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Proposal for a COUNCIL REGULATION (EC) setting out the cases where relief from import duties or export duties shall be granted

/* COM/94/232FINAL - CNS 94/0140 */

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MORE INFO

TEXT:

Proposal for a Council Regulation setting out the cases where relief from import duties or export duties shall be granted (94/C 197/01) COM(94) 232 final

(Submitted by the Commission on 9 June 1994)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 28 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Article 184 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (1), hereinafter called the 'Code', stipulates that the Council, acting by a qualified majority on a proposal from the Commission, shall determine the cases in which, on account of special circumstances, relief from import or export duties shall be granted when goods are released for free circulation or exported;

Whereas Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs for customs duty (2), as last amended by Regulation (EC) No 355/94 of 14 February 1994 (3), has already defined the special circumstances in which goods are not subject to import or export duties;

Whereas the said provisions of that Regulation may on the whole be maintained subject to the adjustments required in view of the new circumstances resulting from the establishment of the Code;

Whereas certain provisions of Regulation (EEC) No 918/83 should, nevertheless, be simplified, extended or made more flexible to facilitate implementation; whereas this applies in particular to the provisions on goods imported on the occasion of a marriage, to those covering educational, scientific and cultural materials, scientific instruments and apparatus, medical appliances and articles intended for disabled people and to those concerning fuel and lubricants present in means of transport and special containers;

Whereas this Regulation forms part of customs rules and therefore the general provisions laid down in the Code also apply to the cases covered by this Regulation; whereas, in particular, the Committee procedure to which reference is made is that defined in the Code;

Whereas Council Regulation (EEC) No 3301/74 of 19 December 1974 on the duty-free importation of goods in small consignments of a non-commercial nature within the Community (4) laid down rules on the treatment of such consignments following the accession of the United Kingdom, Ireland and Denmark; whereas this regulation must be considered as no longer having any effects after the end of the transitional period following the accession of those Member States; whereas it is therefore appropriate to repeal Regulation (EEC) No 3301/74;

Whereas it is appropriate to limit the application of Article 32 (4) and (5) until 31 December 2000 and 31 December 1997 respectively,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation sets out those cases in which, owing to special circumstances, relief from import or export duties shall be granted respectively when goods are put into free circulation or are exported from the customs territory of the Community.

PART ONE RELIEF FROM IMPORT DUTIES

TITLE I DEFINITIONS

Article 2

1. For the purposes of this Regulation:

(a) 'personal property' means any property intended for the personal use of the persons concerned or for meeting their household needs.

The following, in particular, shall constitute personal property:

- household effects,
- means of transport for private use, i.e. cycles and motor cycles, private motor vehicles and their trailers, camping caravans, pleasure craft and private aeroplanes,
- household provisions appropriate to normal family requirements,
- household pets and saddle animals, and the portable instruments of the applied or liberal arts required by the person concerned for the pursuit of his trade or profession.

Personal property must not be such as might indicate, by its nature or quantity, that it is being imported for commercial reasons;

(b) 'household effects' means personal effects, household linen, furnishings and equipment intended for the personal use of the persons concerned or for meeting their household needs;

(c) 'commercial motor vehicles' means any motorized road vehicle (including tractors with or without trailers) which, by its type of construction and its equipment is designed for carrying, whether for payment or not, goods or 10 or more persons (including the driver), and any road vehicle for simple purposes, other than those designed mainly for carrying persons or goods;

(d) 'private motor vehicles' means private cars and other vehicles designed mainly for carrying fewer than 10 persons (including the driver), station wagons and racing cars;

(e) 'alcohol and alcoholic beverages' and 'tobacco products' mean products falling within heading Nos 2203 to 2208 and 2401 to 2403 of the Combined Nomenclature respectively;

(f) 'portable instruments and apparatus' means instruments and apparatus designed to be held in the hand or fitted with devices which make it particularly easy to carry them by hand;

(g) 'private personal use' means use not linked with any activity of a professional or commercial nature, essentially intended to meet domestic needs and the requirements of private life;

(h) 'normal place of residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where they are living;

However, the normal place of residence of a person whose occupational ties are in a different place from their personal ties and who consequently lives in turn in different places situated one inside and the other outside the customs territory of the Community shall be regarded as being the place of their personal ties, provided that they return there regularly. This last condition need not be met where they are living in the customs territory of the Community in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal place of residence;

(i) 'value for customs purposes' means the value of goods as defined in Articles 28 and 36 of the Code;

(j) 'intrinsic value' means the value of goods in themselves, excluding transport and insurance costs, as ascertainable by the customs authorities either from any relevant document or in the light of their experience; Unless otherwise specified, the provisions of this Regulation refer to the intrinsic value;

(k) 'scientific research' means experimental work and observations conducted with a view to improving knowledge in any scientific field (mathematics, physics, medicine, chemistry, biology, geology, meteorology, etc.);

(l) 'imported for non-commercial purposes' means being intended to be used for non-profitmaking scientific research or educational purposes by the establishment concerned.

2. Save as otherwise provided, for the purpose of Part I of this Regulation, the term 'third country' also includes those parts of Member States' territories excluded from the customs territory of the Community by virtue of Article 3 (1) of the Code.

TITLE II GOODS OF NEGLIGIBLE VALUE

Article 3

1. Consignments made up of goods of negligible value sent direct from a third country to a consignee in the customs territory of the Community shall be admitted free of import duties.

'Goods of negligible value' means goods of a total intrinsic value not exceeding ECU 45 per consignment.

2. The relief shall not apply to the following:

- (a) alcohol and alcoholic beverages;
- (b) tobacco products.

TITLE III USED PERSONAL PROPERTY IMPORTED BY PRIVATE INDIVIDUALS

Chapter I Used personal property belonging to natural persons transferring their normal place of residence from a third country to the customs territory of the Community

Article 4

Subject to Articles 5 to 11, used personal property imported by natural persons transferring their normal place of residence from a third country to the customs territory of the Community shall be admitted free of import duties.

Article 5

1. Relief shall be limited to personal property which:

- (a) except in special cases justified by the circumstances, has actually been in the possession of and put to the private personal use of the persons concerned in the third country of departure.

Means of transport for private use must have been used by the persons concerned at their former normal place of residence for a minimum of six months before the date on which they transfer their residence.

- (b) is intended to be used for the same purpose at their new residence in the customs territory of the Community.

2. (a) Motorized means of transport which have been admitted duty-free may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the customs authorities until 12 months have elapsed from the date on which the entry for free circulation was accepted.

- (b) Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in (a) shall entail payment of the relevant import duties on the motorized means of transport concerned, at the rate applying on the date

of such loan, giving as security, hiring out or transfer, on the basis of the type of motorized means of transport and the customs value ascertained or accepted on that date by the customs authorities.

Article 6

1. Relief may be granted only to persons whose normal place of residence has been outside the customs territory of the Community for a continuous period of at least 12 months before they transfer their residence.

2. However, the customs authorities may grant derogations from the rule in the first paragraph provided that:

(a) the intention of the person concerned was clearly to reside outside the customs territory of the Community for a continuous period of at least 12 months;

(b) the person concerned changes their place of residence to the Community during, or after, a temporary stay in the Community, providing that before that temporary stay they resided outside the customs territory of the Community for a continuous period of at least 12 months.

Article 7

No relief shall be granted for:

(a) alcohol and alcoholic beverages;

(b) tobacco products;

(c) commercial motor vehicles and other commercial means of transport;

(d) articles for use in the pursuit of a trade or profession, other than portable instruments and apparatus.

Article 8

Except in special circumstances, relief shall be granted only in respect of personal property declared for free circulation within 12 months of the date on which the person concerned establishes their normal place of residence in the customs territory of the Community.

Personal property may be released for free circulation in several separate consignments within the period referred to in the preceding paragraph.

Article 9

1. By way of derogation from Article 8, relief may be granted in respect of personal property declared for free circulation before the person concerned establishes their normal place of residence in the customs territory of the Community, provided that they undertake to actually establish their normal place of residence there within a period of six months. The customs authorities may require such undertaking to be accompanied by a security, the form and amount of which they shall determine.

