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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.10.2007  
COM(2007) 614 final

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EEC) No 918/83 setting up a Community system of relief from  
customs duty**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

With the adoption of Council Directive 2007/ /EC of on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty has to be amended in order to ensure a certain parallelism between the exemption from VAT and the relief from import duty. Since Council Regulation (EEC) No 918/83 has not been significantly changed since more than fifteen years the requirement to change the provision concerning the import of goods contained in travellers' personal luggage is a good opportunity to amend some provisions. These changes

- improve the clarity and the transparency of this Regulation,
- improve the parallelism between the exemption from VAT and duty relief,
- harmonise the application of customs provisions in the Member States, and
- simplify the customs clearance for certain goods.

- **General context**

The review of these provisions has to be seen in the context of Commission's efforts to improve the clarity and transparency of Community legislation as well as to facilitate the trade with third countries and to simplify customs controls.

- **Existing provisions in the area of the proposal**

Council Directive 2007/ /EC of on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries

Council Directive 83/181/EEC of 28 March 1983 determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods

- **Consistency with the other policies and objectives of the Union**

The proposed amendment is in line with the Commission's aims in respect of trade facilitation and simplification of customs controls.

### 2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The members of the Customs Code Committee – General Legislation have been consulted in writing.

Summary of responses and how they have been taken into account

No objections were raised by the members of the Committee

- **Collection and use of expertise**

Scientific/expertise domains concerned

n. a.

Methodology used

n. a.

Main organisations/experts consulted

n. a.

Summary of advice received and used

n. a.

Means used to make the expert advice publicly available

n. a.

- **Impact assessment**

1. The proposed amendments will eliminate a number of uncertainties in the application of the duty relief provisions. This concerns the aspect that these provisions can only apply to imported goods which are subject to import duties other than "free". It also clarifies that imported goods benefiting from duty relief in accordance with the provisions of Council Regulation (EEC) No 918/83 should not be subject to trade defence measures imposed on the basis of Article 133 of the Treaty.

2. The duty relief for household effects for furnishing a secondary residence is not replicated in the provisions for VAT exemptions. The elimination of these provisions will not only improve the parallelism between duty relief and VAT exemption but also simplify the customs clearance and controls of goods which are imported due to the transfer of residence of a natural person to the Community as the customs authorities can concentrate their controls of ownership to those cases where customs duties and VAT are at stake.

3. The proposed amendment to replace the duty relief provisions for commercial imports of goods of negligible value with a provision determining a negligible amount of customs duty which need not to be collected will have a significant simplification effect on the customs clearance of small consignments. Until now given the commercial nature of these imports small consignments of an intrinsic value of more than €22 would have to be classified in accordance with the provisions of the CCT. In view of the fact that this value limit has not been modified since more than 15 years and due to the increased use of purchases via mail order houses in combination with the increased use of the internet the economic operators as well as the customs authorities in charge of clearing these items have reached their capacity limit to

comply with tasks required by the customs legislation.

The proposed solution, however, will have the effect that a high number of small consignments, i.e. up to a value of about €60, containing goods not falling within the scope of the CAP would not have to be classified due the fact that the maximum rate of duty for these goods would not exceed 16 % and thus significantly increasing the efficiency of the customs clearance for these consignments.

Furthermore, the proposed amendment will lead to a harmonisation of the application of customs legislation as some Member States have already now replaced the application of Article 27 of Council Regulation (EEC) No 918/83 by the de minimis solution for the collection of customs duties set out in Article 868 of Commission Regulation (EEC) No 2454/93.

### **3) LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

Proposal for a Council Regulation amending Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty

- **Legal basis**

Art 26

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

n. a.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

By virtue of Article 26 of the EC Treaty Common Customs Tariff duties are approved by the Council acting on a qualified majority on the basis of a Commission proposal.

### **4) BUDGETARY IMPLICATION**

Uncollected customs duties of an estimated amount of €286.1 mio

### **5) ADDITIONAL INFORMATION**

- **Simplification**

The proposal also provides for the simplification of the customs clearance of goods imported

- in the context of the transfer of the normal residence for natural persons, and
- in small consignments of negligible value.

