid down and a specimen form prescribed;

Whereas since the Committee on Economic Customs Procedures has not delivered an Opinion, the Commission was unable to adopt the provisions proposed in accordance with Article 28 (3) (a) of the aforementioned Directive; whereas pursuant to (3) (b) and (c) of the said Article, the Commission submitted to the Council a proposal relating to the provisions to be adopted and whereas the Council has taken no action within the three months following receipt of that proposal;

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive sets out to adopt certain provisions for applying Articles 13 and 14 of the Council Directive of 4 March 1969 on the harmonization of the provisions laid down by law, regulation or administrative action in respect of inward processing.

Article 2

When compensating products, intermediate products or goods in the unaltered state are placed under the Community transit procedure (external procedure) the box marked 'Description of goods' in Declaration T1 should include one of the following endorsements

'En cas de mise à la consommation taxation perfectionnement actif'

'Bei Überführung in den Freien Verkehr Verzollung aktiver Veredelungsverkehr'

'In caso di immissione in consumo tassazione perfezionamento attivo'

'Bij in het vrije verkeer brengen, belasten als voor actief veredelingsverkeer'

'If entered for home use, duty as unprocessed goods'

'Ved overførsel til fri omsætning, fortoldning i henhold til den aktive forædlingsordning'

if the amount resulting from the application of customs duties, charges having equivalent effect and agricultural levies relating to the abovementioned products and goods is, or if circumstances indicate that the amount will be, less than the amount determined pursuant to Article 16 of the Directive referred to in Article 1.

Article 3

1. When in the case referred to in Article 2 the compensating products, intermediate products or goods in the unaltered state are placed under one of the other international transit procedures referred to in the first subparagraph of Article 7 (1) of Council Regulation (EEC) No 542/69, the relevant transit document must be accompanied by a control copy as defined in Commission Regulation (EEC) No 2315/69. This control copy shall include, in box 104, one of the entries specified in Article 2.

2. The serial number of the control copy must be shown on the copy of the relative transit document. This control copy shall be issued, used and returned in accordance with Regulation (EEC) No 2315/69.

Article 4

1. At the request of the holder of the approval granting the benefit of the inward processing arrangements, the authorities competent to grant the approval and issue the transit documents shall take the necessary measures so that, in the event of the goods being entered for home use, the customs duties, charges having equivalent effect and agricultural levies due, may be determined in accordance with Articles 14 (a) and 16 of the Directive referred to in Article 1. In such case, the competent authorities which issue the transit document shall insert thereon one of the following endorsements.

'Taxation possible marchandises mises en œuvre'

'Verzollung als unveredelte Ware möglich'

'Tassazione possibile merci sottoposte a perfezionamento'

'Belasten mogelijk als onveredelde goederen'

'Process goods, liable to duty'

'Fortoldning som ikke-forædlede varer mulig'

indicating that such an application has been lodged by the person concerned. Where the transit document relates to various goods, the endorsements shall be made in such a way that there can be no possibility of mistake as to the goods to which reference is made.

2. Those authorities may also endorse forthwith the information sheet prescribed by Article 6; in that case, they shall return the original to the holder and keep the copy.

Article 5

1. When a request is made for the compensating products, intermediate products or goods in the unaltered state referred to in Articles 2 to 4 to be partially or wholly entered for home use in accordance with Articles 14 and 15 (1) (b) of the Directive referred to in Article 1, the competent authorities responsible for allowing the goods or products to be entered for home use may request the competent authorities of the Member State which issued the approval granting the benefit of inward processing arrangements to indicate to them the amount of customs duties, charges having equivalent effect and agricultural levies to be charged in pursuance of Article 16 of the Directive referred to in Article 1. They shall make the request on the information sheet prescribed by Article 6 and shall forward both the original and copy; where appropriate, the authority requesting the information may make an extra copy for its own needs.

2. The competent authorities of the Member State to whom the information sheet is forwarded shall be responsible for producing the information requested; they shall return the original and keep the copy.

However, the competent authorities shall no longer be required to supply the information once the period for keeping documents has expired.

Article 6

1. The information sheet shall be drawn up in one original and one copy on a form 1 N F.-1 corresponding to the specimen in the Annex.

2. The form shall be printed on white paper, free of mechanical pulp, dressed for writing purposes and shall weigh between 40 and 65 g/m². The front side of the original shall have a printed guilloche pattern background in grey, such as to reveal any falsification by mechanical or chemical means.

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 may also be printed by printers appointed by the Member State in which they are established, in which case reference to the appointment shall be made on the form. The form shall bear particulars of the name and address of the printer or a mark enabling him to be identified. It shall also bear an individual serial number.

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 sheet. The part of the sheet where the request for information is entered shall be filled 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 which is to supply the information or make use of it may request that the information contained in the forms submitted to them be translated into the official language, or one of the official languages, of that Member State.

Article 7

The Member States shall bring into force the measures necessary to comply with this Directive within six months following its notification.

Article 8

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

The Commission shall forward such information to the other Member States.

Article 9

This Directive is addressed to all Member States.

Done at Brussels, 26 March 1973.

For the Commission

The President

François-Xavier ORTOLI