2. Where paragraph 1 is applied, the period laid down in Article 5 (1) (a) shall be calculated from the date on which the personal property concerned is brought into the customs territory of the Community.

Article 10

1. Where the person concerned leaves the third country where they had their normal place of residence without simultaneously establishing their normal place of residence in the customs territory of the Community, although having the intention of ultimately doing so, the customs authorities may authorize duty-free admission of the personal property which they transfer into the said territory for this purpose.

2. Duty-free admission of the personal property referred to in paragraph 1 shall be granted in accordance with the conditions laid down in Articles 4 to 8, on the understanding that the periods laid down in Article 5 (1) (a) shall be calculated from the date on which the personal property is brought into the customs territory of the Community.

3. Duty-free admission shall also be subject to an undertaking from the person concerned that they will actually establish their normal place of

residence in the customs territory of the Community within a period laid down by the customs authorities in keeping with the circumstances. The customs authorities may require this undertaking to be accompanied by a security, the form and amount of which they shall determine.

Article 11

The customs authorities may derogate from Articles 5 and 7 when a person has to transfer their normal place of residence from a third country to the customs territory of the Community as a result of exceptional political circumstances.

Chapter II Goods imported on the occasion of a marriage

Article 12

Without prejudice to Articles 4 to 11, and subject to Articles 13 and 14, the following shall be admitted free of import duties:

- (a) household effects, whether or not new, belonging to a person transferring their normal place of residence from a third country to the customs territory of the Community on the occasion of their marriage;
- (b) presents customarily given on the occasion of a marriage, which are received by, or which are to be given to, a person fulfilling the conditions laid down in paragraph 1, given or sent by persons having their normal place of residence in a third country. The value of each present admitted duty-free may not, however, exceed ECU 1 400.

Article 13

The relief referred to in Article 12 may be granted only to persons:

- (a) whose normal place of residence has been outside the customs territory of the Community for a continuous period of at least 12 months before they transfer their residence. However, derogations from this rule may be granted where the intention of the person concerned was clearly:
 - to reside outside the customs territory of the Community for a period of at least 12 months;
 - before deciding to get married, only to stay temporarily in the customs territory of the Community, providing that before their temporary stay they resided outside the customs territory of the Community for a continuous period of at least 12 months;
- (b) who produce evidence of the marriage.

Article 14

1. Save in exceptional circumstances, relief shall be granted only in respect of goods declared for free circulation:
 - not earlier than two months before the date fixed for the wedding (in this case the relief may be subject to the lodging of an appropriate security, the form and amount of which shall be determined by the customs authorities), and
 - not later than four months after the date of the wedding.
2. The goods referred to in Article 12 may be released for free circulation in several separate consignments within the period referred to in paragraph 1 above.

Chapter III Personal property acquired by inheritance

Article 15

1. Subject to Articles 16 to 18, personal property acquired by inheritance by a natural person having their normal place of residence in the customs territory of the Community shall be admitted free of import duties.
2. For the purposes of paragraph 1, 'personal property' means all the property referred to in Article 2 (1) (a) constituting the estate of the deceased.

Article 16

No relief shall be granted for:

- (a) commercial means of transport;
- (b) articles for use in the pursuit of a trade or profession, other than portable instruments and apparatus which were required for the pursuit of the trade or profession of the deceased;
- (c) stocks of raw materials and finished or semi-finished products;
- (d) livestock and stocks of agricultural products exceeding the quantities appropriate to normal family requirements.

Article 17

1. Relief shall be granted only for personal property declared for free circulation not later than two years from the date on which the person concerned becomes entitled to the property (final settlement of the inheritance).

However, this period may be extended by the customs authorities to take account of special circumstances.

2. Personal property may be imported in several separate consignments within the period referred to in paragraph 1.

Article 18

Articles 15 to 17 shall apply mutatis mutandis to personal property acquired by inheritance by legal persons engaged in a non-profitmaking activity who are established in the customs territory of the Community.

Chapter IV Used household effects for furnishing a secondary residence

Article 19

Subject to the provisions of Articles 20 to 23, used household effects imported by a natural person having their normal place of residence outside the customs territory of the Community for the purpose of furnishing a secondary residence in the customs territory of the Community shall be admitted free of import duties.

Article 20

The relief shall be limited to household effects which:

- (a) except in special cases justified by the circumstances, were actually in the possession of and put to the private personal use of the person concerned;
- (b) are appropriate both by nature and by quantity to the normal furnishings of the said secondary residence.

Article 21

Relief shall be granted only to persons who:

- (a) have had their normal place of residence outside the customs territory of the Community for a continuous period of at least 12 months before they establish their secondary residence.
- (b) are the owners of the secondary residence in question or have rented it not less than two years.

Relief may be limited to one occasion for each secondary residence.

Article 22

The customs authorities may make the granting of relief subject to the lodging of a security.

Chapter V Scholastic materials and other scholastic household effects

Article 23

1. Scholastic materials and used household effects representing the usual furnishings for a student's room which belong to pupils or students coming to stay in the customs territory of the Community for the purpose of studying

there and intended for their personal use during the period of their studies shall be admitted free of import duties.

2. For the purposes of paragraph 1:

- (a) 'pupil or student' means any person enrolled in an educational establishment in order to attend full-time the courses offered therein;
- (b) 'scholastic materials' means objects and instruments, whether or not new, normally used by pupils or students for the purposes of the studies in which they are engaged.

Article 24

Relief may be granted more than once per school year.

Chapter VI Used household effects imported subsequent to a temporary stay outside the customs territory of the Community

Article 25

Subject to Articles 26 and 27, used household effects imported by a natural person having their normal place of residence in the customs territory of the Community who has lived temporarily outside that territory for a minimum of six consecutive months to pursue a trade or profession or to study shall be admitted free of import duties.

Article 26

Relief shall be limited to those household effects:

- (a) which were actually put in the possession of and put to the private personal use of the person concerned outside the customs territory of the Community during their temporary stay;
- (b) which are appropriate both by nature and by quantity to the length and the purpose of the temporary stay.

Article 27

The household effects must be released for free circulation together, within six months of the end of the temporary stay outside the customs territory of the Community.

TITLE IV OTHER GOODS IMPORTED BY PRIVATE INDIVIDUALS

Chapter I Consignments sent by one private individual to another and goods imported by travellers

Article 28

1. Subject to Articles 29, 30 and 34, goods contained in consignments sent free of payment of any kind, by a private individual in a third country to another private individual in the customs territory of the Community shall be admitted free of import duties, provided that such importations are of a non-commercial nature.

The relief provided for under this paragraph shall not apply to goods in consignments sent from the island of Heligoland.

Article 29

1. The relief referred to in Article 28 shall apply to goods other than those listed in Article 34 of a total intrinsic value not exceeding ECU 175. The value of individual goods cannot be split up.

2. Where the total value of a consignment made up of two or more items exceeds the amount referred to in paragraph 1, relief up to that amount shall be granted for an accumulation of those items, whose combined value does not exceed that amount.

Article 30

For the goods listed in Article 34, relief shall be limited, per consignment, to

the quantities listed in column 2 of that article.

Article 31

1. Subject to Articles 32 to 35, goods of a non-commercial nature imported in a personal capacity by travellers as defined in Article 236 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of the Code (5) shall be admitted free of import duties.

2. Goods of a non-commercial nature shall be regarded as being imported by travellers in a personal capacity where they are:

- carried by travellers on their person;
- contained in their hand luggage;
- contained in their accompanied luggage, whenever presented to customs, provided that evidence can be produced to prove that at the time of the travellers' departure it was registered as accompanied luggage with the company which transported it into the Community from the third country of departure; or
- carried on board the means of transport used to enter the customs territory of the Community by the travellers themselves.

Article 32

1. The relief referred to in Article 31 shall be granted in relation to each voyage to each individual traveller for goods, other than those listed in Article 34, up to a total intrinsic value of ECU 175. However, Member States may reduce this amount to ECU 90 for travellers under 15 years old.