It also eliminates the need for end use controls for goods which are only subject to the CCT duty rate "free".

Proposal for a

## COUNCIL REGULATION

### **amending Regulation (EEC) No 918/83 setting up a Community system of relief from customs duty**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 26 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Whereas:

- (1) Goods imported under relief from Common Customs Tariff (CCT) duties as provided for by Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty<sup>2</sup>, are normally subject to restrictions concerning their usage and/or to post import customs controls. Those restrictions and controls are intended to prevent imported goods that benefit from duty relief from having a negative economic impact on the Community market. It is therefore appropriate to provide that this Regulation applies only to importations of goods for which the conventional or autonomous rate of duty, set out in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>3</sup>, is not indicated as "free" and to delete provisions of Regulation (EEC) No 918/83 which refer to specific products in respect of which the conventional rate of CCT duty is "free".
- (2) Imports of household effects for furnishing a secondary residence are subject to the same restrictions and controls as the same goods imported by natural persons transferring their normal place of residence from a third country. Although creating the same administrative burden for the importing persons and the customs administrations in the Member States, the former types of importations do not benefit from exemption from value added tax (VAT) whereas the latter ones do. Furthermore, the economic benefits of a duty relief for imports of household effects for furnishing a secondary residence is small in comparison with the supplementary costs of controls. It is therefore appropriate to delete the provisions concerning the customs duty relief for those goods.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ L 105, 23. 4. 1983, p. 1, Regulation as last amended by the 2003 Act of Accession.

<sup>3</sup> OJ L 256, 7.9.1987, p.1. Regulation as last amended by Regulation (EC) No 733/2007 (OJ L 169, 29.6.2007, p.1.)

- (3) Rules relating to *de minimis* cases are contained both in Article 868 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementing of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code<sup>4</sup> and in Article 27 and 28 of Regulation (EEC) No 918/83. The criteria of these rules differ, so as to give rise to complications and ensuing inconsistencies. Accordingly, it is appropriate to replace Articles 27 and 28 of Regulation (EEC) No 918/83 by a provision whose criteria are aligned to those of the said Article 868 and that establishes a *de minimis* amount for customs duty which need not be collected on the importation of goods.
- (4) In order to ensure that no importations of VAT exempt goods which are contained in travellers' personal luggage are subject to customs duties, the provisions for such imports of Regulation (EEC) 918/83 should be amended to take account of Council Directive 2007/ /EC of [ ] on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries<sup>5</sup>. It is therefore appropriate to grant relief from customs duties where national VAT law implemented in accordance with Directive 2007/.../..., provides for an exemption from VAT. In this context it is necessary to ensure that the same provisions for duty relief apply in the territories set out in Article 6 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>6</sup>.
- (5) The importation of goods under duty relief is not likely to have significant injurious effects on Community industry. It is therefore appropriate to exclude importations of goods which benefit from duty relief from the application of trade defence measures imposed on the basis of Article 133 of the Treaty.
- (6) Council Regulation (EEC) No 918/83 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 918/83 is amended as follows:

- (1) In Article 1, paragraph 1 is replaced by the following:

"1. This Regulation sets out those cases in which, owing to special circumstances, relief from import duties, export duties and measures adopted on the basis of Article 133 of the Treaty shall be granted respectively when goods are put into free circulation or are exported from the customs territory of the Community.

It shall not apply to goods for which the conventional or autonomous rate of duty set out in Regulation (EEC) No 2658/87 is indicated as "free". It shall, however, apply to goods indicated in that Regulation as "free" where those goods are subject to import

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<sup>4</sup> OJ L253 11.10.1993, p.1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62 1.3.2007, p.6.)

<sup>5</sup> OJ L [ ], [ ], p. [ ].

<sup>6</sup> OJ L 347, 11.12.2006, p. 1. Directive as last amended by Directive 2006/138/EC (OJ L 384, 29.12.2006, p.92)

duties or quantitative restrictions pursuant to measures adopted on the basis of Article 133 of the Treaty."

