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COUNCIL DIRECTIVE

of 4 March 1969

on the harmonisation of provisions laid down by law, regulation or administrative action relating to customs warehousing procedure

(69/74/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 Community is based upon a customs union;

Whereas the establishment of the customs union is governed in the main by Chapter 1 of Title I of Part Two of the Treaty; whereas that Chapter contains a series of specific provisions dealing, in particular, with the elimination 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 therein; whereas, while Article 27 provides that Member States shall, before the end of the first stage and 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, that Article does not empower the institutions of the Community to issue binding provisions in that field; whereas, however, a thorough examination undertaken jointly with Member States has shown the need in certain fields for decision, by binding acts of the Community, upon measures essential for the introduction of customs legislation which will ensure uniform application of the Common Customs Tariff;

Whereas in all Member States there are provisions laid down by law, regulation or administrative action concerning customs warehouses, and the main result of placing goods therein is that customs duties, charges having equivalent effect and agricultural levies in respect of such goods are not collected;

Whereas certain differences contained in those provisions could lead to deflection of trade and of customs receipts if they were to remain operative after the customs union has been fully achieved;

Whereas certain differences contained in those pro- ment and operation of the common market;

Whereas, since the essential purpose of customs warehouses is to store goods, handling of goods during storage is only permissible if its purpose is to ensure their preservation or to improve packaging or marketable quality, and where goods in store receive other handling they are no longer eligible for the customs warehousing procedure and are thus no longer governed by the rules of this Directive;

Whereas the approximation of national provisions as provided for in this Directive is not incompatible with the existence of different kinds of customs warehouses; whereas the position would have to be re-examined if such disparities affected the proper functioning of the common market;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive prescribes the rules that must be included in the provisions of Member States laid down by law, regulation and administrative action relating to customs warehousing procedure.

[1] OJ No C 55, 5.6.1968, p. 34.

[2] OJ No C 58, 13.6.1968, p. 17.

2. This Directive shall apply to:

(a) the customs warehouses referred to in the Annex; and

(b) such customs warehouses as may be established after notification of this Directive.

Article 2

1. The effect of the system of customs warehouses (hereinafter called 'warehouses') shall be that customs duties, charges having equivalent effect and agricultural levies are not collected during the period of storage of goods.

2. When the goods leave the warehouses it must be possible for them to be cleared for home use, placed under another customs procedure or exported.

Article 3

1. Goods of every kind shall be admitted into warehouses, whatever their quantity or their country of origin, consignment or destination.

2. The provisions of paragraph 1 shall not preclude the imposition of:

(a) prohibitions or restrictions justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artisctic, historic or archaeological value; or the protection of industrial and commercial property;

(b) prohibitions or restrictions justified on grounds of special features of the warehousing arrangements, or the nature and condition of the goods.

Article 4

The establishing of warehouses shall be subject to permission from the competent authorities of the Member States (hereinafter called the 'competent authorities'). Such authorities may withdraw or suspend permission where necessary.

Article 5

1. Goods intended for deposit in a warehouse must be submitted to the competent customs authorities of the Member State in which the warehouse is situated.

Nevertheless, on condition that customs control of the goods is ensured, the competent authorities may, under conditions which they shall determine, waive that requirement.

2. Goods intended for deposit in a warehouse must be the subject, under conditions determined by the competent authorities, of a written declaration which in particular enables their position with regard to customs to be determined in accordance with Articles 9 and 10 of the Treaty.

Article 6

1. The depositor or the warehouse keeper shall:

(a) comply with all requirements relating to warehouses and follow instructions given by the competent customs authorities;

(b) produce the goods whenever so required;

(c) consent to any supervision or checking of the goods.

2. The depositor or the warehouse keeper may be required:

(a) to keep a stock-account of the goods for the use of the competent customs authorities;

(b) to notify the competent customs authorities of any circumstances which have altered or are likely to alter the condition of the goods deposited in a warehouse.

Article 7

It must be possible for ownership of goods deposited in warehouses to be transferred under the conditions and in accordance with the procedure established by national provisions laid down by law, regulation or administrative action.

Article 8

1. It must be possible for goods deposited in warehouses to remain there for a period of five years.

2. However, for such goods the competent authorities may:

(a) extend or shorten the period of storage for reasons connected with the nature of the goods;

(b) shorten the period of storage for reasons connected with the type of warehouse.