2. The value of individual goods cannot be split up, nor shall there be any entitlement to either cumulative or shared relief among two or more travellers.

3. Where the total value per traveller of goods made up of two or more items exceeds the amounts laid down in paragraph 1, relief up to those amounts shall be granted for an accumulation of those items, whose combined value does not exceed that amount.

4. By way of derogation from paragraph 1, Spain is authorized to apply, until 31 December 2000, an allowance of ECU 600 for imports of the goods in question from Ceuta and Melilla entering the customs territory as defined with regard to Spain in the fourth indent of Article 3 (1) of the Code.

Spain shall have the option of reducing that allowance to ECU 150 for travellers under 15 years of age.

5. The Federal Republic of Germany may, until 31 December 1997, in the case of goods imported by travellers entering German territory by a land frontier linking Germany to third countries other than EFTA member countries or by a coastal shipping route from one of those countries, reduce the limits laid down in paragraph 1 to ECU 45 and ECU 22 respectively.

Article 33

For the goods listed in Article 34, relief shall be limited, per traveller and per voyage, to the quantities listed in column 3 of that article.

Article 34

1. Pursuant to Articles 30 and 33, relief for the products listed in column 1 shall be limited to the quantities listed in column 2 or column 3, as appropriate:

>TABLE POSITION>

2. No relief shall be granted to travellers under 17 years of age for the products listed in column 1 (a) and (b).

Article 35

1. Member States may reduce the value and/or the quantities of goods allowed to enter duty-free if they are imported by:

- persons residing in the frontier zone,
- frontier workers,

- the crews of means of transport used between third countries and the Community.

2. The restrictions imposed in paragraph 1 shall not apply where persons having their normal place of residence in the land frontier zone prove that they are not returning from the area of the frontier zone located in the adjacent third country. They shall, however, still apply to frontier workers and to the crew of means of transport used between third countries and the Community where they import goods when travelling in the course of their work.

3. For the purposes of paragraphs 1 and 2:

- without prejudice to existing conventions, 'land frontier zone' means a circular zone with a radius of 15 kilometres located on both sides of the land frontier between the Community and the third country and centred on the authorized point of entry into the customs territory of the Community. The local administrative districts, part of whose territory lies within the zone, shall be considered to be part of this frontier zone; Member States may grant derogations in this respect.

- 'frontier worker' means any person whose normal activities require that he should go to the other side of the frontier on his work days.

Chapter II Honorary decorations or awards

Article 36

On production of satisfactory evidence to the customs authorities by the persons concerned, and provided the operations involved are not commercially motivated, the following shall be admitted free of import duties:

(a) decorations conferred by governments of third countries on persons whose normal place of residence is in the customs territory of the Community;

(b) awards, trophies, cups, medals and similar articles of an essentially symbolic nature which, having been awarded in a third country to persons having their normal place of residence in the customs territory of the Community as a tribute to their activities in any field, or in recognition of merit at a particular event, or as a reward for an act of courage or dedication, are imported into the Community by such persons themselves;

(c) awards, trophies, cups, medals and similar articles of an essentially symbolic nature which are given free of charge by authorities or persons established in a third country to be presented in the customs territory of the Community for the same purposes as those referred to in (b);

(d) awards, cups, medals, trophies and souvenirs of an essentially symbolic nature and of limited value intended for distribution free of charge to persons whose normal place of residence is in a third country at business conferences or similar international events; their nature, unitary value or other features, must not be such as to indicate that they are being imported for commercial reasons.

Chapter III Presents received in the context of international relations

Article 37

Without prejudice, where relevant, to Articles 31 to 35, and subject to Article 38, goods shall be admitted free of import duties where they are:

(a) imported into the customs territory of the Community by persons who have paid an official visit to a third country and who have received them on this occasion as gifts from the host authorities;

(b) imported into the customs territory of the Community by persons coming to pay an official visit in the Community who intend to offer them on that occasion as gifts to the host authorities;

(c) sent as gifts, in token of friendship or goodwill, by an official body, public authority or group carrying on an activity in the public interest in a third country, to an official body, public authority or group carrying on an activity in the public interest which is located in the Community which is approved by

the customs authorities to receive such articles free of duty.

Article 38

No relief shall be granted for alcohol and alcoholic beverages or tobacco products.

Article 39

Relief shall be granted only:

- where the articles intended as gifts are offered on an occasional basis,
- where they do not, by their nature, value or quantity, have any commercial interest,
- where they are not used for commercial purposes.

Chapter IV Goods to be used by monarchs or heads of state

Article 40

The following shall be admitted free of import duties, within the limits and on the conditions laid down by the customs authorities:

- (a) gifts to reigning monarchs and heads of state;
- (b) goods to be used or consumed by reigning monarchs and heads of state of third countries, or persons officially representing them, during their official stay in the customs territory of the Community.

The provisions of the preceding paragraph are also applicable to persons enjoying prerogatives at international level analogous to those enjoyed by reigning monarchs or heads of state.

TITLE V ARTICLES AND GOODS IMPORTED FOR THE PURPOSE OF CARRYING OUT ACTIVITIES IN THE PUBLIC INTEREST

Chapter I Educational, scientific and cultural articles; scientific instruments and apparatus

Article 41

The educational, scientific and cultural articles listed in Annex I shall be admitted free of import duties whoever the consignee and whatever the intended use of such materials may be.

Article 42

The educational, scientific and cultural articles listed in Annex II shall be admitted free of import duties provided they are intended:

- (a) for public educational, scientific or cultural establishments or organizations, or
- (b) for the establishments or organizations in the categories specified opposite each article in column 3 of the said Annex, on condition that they have been approved by the customs authorities of the Member States to receive such articles duty-free.

Article 43

1. Subject to Articles 45 to 48, scientific instruments and apparatus which are not included in Article 42 shall be admitted free of import duties where they are imported for non-commercial purposes.

2. The relief referred to in paragraph 1 shall be limited to scientific instruments and apparatus which are intended for:

- (a) public establishments principally engaged in education or scientific research and those departments of public establishments which are principally engaged in education or scientific research, or
- (b) private establishments principally engaged in education or scientific research and approved by the customs authorities of the Member States to receive such articles duty-free.

Article 44

The relief shall also apply, subject to Articles 45 to 48, to spare parts, components or accessories suitable for scientific instruments or apparatus and to tools to be used for the maintenance, checking, calibration or repair of scientific instruments or apparatus, provided that this equipment is imported at the same time as such instruments and apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus qualifying for duty-free admission

Article 45

For the purpose of Articles 43 and 44 'a scientific instrument or apparatus' means any single instrument, set of apparatus, system or any other equipment which, by reasons of its objective technical characteristics and the results which it makes it possible to obtain, is mainly suited to scientific activities.

Article 46

If necessary, certain instruments or apparatus may, in accordance with the procedure laid down in Article 249 (2) and (3) of the Code, be excluded from entitlement to relief, where it is found that duty-free admission of such instruments or apparatus is detrimental to the interests of the Community industry in the production sector concerned.

Article 47

1. The articles, spare parts, components and accessories referred to in Articles 42, 43 and 44 may not be lent, hired out or transferred, whether for a consideration or free of charge without prior notification to the customs authorities, until five years have elapsed from the date of their release for free circulation.
2. Should they be lent, hired out or transferred within five years of release for free circulation to an establishment or organization entitled to relief pursuant to Article 42 or 43 (2), the relief shall remain applicable provided the establishment or organization to which they are lent, hired out or transferred uses them for purposes which confer the right to such relief.
3. In other cases, loan, hiring out or transfer within five years of release for free circulation shall be subject to prior payment of import duties at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of item and the customs value ascertained or accepted on that date by the customs authorities.