(2) In Chapter I, Title IV is deleted;

(3) In Chapter I, the heading of Title VI is replaced by the following:

"NEGLIGIBLE AMOUNTS OF CUSTOMS DUTY"

(4) Article 27 is replaced by the following:

*"Article 27*

Relief from customs duty shall be granted where the amount of the duty is less than EUR 10."

(5) Article 28 is deleted;

(6) Article 45 is replaced by the following:

*"Article 45*

Goods contained in the personal luggage of travellers coming from a third country shall be admitted free of import duties, provided such imports are exempt from value added tax (VAT) under provisions of national law adopted in accordance with the provisions of Council Directive 2007/ /EC (\*).

Goods imported into territories listed in Article 6 of Council Directive 2006/112/EC (\*\*) shall be subject to the same provisions on duty relief as goods imported into any other parts of the territory of the Member State concerned."

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(\*) OJ L [ ], [ ], p. [ ].

(\*\*) OJ L 347, 11.12.2006, p. 1. Directive as amended by Directive 2006/138/EC (OJ L 384, 29.12.2006, p.92)

(7) Articles 46 to 49, 70, 92 and 93 are deleted;

(8). In Chapter I, Title XXIII is deleted;

(9) Article 109 is replaced by the following:

*" Article 109*

The following shall be admitted free of import duties:

(a) objects to be submitted as evidence or for like purposes to the courts or official agencies of the Member States;

(b) recorded media, including punched cards, sound recordings and microfilms, used for the transmission of information sent free of charge to the addressee, in so far as duty-free admission does not give rise to abuses or to major distortions of competition."

(10) In Article 127, the following paragraph 3 is added:

"3. Goods which may be imported under relief from duties in accordance with this Regulation shall also not be subject to quantitative restrictions applied pursuant to measures adopted on the basis of Article 133 of the Treaty."

(11) Annex I is replaced by the text set out in Annex I to this Regulation;

(12) Annex II is replaced by the text set out in Annex II to this Regulation.

(13) Annex III is deleted;

(14) Annex IV is replaced by the text set out in Annex III to this Regulation

## *Article 2*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2008.

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

Done at Brussels,

*For the Council*

*The President*

**ANNEX I**

**"ANNEX I**

**Educational, scientific or cultural materials referred to in Article 50**

<b>CN code</b>	<b>Description</b>
<b>3705</b>	Photographic plates and film, exposed and developed, other than cinematographic film:
ex 3705 10 00	Offset reproduction films for the production of books
ex 3705 90 10	Microfilms of books, children's picture books and drawing or painting books, school exercise books (workbooks), crossword-puzzle books, newspapers and periodicals, printed documents or reports of a non-commercial character, and of loose illustrations, printed pages and reproduction proofs for the production of books
ex 3705 90 90	Other reproduction films for the production of books
<b>9023</b>	Instruments, apparatus or models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses:
ex 9023 00 80	Maps and charts in relief of interest in scientific fields such as geology, zoology, botany, mineralogy, paleontology, archaeology, ethnology, meteorology, climatology and geophysics
<b>CN codes of Annex II</b>	Articles listed in Annex II produced by the United Nations or any of its specialized agencies"