Article 48

1. Establishments or organizations referred to in Articles 42 and 43 which, within five years of the release of the article, spare parts, components or accessories for free circulation, cease to fulfil the conditions giving entitlement to relief, or which are proposing to use items admitted duty-free for purposes other than those provided for in those Articles, shall so inform the customs authorities.
2. Items remaining in the possession of establishments or organizations which cease to fulfil the conditions giving entitlement to relief shall be liable to the appropriate import duties at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.
3. Items used by the establishment or organization benefiting from the relief for purposes other than those provided for in Articles 42 and 43 shall be liable to the appropriate import duties applying on the date on which they are put to another use, on the basis of the type of articles and the customs value ascertained or accepted on that date by the customs authorities.

Article 49

1. Scientific equipment imported under scientific cooperation agreements the purpose of which is the carrying out of international scientific research programmes shall be admitted free of import duties.

2. The relief shall be granted on equipment:

- imported for non-commercial purposes by or on behalf of scientific research establishments or organizations based outside the Community;
- intended for use by or with the agreement of the members or representatives of the establishments or organizations referred to in the first indent and within the limits of scientific cooperation agreements in question, in scientific research establishments based in the Community and approved for that purpose by the customs authorities of the Member States.

3. For the purposes of this article, 'scientific equipment' means instruments, apparatus, machines and their accessories, including spare parts and tools specially designed for their maintenance, inspection, calibration or repair, used for the purpose of scientific research.

Article 50

1. The equipment referred to in Article 49 which has been admitted duty-free in accordance with the conditions laid down in that Article may not be lent, hired out or transferred, whether for a consideration or free of charge, without prior notification to the customs authorities, until five years have elapsed from the date of its release for free circulation.

2. Should the equipment be lent, hired out or transferred within five years of its release for free circulation to an establishment or organization entitled to relief pursuant to Article 49, the relief shall remain applicable provided the establishment or organization uses the equipment for purposes which confer the right to such relief.

In other cases, and without prejudice to the application of Articles 43 and 44, loan, hiring out or transfer within five years of release for free circulation shall be subject to prior payment of import duties at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

3. Establishments or organizations referred to in Article 49 (2) which, within five years of the release of the equipment for free circulation, cease to fulfil the conditions giving entitlement to relief, or which are proposing to use articles admitted duty-free for purposes other than those provided for in that Article, shall so inform the customs authorities.

4. Equipment used by establishments or organizations which cease to fulfil the conditions giving entitlement to relief shall be liable to the appropriate import duties at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

Without prejudice to Articles 43 and 44, equipment used by the establishment or organization benefiting from the relief for purposes other than those provided for in Article 49 shall be liable to the appropriate import duties applying on the date on which it is put to another use, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

Chapter II Instruments and apparatus intended for medical research, establishing medical diagnoses or carrying out medical treatment

Article 51

1. Instruments and apparatus intended for medical research, establishing medical diagnoses or carrying out medical treatment which are donated either by a charitable or philanthropic organization or by a private individual to health authorities, hospital departments or medical research institutions approved by the customs authorities of the Member States to receive such articles duty-free, or which are purchased by such health authorities, hospitals

or medical research institutions entirely with funds provided by a charitable or philanthropic organization or with voluntary contributions, shall be admitted free of import duties, always provided it is established that:

- (a) the donation of the instruments or apparatus in question does not show any commercial intent on the part of the donor; and
- (b) the donor is in no way connected with the manufacturer of the instruments or apparatus for which relief is requested.

2. Relief shall also apply, on the same conditions, to spare parts, components or accessories suitable for the instruments or apparatus, and to tools to be used for the maintenance, checking, calibration or repair of instruments or apparatus, provided that these spare parts, components or accessories are imported at the same time as such instruments and apparatus or, where they are imported subsequently, that they can be identified as being intended for instruments or apparatus previously admitted duty free.

Article 52

For the purposes of Article 51, and in particular with regard to the instruments or apparatus and recipient bodies referred to therein, Articles 46, 47 and 48 shall apply *mutatis mutandis*.

Chapter III Animals and biological or chemical substances intended for scientific research

Article 53

1. Relief from import duties shall be granted in respect of:

- (a) animals specially bred or prepared to be used in scientific research;
- (b) biological or chemical substances included in a list drawn up in accordance with the procedure laid down in Article 249 (2) and (3) of the Code, which are imported for non-commercial purposes.

2. The relief referred to in paragraph 1 shall be limited to animals and biological or chemical substances which are intended for:

- either public institutions or institutions operating in the public interest engaged in education or scientific research and those departments of public institutions or institutions operating in the public interest which are principally engaged in education or scientific research, or
- private establishments principally engaged in education or scientific research and authorized by the customs authorities of the Member States to receive such articles duty-free.

3. The list referred to in subparagraph 1 (b) shall include only biological or chemical substances which, on account of their specificity or degree of purity, are mainly suited to scientific research.

Chapter IV Therapeutic substances of human origin and blood-grouping and tissue-typing reagents

Article 54

1. Subject to Article 55, the following shall be admitted free of import duties:

- (a) therapeutic substances of human origin;
- (b) blood-grouping reagents;
- (c) tissue-typing reagents.

2. For the purposes of paragraph 1:

- 'therapeutic substances of human origin' means human blood and its derivatives (whole human blood, dried human plasma, human albumin and fixed solutions of human plasmatic protein, human immunoglobulin and human fibrinogen);
- 'blood-grouping reagents' means all reagents, whether of human, animal, plant or other origin used for blood-type grouping and for the detection of blood incompatibilities;
- 'tissue-typing reagents' means all reagents whether of human, animal, plant or other origin used for the determination of human tissue-types.

Article 55

Relief shall be limited to products which:

- (a) are intended for organizations or laboratories approved by the customs authorities, for use exclusively for non-commercial medical or scientific purposes;
- (b) are accompanied by a certificate of conformity issued by a duly authorized body in the third country of departure;
- (c) are in containers bearing a special label identifying them.

Article 56

Relief shall include the special packaging essential for the transport of therapeutic substances of human origin or blood-grouping or tissue-typing reagents and also any solvents and accessories needed for their use which may be included in the consignments.

Chapter V Reference substances for the quality control of medicinal products

Article 57

Consignments which contain samples of reference substances approved by the World Health Organization for the quality control of materials used in the manufacture of medicinal products and which are addressed to consignees authorized by the customs authorities of the Member States to receive such consignments duty-free shall be admitted free of import duties.

Chapter VI Pharmaceutical products used at international sports events

Article 58

Pharmaceutical products for human or veterinary medical use by persons or animals coming from third countries to participate in international sports events organized in the customs territory of the Community, shall, within the limits necessary to meet their requirements throughout their stay in that territory, be admitted free of import duties.

Chapter VII Goods imported for general purposes

Article 59

1. Subject to Articles 60 to 62, the following shall be admitted free of import duties, provided this does not give rise to abuses or distortions of competition:

- (a) basic necessities imported by official bodies or charitable or philanthropic organizations approved by the customs authorities, for distribution free of charge to needy persons;
- (b) goods of any description sent free of charge, by a person or an organization established outside the customs territory of the Community, and without any commercial intent on the part of the sender, to official bodies or charitable or philanthropic organizations approved by the customs authorities, to be used for fund-raising at occasional charity events for the benefit of needy persons;
- (c) equipment and office materials sent free of charge, by a person or an organization established outside the customs territory of the Community, and without any commercial intent on the part of the sender, to charitable or philanthropic organizations approved by the customs authorities, to be used solely for the purpose of meeting their operating needs or carrying out their charitable or philanthropic aims.

2. For the purposes of paragraph 1 (a), 'basic necessities' means those goods required to meet the immediate needs of human beings, e.g. food, medicine, clothing and bedclothes.

3. No relief shall be granted for:

- (a) alcohol and alcoholic beverages;

- (b) tobacco products;
- (c) motor vehicles other than ambulances.

Article 60

Relief shall be granted only to organizations the accounting procedures of which enable the customs authorities to control their operations and which offer all the guarantees considered necessary.

Article 61

1. The goods or equipment referred to in Article 59 may not be lent, hired out or transferred by the organization to which relief was granted, whether for a consideration or free of charge, for purposes other than those laid down in paragraph 1 (a) and (b) of that article without prior notification to the customs authorities, until five years have elapsed from the date of their release for free circulation.

2. Should the goods or equipment be lent, hired out or transferred, within five years of their release for free circulation, to an establishment or organization entitled to relief pursuant to Articles 59 and 60, the relief shall remain applicable provided the organization to which the goods or equipment are lent, hired out or transferred uses the goods or equipment for purposes which confer the right to such relief.

In other cases, loan, hiring out or transfer within five years of release for free circulation shall be subject to prior payment of import duties, at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of goods and the customs value ascertained or accepted on that date by the customs authorities.

Article 62

1. Organizations referred to in Article 59 which, within five years of the release of the goods or equipment for free circulation, cease to fulfil the conditions giving entitlement to relief, or which are proposing to use goods and equipment admitted duty-free for purposes other than those provided for by that Article, shall so inform the customs authorities.

2. Goods and equipment remaining in the possession of organizations which cease to fulfil the conditions giving entitlement to relief shall be liable to the appropriate import duties at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

Goods and equipment used by the organization benefiting from the relief for purposes other than those provided for in Article 59 shall be liable to the appropriate import duties at the rate applicable on the date on which they are put to another use, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

Chapter VIII Articles intended for disabled people

Article 63

1. Articles specially designed for the education, training, employment, social integration or cultural development of disabled people shall be admitted free of import duties, where they are imported.

- either by disabled people themselves for their own use,
- or by institutions or organizations that are principally engaged in the education of or the provision of assistance to disabled people and are authorized by the customs authorities of the Member States to receive such articles duty-free.

2. The relief referred to in paragraph 1 shall apply to spare parts, components or accessories specifically for the articles in question, and to the tools to be used for the maintenance, checking, calibration or repair of the articles. Such spare parts, components, accessories and tools must be imported at the same

time as the articles. However, they may be imported subsequently provided they can be identified as being intended for either:

- articles previously admitted duty-free; or
- articles which would be entitled to relief if imported at the time when relief is requested for the specific spare parts, components or accessories and tools in question.

3. The institutions or organizations mentioned under the second indent of paragraph 1 may import duty-free articles which are to be transformed into articles specially converted for the education, training, employment, social integration or cultural development of disabled people, provided that the converted item would itself have qualified under paragraph 1. Each importation shall be subject to authorization by the customs authorities, who may specify whatever conditions they feel necessary to ensure there is no detriment to the interests of Community industry in the production sector concerned.

Article 64

For the purposes of Article 63:

- 'disabled people' means people with serious impairments, disabilities or handicaps resulting from physical, including sensory, or mental or physiological impairments which restrict or make impossible the performance of an activity or function considered normal for a human being;
- 'articles specially designed for the education, training, employment, social integration or cultural development of disabled people' means articles enabling handicapped persons to compensate for their physical or mental impairment or to reestablish contact either passively or actively with society;
- 'specially designed' shall apply to an article which, by virtue either of its construction or of significant subsequent adaptation of an article in common use, possesses technical characteristics making it fit exclusively for use, under normal circumstances, by disabled people.

Article 65

If necessary, certain articles may, in accordance with the procedure laid down in Article 249 (2) and (3) of the Code, be excluded from entitlement to relief, where it is observed that duty-free admission of such articles is detrimental to the interests of Community industry in the production sector concerned.

Chapter IX Articles intended for disaster victims

Article 66

1. Subject to Articles 67 to 71, goods imported by state organizations or other charitable or philanthropic organizations approved by the customs authorities shall be admitted free of import duties where they are intended:

- (a) for distribution free of charge to victims of disasters affecting the territory of one or more Member States; or
- (b) to be made available free of charge to the victims of such disasters, while remaining the property of the organizations in question.

2. Goods imported for free circulation by disaster-relief agencies in order to meet their needs during the period of their activity shall also be granted the relief referred to in paragraph 1, under the same conditions.

Article 67

1. No relief shall be granted for materials and equipment intended for rebuilding disaster areas.

2. Relief shall be limited to goods released for free circulation within two years of the disaster.

Article 68

Relief shall be granted only to organizations the accounting procedures of which enable the customs authorities to control their operations and which

offer all the guarantees considered necessary.

Article 69

The goods referred to in Article 66 (1) may not be lent, hired out or transferred, by the organization to which relief was granted, whether for a consideration or free of charge, under conditions other than those laid down in that Article without prior notification to the customs authorities, until five years have elapsed from the date of their release for free circulation.

Article 70

Should the goods referred to in Article 66 (1) be lent, hired out or transferred, within five years of their release for free circulation, to an organization entitled to relief pursuant to Article 66, or, where paragraph 1 (b) of that Article applies, to an organization entitled to relief pursuant to Article 59 (1) (a), the relief shall remain applicable provided such organizations use the goods in question for purposes which confer the right to such relief. In other cases, loan, hiring out or transfer within five years of release for free circulation shall be subject to prior payment of import duties at the rate applying on the date of the loan, hiring out or transfer, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

Article 71

1. Organizations referred to in Article 66 which, within five years of the release of the goods or equipment for free circulation, cease to fulfil the conditions giving entitlement to relief, or which are proposing to use goods admitted duty-free for purposes other than those provided for by that Article, shall so inform the customs authorities.
2. When goods remaining in the possession of organizations which cease to fulfil the conditions giving entitlement to relief are transferred to an organization which is itself entitled to benefit from relief pursuant to Article 66 or, where appropriate, to an organization entitled to benefit from relief pursuant to Article 59 (1) (a), relief shall remain applicable provided the organization uses the goods in question for purposes which confer the right to such relief. In other cases, the goods shall be liable to the appropriate import duties at the rate applying on the date on which those conditions cease to be fulfilled, on the basis of the type of Article and the customs value ascertained or accepted on that date by the customs authorities.
3. Goods used by the organization benefiting from the relief for purposes other than those provided for in Article 66 shall be liable to the appropriate import duties at the rate applicable on the date on which they are put to another use, on the basis of the type of article and the customs value ascertained or accepted on that date by the customs authorities.

TITLE VI IMPORTATION IN CONNECTION WITH THE EXERCISE OF A COMMERCIAL ACTIVITY

Chapter I Capital goods and other equipment imported on the transfer of activities

Article 72

1. Subject to the provisions of Articles 73 to 77, capital goods and other equipment imported by undertakings which transfer to the customs territory of the Community the activity they carried out in a third country shall be admitted free of import duties.

Relief shall be granted even where, at the time of the transfer of activities, changes are made to the undertakings's legal status or to the composition of its administrative bodies.

2. For the purposes of paragraph 1:

- 'activity' means any economic activity of producers, traders and persons

supplying services, including mining and agricultural activities and activities of the professions or equivalent;

- 'capital goods and other equipment' includes office or shop equipment as well as technical equipment needed to run an undertaking. In the case of an agricultural undertaking, goods and equipment shall include livestock;
- 'undertaking' means an independent economic unit, whether a whole entity or a department of such an entity operating independently.

Article 73

The relief referred to in Article 72 shall be limited to goods and equipment which:

- (a) except in special cases justified by the circumstances, were actually used by the undertaking in the third country from which it has transferred its activities, before it ceased to operate;
- (b) are intended to be used for the same purposes after the transfer;
- (c) are appropriate to the nature and size of the undertaking in question.

Article 74

1. Relief shall only be granted to undertakings which definitively cease their activity in the third country of departure in order to carry on a similar activity in the customs territory of the Community.
2. No relief shall be granted to undertakings the transfer of which into the customs territory of the Community is consequent upon or for the purpose of merger, takeover or any other link with an undertaking established in the customs territory of the Community, without a new activity being set up.

Article 75

No relief shall be granted for:

- (a) means of transport which are not production machinery or service industry machinery, such as inter alia mobile laboratories or outside broadcasting units;
- (b) supplies of any kind intended for human consumption or for animal feed;
- (c) fuel and stocks of raw materials or finished or semi-finished products;
- (d) livestock in the possession of dealers.

Article 76

Except in special cases justified by the circumstances, the relief referred to in Article 72 shall be granted only for goods and equipment declared for free circulation within 12 months of the date when the undertaking ceased its activities in the third country of departure.