## ANNEX II

### "ANNEX II

#### Educational, scientific or cultural materials referred to in Article 51

CN code	Description
<b>3705</b>	Photographic plates and film, exposed and developed, other than cinematographic film:
ex 3705 10 00	For offset reproduction of an educational, scientific or cultural nature <sup>(1)</sup>
ex 3705 90 10	Microfilms of an educational, scientific or cultural nature <sup>(1)</sup>
ex 3705 90 90	Other photographic plates and film, exposed and developed of an educational, scientific or cultural nature <sup>(1)</sup>
<b>3706</b>	Cinematographic film, exposed and developed, whether or not incorporating soundtrack or consisting only of soundtrack:
ex 3706 10 99	Other cinematographic film positives, exposed and developed, of a width of 10 mm or more of an educational, scientific or cultural nature <sup>(1)</sup>
ex 3706 90 99	
<b>8523</b>	Discs, tapes, solid-state non-volatile storage devices, 'smart cards' and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of Chapter 37:
ex 8523 21 00	Recorded magnetic media of an educational, scientific or cultural nature <sup>(1)</sup>
ex 8523 29 39	
ex 8523 29 90	
ex 8523 40 31	Recorded optical media of an educational, scientific or cultural nature <sup>(1)</sup>
ex 8523 40 39	
ex 8523 40 51	
ex 8523 40 59	
ex 8523 40 99	
ex 8523 51 99	Recorded semiconductor media of an educational, scientific or cultural nature <sup>(1)</sup>
ex 8523 52 10	
ex 8523 59 99	
ex 8523 80 99	Gramophone records of an educational, scientific or cultural nature <sup>(1)</sup>
<b>9023</b>	Instruments, apparatus or models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses:
ex 9023 00 10	Patterns, models and wall charts of an educational, scientific or cultural nature, designed solely for demonstration and education, <sup>(1)</sup>
ex 9023 00 80	
ex 9023 00 10	Mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae of an educational, scientific or cultural nature <sup>(1)</sup>
ex 9023 00 80	

<sup>(1)</sup> The application of duty relief for this good is subject to the conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 1) "

### ANNEX III

#### "ANNEX IV

#### **Articles specially designed for the educational, scientific or cultural advancement of blind persons as referred to in Article 71**

<b>CN code</b>	<b>Description</b>
ex 6602 00 00	Walking sticks, seat-sticks, whips, riding-crops and the like: - White canes for the blind and partially sighted
ex 8469 00 91 ex 8469 00 99	Typewriters: - adapted for the use by the blind and partially sighted
ex 8519	Sound recording or sound reproducing apparatus: - Record-players and cassette players specially designed or adapted for the blind and partially sighted
ex 8523	Discs, tapes, solid-state non-volatile storage devices, 'smart cards' and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of Chapter 37: - Talking books - Magnetic tapes and cassettes for the production of Braille and Talking books
<b>9013</b>	Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this chapter:
ex 9013 80 90	- Other devices, appliances and instruments: - Television enlargers for the blind and partially sighted
<b>9023</b>	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses:
ex 9023 00 80	- Other: - Teaching aids and apparatus specifically designed for the use of the blind and partially sighted
ex 9102	Wristwatches, pocket-watches and other watches, including stopwatches, other than those of heading 9101: - Braille watches with cases other than of precious metals
Various	All other articles specially designed for the education, scientific or cultural advancement of the blind and partially sighted"

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A  
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

**1. NAME OF THE PROPOSAL:**

Proposal for a Council Regulation amending Council Regulation (EEC) No 918/83 setting up a Community system of relief from customs duty

**2. BUDGET LINES:**

Chapter and Article: Chap. 12 art. 120

The loss for the following years mentioned in the column "validity period" will be calculated separately by the following regulations.

Amount budgeted for the year 2008: €16 431 900 000

**3. FINANCIAL IMPACT**

Proposal has no financial implications

Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€million to one decimal place)

Budget line	Revenue <sup>7</sup>	12 month period, starting dd/mm/aaaa	[Year 2008]
Article 120	<i>Impact on own resources</i>	1/01/2008	- 286.1

**4. ANTI-FRAUD MEASURES**

**5. OTHER REMARKS**

Estimated cost of this operation

For the calculation of the estimated loss of revenue it was assumed that **30 mio air and sea travellers** would make use of the additional duty free amount of **€155** per person and **50 mio other travellers** of the additional duty free amount of **€125** per person which results in a **duty free amount of €10,900 mio** \* 3.5% of standard rate of duty for travellers = **€381.5 mio customs duty – 25% fee for MS = €286.1 mio.**

<sup>7</sup> Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% of collection costs.

### Impact of the operation

1. The proposed amendments will eliminate a number of uncertainties in the application of the duty relief provisions.
2. The amendment will improve the parallelism between duty relief and VAT exemption and simplify the customs clearance and controls of goods which are imported due to the transfer of residence of a natural person to the Community.
3. The amendment will significantly increase the efficiency of the customs clearance for small consignments of negligible value.
4. The amendment will lead to a better harmonisation of the application of customs legislation by the customs authorities of the Member States.