Article 77

1. Until 12 months have elapsed from the date on which their entry for free circulation was accepted, goods and equipment which have been admitted duty-free may not be lent, given as security, hired out or transferred, whether for a consideration or free of charge, without prior notification to the customs authorities.

The restriction on hiring out or transfer may be extended to 36 months where there is a risk of abuse.

2. Any loan, giving as security, hiring out or transfer before the expiry of the period referred to in paragraph 1 shall entail payment of the appropriate import duties on the goods concerned, at the rate applying on the date of such loan, giving as security, hiring out or transfer, according to the nature and customs value of the goods as ascertained or accepted on that date by the customs authorities.

Article 78

1. Articles 72 to 77 shall apply mutatis mutandis to goods and equipment imported by legal persons engaged in a non-profitmaking activity who transfer this activity from a third country into the customs territory of the Community.

2. Relief shall be granted to persons engaged in a profession or equivalent only on condition that they are authorized to exercise their profession in the Community.

Chapter II Products obtained by Community farmers on properties located in a third country

Article 79

1. Subject to Articles 80 and 81, agricultural, stock-farming, bee-keeping, horticultural and forestry products from properties, adjoining the customs territory of the Community, located in a third country which are operated by agricultural producers having their principal undertaking within the said customs territory, adjacent to the third country concerned, shall be admitted free of import duties.

2. To benefit from the provisions of paragraph 1, stock-farming acts must be derived from animals which originated in the Community or have been put into free circulation therein.

Article 80

Relief shall be limited to products which have not undergone any treatment other than that which normally follows their harvest or production.

Article 81

Relief shall be granted only for products obtained by producers themselves on the third-country property and brought into the customs territory of the Community by them or on their behalf.

Article 82

Articles 79 to 81 shall apply mutatis mutandis to the products of fishing or fish-farming activities carried out in the lakes or waterways forming the border between the customs territory of the Community and a third country by Community fishermen and to the products of hunting activities carried out on such lakes or waterways by Community sportsmen.

Chapter III Seeds, fertilizers and products for the treatment of soil and crops imported by farmers in third countries for use in properties adjoining those countries

Article 83

Subject to Article 84, seeds, fertilizers and products for the treatment of soil and crops intended for use on property, adjoining a third country, located in the customs territory of the Community and operated by agricultural producers having their principal undertaking within the said third country, adjoining the customs territory of the Community shall be admitted free of import duties.

Article 84

1. Relief shall be limited to the quantities of seeds, fertilizers or other products required for the purpose of operating the property.

2. It shall be granted only for seeds, fertilizers or other products brought direct into the customs territory of the Community by the producer or on their behalf.

Member States may make relief conditional upon the granting of reciprocal treatment.

Chapter IV Goods imported for trade promotion purposes

A. Samples of goods of negligible value

Article 85

1. Without prejudice to Article 89 (1) (a), samples of goods of any kind which

are of negligible value, and can be used only to solicit orders for goods of the type they represent with a view to their being imported into the customs territory of the Community, shall be admitted free of import duties.

2. The customs authorities shall require samples that could be used in their own right, be rendered permanently unusable by being torn, perforated, or clearly and indelibly marked, or by any other process, provided such operation does not destroy their character as samples.

3. For the purposes of paragraph 1, 'samples of goods' means any article or sample representing a type of goods whose manner of presentation and quantity, for goods of a given type or quality, rule out its use for any purpose other than that of seeking orders.

B. Printed advertising matter and articles for advertising purposes

Article 86

Subject to Article 87, printed advertising matter such as catalogues, price lists, directions for use or brochures shall be admitted free of import duties, provided that they relate to:

- (a) goods for sale or hire, or
- (b) services offered

by a person established outside the customs territory of the Community.

Article 87

The relief referred to in Article 86 shall be limited to printed advertising which fulfils the following conditions.

- (a) it must clearly display the name of the undertaking which produces, sells or hires out the goods or offers the services to which it refers;
- (b) each consignment must contain no more than one document or a single copy of each document if it is made up of several documents. Consignments comprising more than one copy of the same document may nevertheless be granted relief, provided their total gross weight does not exceed one kilogram;
- (c) it may not be the subject of grouped consignments from the same consignor to the same consignee.

Article 88

Articles for advertising purposes, sent free of charge by suppliers to their customers, shall be admitted free of import duties provided:

- they are of no intrinsic commercial value,
- they are not capable of being used except for advertising purposes.

C. Products used or consumed at a trade fair or similar event

Article 89

1. Subject to Articles 90 to 93, the following shall be admitted free of import duties:

- (a) small representative samples of any goods manufactured outside the customs territory of the Community intended for a trade fair or similar event;
- (b) goods imported solely in order to be demonstrated or in order to demonstrate machines and apparatus, manufactured outside the customs territory of the Community and displayed at a trade fair or similar event;
- (c) various materials of low value such as paints, varnishes, wallpaper, etc., used in the building, fitting-out and decoration of temporary stands occupied by representatives of third countries at a trade fair or similar event, which are destroyed by being used;
- (d) printed matter, catalogues, prospectuses, price lists, advertising posters, calendars, whether or not illustrated, unframed photographs and other articles supplied free of charge in order to advertise goods manufactured outside the customs territory of the Community and displayed at a trade fair or similar event.

2. For the purposes of paragraph 1, 'trade fair or similar event' means:

- (a) exhibitions, fairs, shows and similar events connected with trade, industry,

agriculture or crafts;

(b) exhibitions and events held mainly for charitable reasons;

(c) exhibitions and events held mainly for scientific, technical, craft, artistic, educational, cultural or sporting reasons, for religious reasons or for reasons of worship, trade union activity or tourism, or in order to promote international understanding;

(d) meetings of representatives of international organizations or collective bodies;

(e) official or commemorative ceremonies and gatherings;

but not exhibitions staged for private purposes in commercial stores or premises to sell third-country goods.

Article 90

The relief referred to in Article 89 (1) (a) shall be limited to samples which:

(a) are imported free of charge as such from third countries or are obtained at the event from goods imported in bulk from those countries;

(b) are exclusively distributed free of charge to the public at the event for use or consumption by the persons to whom they have been offered;

(c) are identifiable as advertising samples of low-unit value;

(d) are not easily marketable and, if packaged, are put up in quantities smaller than the smallest quantity of the same item actually sold on the market;

(e) in the case of foodstuffs and beverages not packaged as mentioned in (d), are consumed on the spot at the event;

(f) in their total value and quantity, are appropriate to the nature of the event, the number of visitors and the extent of the exhibitor's participation.

Article 91

The relief referred to in Article 89 (1) (b) shall be limited to goods which are:

(a) consumed or destroyed at the event; and

(b) are appropriate, in their total value and quantity, to the nature of the event, the number of visitors and the extent of the exhibitor's participation.

Article 92

The relief referred to in Article 89 (1) (d) shall be limited to printed matter and articles for advertising purposes which:

(a) are intended exclusively to be distributed free of charge to the public at the place where the event is held;

(b) in their total value and quantity, are appropriate to the nature of the event, the number of visitors and the extent of the exhibitor's participation.

Article 93

The relief referred to in Article 89 (1) (a) and (b) shall not be granted for:

(a) alcohol and alcoholic beverages;

(b) tobacco products;

(c) fuels, whether solid, liquid or gaseous.

Chapter V Goods imported for examination, analysis or test purposes

Article 94

Subject to Articles 95 to 97, goods which are to undergo examination, analysis or tests to determine their composition, quality or other technical characteristics for purposes of information or industrial or commercial research shall be admitted free of import duties, provided:

- the examination, analysis or tests do not in themselves constitute sales promotion operations;

- they do not exceed the quantities strictly necessary for the purpose for which they are imported. These quantities shall in each case be fixed by the customs authorities, taking into account the said purpose.

Article 95

For the purposes of Article 94:

- (a) 'technical characteristics' shall mean the intrinsic properties of a product and its external characteristics, including inter alia the product's reactions in a given environment (humidity, temperature, etc.);
- (b) examination, analysis or tests 'for purposes of informations' shall mean any operation designed to provide or improve objective knowledge of the product which is unconnected with any industrial or commercial activity and includes inter alia quality analysis, verification of compliance with standards or rules, expert appraisal, approval and type approval;
- (c) examination, analysis or tests 'for purposes of industrial or commercial research' shall mean any operation designed to provide or improve objective knowledge of the product which may be undertaken in the preparatory stages of industrial or commercial activity (test bench trials, field trials of vehicles on special terrain, clinical trials of drugs, etc.), provided they are not themselves part of an economic production cycle.

Article 96

1. The relief referred to in Article 94 shall be granted on condition that the goods to be examined, analyzed or tested are completely used up or destroyed in the course of the examination, analysis or testing, unless the customs authorities agree otherwise.

2 (a) The customs authorities may agree that any products remaining shall be, under the control of those authorities:

- completely destroyed or rendered commercially valueless on completion of the examination, analysis or tests
- surrendered to the Exchequer without causing it any expense, where this is possible under national law, or
- in duly justified circumstances, exported from the customs territory of the Community.

(b) the provisions of (a) are not applied, then any products which do remain shall be:

- subject to the appropriate import duties at the rate applying on the date of completion of the examination, analysis or tests, on the basis of the type of goods and the customs value ascertained or accepted on that date by the customs authorities; or
- the person concerned may, with the agreement and under the control of the customs authorities, convert products remaining to waste or scrap. In this case, the import duties shall be those applying to such waste or scrap at the time of conversion.

3. For the purposes of paragraph 2, 'products remaining' or 'products which do remain' means either products resulting from the examination, analysis or tests, or goods not actually used.

Article 97

The period within which the examination, analysis or tests must be undertaken and the administrative formalities to be carried out in order to ensure that the goods are used for the purposes intended shall be determined by the customs authorities.

TITLE VII IMPORTATION OF GOODS NEEDED TO CARRY OUT TRANSPORT OPERATIONS

Chapter I Ancillary materials for the stowage and protection of goods during their transport

Article 98

The various materials such as rope, straw, cloth, paper and cardboard, fibre glass, wood shavings, and plastics for the stowage and protection of goods (including heat protection) which are used during the transport from a third

country to the customs territory of the Community, not normally reusable, shall be admitted free of import duties.

Chapter II Litter, fodder and feedingstuffs for animals during their transport

Article 99

Litter, fodder and feedingstuffs of any description put on board the means of transport used to convey animals from a third country to the customs territory of the Community for the purpose of distribution to the said animals during the journey shall be admitted free of import duties.

Chapter III Fuel and lubricants present in means of transport and special containers

Article 100

1. Subject to Articles 101 and 102, the following shall be admitted free of import duties:

(a) fuel contained in the standard tanks of:

- private and commercial means of transport,
- special containers,

entering the customs territory of the Community;

(b) fuel contained in portable tanks carried by private motor vehicles and motor cycles, to a maximum of 10 litres per vehicle, intended for use in that vehicle.

2. For the purposes of paragraph 1:

(a) 'special container' shall mean any container fitted with specially designed apparatus for refrigeration systems, oxygenation systems, thermal insulation systems, or other systems;

(b) 'standard tanks' means:

- the tanks permanently fixed by the manufacturer to all means of transport of the same type as the means of transport in question, whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems.

Gas tanks fitted to means of transport designed for the direct use of gas as a fuel and tanks fitted to the other systems with which the means of transport may be equipped shall also be considered to be standard tanks;

- tanks permanently fixed by the manufacturer to all containers of the same type as the container in question, whose permanent fitting enables fuel to be used directly for the operation, during transport, of the refrigeration systems and other systems with which special containers are equipped.

Article 101

Fuel admitted duty-free under Article 100 may not be used in a means of transport other than that in which it was imported nor be removed from that means of transport and stored, except during necessary repairs to that means of transport, nor be transferred, whether for a consideration or free of charge, by the person entitled to the relief.

Failure to comply with the preceding paragraph shall give rise to application of the import duties relating to the products in question at the rate in force on the date of such non-compliance, on the basis of the type of goods and the customs value ascertained or accepted on that date by the customs authorities.

Article 102

The relief referred to in Article 100 shall also apply to the lubricants present in the means of transport or special containers and required for their normal operation during the journey in question.

TITLE VIII IMPORT OF INFORMATION MATERIAL

Chapter I Consignments sent to organizations protecting copyrights or industrial and commercial patent rights

Article 103

Trademarks, patterns or designs and their supporting documents, and applications for patents for invention or the like, to be submitted to the bodies competent to deal with the protection of copyrights or the protection of industrial or commercial patent rights, shall be admitted free of import duties.

Chapter II Tourist advertising material

Article 104

Without prejudice to Articles 41 to 48, tourist advertising material shall be admitted free of import duties.

For the purpose of this Regulation, 'tourist advertising material' shall include inter alia:

- (a) documents (leaflets, brochures, books, magazines, guidebooks, posters whether or not framed, unframed photographs and photographic enlargements, maps whether or not illustrated, window transparencies, and illustrated calendars) and audiovisual material intended to be distributed free of charge, the principal purpose of which is to encourage the public to visit foreign countries, in particular in order to attend cultural, tourist, sporting, religious or trade or professional meetings or events, provided that such documentation contains not more than 25 % of commercial advertising and that the general nature of its promotional aims is evident;
- (b) foreign hotel lists and yearbooks published by the official tourist agencies, or under their auspices, and timetables for foreign transport services, where such documentation is intended to be distributed free of charge and contains not more than 25 % of commercial advertising;
- (c) reference material supplied to accredited representatives or correspondents appointed by official national tourist agencies and not intended for distribution, viz. Yearbooks, lists of telephone or telex numbers, hotel lists, fairs catalogues, specimens of craft goods negligible value, audiovisual material and literature on museums, universities, spas or other similar establishments.

Chapter III Miscellaneous documents and articles of no commercial value

Article 105

The following items shall be admitted free of import duties when they are clearly, by virtue of their quantity or nature, of no commercial value:

- (a) publications of public authorities, local authorities and public-law bodies of third countries, and publications of official international organizations established in third countries, provided that such publications are intended for distribution free of charge;
- (b) ballot papers for elections organized by bodies set up in third countries;
- (c) documents sent free of charge to the public services of Member States;
- (d) objects to be submitted as evidence or for like purposes to the courts or other official agencies of the Member States;
- (e) specimen signatures and printed circulars concerning signatures sent as part of customary exchanges of information between public services or banking establishments;
- (f) official printed matter sent to the central banks of the Member States;
- (g) reports, statements, notes, prospectuses, application forms and other documents drawn up by companies registered in a third country and sent to the bearers or subscribers of securities issued by such companies.
- (h) recorded media such as punched cards, magnetic tapes, microfiches, microfilms and magnetic discs, video tapes, sound tapes, etc. for the international exchange of information, sent free of charge to the addressee;

- (i) files, archives, printed forms and other documents, or the equivalent on other media, to be used at international meetings, conferences or congresses, and reports on such gatherings;
- (j) plans, technical drawings, traced designs, descriptions and other similar documents imported with a view to obtaining or fulfilling orders in third countries or to participating in competitions or tender procedures held in the customs territory of the Community;
- (k) documents to be used in examinations held in the customs territory of the Community by institutions established in third countries;
- (l) printed forms to be used as official documents in the international movement of vehicles or goods, under international conventions;
- (m) printed forms, labels, tickets and similar documents sent by transport and travel undertakings or by undertakings of the hotel industry in a third country to their agents or to travel agencies established in the customs territory of the Community;
- (n) printed forms and tickets, bills of lading, way-bills and other commercial or office documents which have been used;
- (o) official printed matter from third country or international authorities, and printed matter conforming to international standards sent for distribution by third country associations to corresponding associations in the customs territory of the Community;
- (p) photographs, slides and stereotype mats for photographs, or the equivalent using other technologies, whether or not captioned, sent to press agencies or newspaper or magazine publishers;
- (q) tax and similar stamps proving payment of charges in third countries.

TITLE IX IMPORT OF FUNERARY MATERIALS

Chapter I Materials for construction, upkeep or ornamentation of memorials to, or cemeteries for, war victims

Article 106

Goods of any description imported by organizations authorized for this purpose by the customs authorities, to be used for the construction, upkeep or ornamentation of cemeteries and tombs of, or memorials to, war victims of third countries who are buried in the customs territory of the Community shall be admitted free of import duties.

Chapter II Coffins, funerary urns and ornamental funerary articles

Article 107

The following shall be admitted free of import duties:

- (a) coffins, containing bodies, and urns, containing the ashes of deceased persons, as well as the flowers, funeral wreaths and other ornamental objects normally accompanying them;
- (b) flowers, wreaths and other ornamental objects brought by persons resident in third countries attending a funeral or coming to pay their respects at graves in the customs territory of the Community.

PART TWO RELIEF FROM EXPORT DUTIES

TITLE I GOODS OF NEGLIGIBLE VALUE

Article 108

Consignments made up of goods of negligible value sent direct from the customs territory of the Community to a consignee in a third country may be exported free of export duties.

'Goods of negligible value' means goods of a total intrinsic value not exceeding ECU 45 per consignment.

TITLE II EXPORT IN CONNECTION WITH THE EXERCISE OF A COMMERCIAL ACTIVITY

Chapter I Domesticated animals exported at the time of transfer of agricultural activities from the customs territory of the Community to a third country

Article 109

1. Domesticated animals forming the livestock of an agricultural undertaking which has ceased to operate in the customs territory of the Community and transfers its activities to a third country may be exported free of export duties.
2. The relief referred to in paragraph 1 shall be limited to domestic animals in numbers appropriate to the nature and size of the agricultural undertaking.

Chapter II Products obtained by farmers on properties located in the customs territory of the Community

Article 110

1. Agricultural or stockfarming products obtained from properties located in the customs territory of the Community, adjoining a third country, which are operated, in the capacity of owner or lessee, by farmers having their principal undertaking in the said third country, adjoining the customs territory of the Community, may be exported free of export duties.
2. To benefit from the provisions of paragraph 1, stockfarming products must be derived from animals originating in the third country in question or satisfying the requirements for free circulation therein.

Article 111

The relief referred to in Article 110 (1) shall be limited to products which have not undergone any treatment other than that which normally follows their harvest or production.

Article 112

Relief shall be granted only for products obtained by producers themselves on the Community property and brought into the third country in question by them or on their behalf.

Chapter III Seeds exported by farmers for use on properties located in third countries

Article 113

Seeds for use on properties located in a third country adjoining the customs territory of the Community and operated, in the capacity of owner or lessee, by agricultural producers whose principal undertaking is located in the said territory adjoining the third country in question may be exported free of export duties.

Article 114

The relief referred to in Article 113 shall be limited to the quantities of seeds required for the purpose of operating the property.
It shall be granted only for seeds exported direct from the customs territory of the Community by the agricultural producer or on his behalf.

TITLE III FODDER AND FEEDINGSTUFFS ACCOMPANYING ANIMALS DURING EXPORTATION

Article 115

Fodder and feedingstuffs of any description put on board the means of transport used to convey animals from the customs territory of the

Community to a third country for the purpose of distribution to the said animals during the journey may be exported free of export duties.

PART III GENERAL AND FINAL PROVISIONS

TITLE I GENERAL CONDITIONS FOR THE GRANTING OF RELIEF

Article 116

1. Where relief from import duties is dependent upon the goods being put to a particular use, then the customs authorities who may grant this relief shall be those of the Member State where the goods are to be used.
2. Those authorities shall take all the appropriate measures to ensure that these goods are not be used for other purposes without the appropriate import duties being paid, unless such alternative use is in conformity with the conditions laid down by this Regulation.

Article 117

Where the conditions required for the grant of relief from import or export duties under different provisions of this Regulation are simultaneously fulfilled, the provisions in question shall apply concurrently.

Article 118

1. Member States may maintain unchanged the national currency equivalent of any amount determined in ecu if, at the time of the annual adjustment provided for in Article 18 (1) of the Code, the conversion of the amount leads to a reduction or to an alteration of less than 5 %, after the rounding up provided for in paragraph 2.
2. Member States may round up the amounts in national currency arrived at by converting the amounts in ecu. The amount of the rounding up may not exceed 5 % of the original figure.

TITLE II OTHER GENERAL PROVISIONS

Article 119

1. Nothing in this Regulation shall prevent the Member States from granting:
 - (a) relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions;
 - (b) relief in the context of the customary privileges accorded by virtue of international agreements or headquarters agreements to which either a third country or an international organization is a contracting party, including the relief granted on the occasion of international meetings;
 - (c) relief in the context of the customary privileges accorded by virtue of international agreements concluded by all the Member States setting up a cultural or scientific institute or organization under international law;
 - (d) relief in the context of the customary privileges and immunities accorded under cultural, scientific or technical cooperation agreements concluded with third countries;
 - (e) special relief introduced under agreements concluded with third countries providing for common measures for the protection of persons or of the environment;
 - (f) special relief introduced under agreements concluded with adjacent third countries, which is justified by the nature of frontier-zone trade with the countries in question;
 - (g) relief in the context of agreements concluded on the basis of reciprocity between a Member State and third countries that are Contracting Parties to the Convention on International Civil Aviation (Chicago 1944) for the purpose of implementing Recommended Practices 4.44 and 4.45 in Annex 9 to the Convention (ninth edition, July 1990),

(h) special relief to the armed forces of third countries and other Member States which are stationed on their territories in pursuance of international agreements, until the establishment of Community provisions in this field.

2. Member States shall notify the Commission of the customs provisions contained in international conventions and agreements of the type referred to in paragraph 1 (b), (c), (d), (e), (f), (g) and (h) concluded after the entry into force of this Regulation.

The Commission shall forward to the Member States the texts of the provisions thus notified to it.

Article 120

Where an international instrument not covered by any of the categories referred to in Article 119 (1) which a Member State intends to conclude or to which it intends to subscribe provides for the granting of relief over and above the provisions of this Regulation, that Member State shall, before entering into any commitment, submit a request to the Commission for the application of such special relief, supplying the Commission with all the necessary information.

The Commission shall take a direct decision on such a request, with the speed and confidentiality demanded by the negotiations on the instrument concerned.

Article 121

This Regulation shall not preclude retention by Greece of the special status accorded to Mount Athos as guaranteed by Article 105 of the Greek Constitution.

Article 122

This Regulation shall apply without prejudice to:

- (a) the national provisions in force concerning the stores of vessels, aircraft and international trains, until the establishment of Community provisions in this field;
- (b) provisions on relief contained in the agreements concluded by the Community with certain third countries.

TITLE III FINAL PROVISIONS

Article 123

1. The following Regulations are hereby repealed:

- (a) Council Regulation (EEC) No 918/83 of 28 March 1983, as last amended by Council Regulation (EEC) No . . . /94 of . . . 1994;
- (b) Council Regulation (EEC) No 3301/74 of 19 December 1974.

2. In all Community acts where reference is made to Regulation (EEC) No 918/83 that reference shall be deemed to refer to this Regulation.

Article 124

This Regulation shall enter into force on the seventh day following its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1995.

Article 32 (4) shall cease to apply from 1 January 2001 and Article 32 (5) from 1 January 1998.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

- (1) OJ No L 302, 19. 10. 1992, p. 1.
- (2) OJ No L 105, 23. 4. 1983, p. 1.
- (3) OJ No L 46, 18. 2. 1994, p. 5.
- (4) OJ No L 354, 30. 12. 1974, p. 55.
- (5) OJ No L 253, 11. 10. 1993, p. 1.

ANNEX I
>TABLE POSITION>

B. Visual and audio materials of an educational, scientific or cultural nature
The articles listed in Annex II (A) produced by the United Nations or any of its specialized agencies.

ANNEX II
>TABLE POSITION>
>TABLE POSITION>



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