



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.1.2006
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2006/0007 (CNS)

Proposal for a

COUNCIL DIRECTIVE

**on the exemption from taxes of imports of small consignments of goods of a
non-commercial character from third countries**

(presented by the Commission)

(Codified version)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 78/1035/EEC of 19 December 1978 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ Annex I, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 78/1035/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

↓ 78/1035/EEC (adapted)

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on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁵,

Having regard to the opinion of the European Economic and Social Committee⁶,

Whereas:

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- (1) Council Directive 78/1035/EEC of 19 December 1978 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries⁷ has been substantially amended several times⁸. In the interests of clarity and rationality, the said Directive should be codified.

↓ 78/1035/EEC (adapted)

- (2) Provision should be made for the exemption from turnover taxes and excise duties of imports of small consignments of a similar nature from third countries.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ L 366, 28.12.1978, p. 34. Directive as last amended by the Act of Accession of Austria, Finland and Sweden.

⁸ See Annex I, Part A.

↓ 78/1035/EEC (adapted)

- (3) To that end the limits within which such exemption is to be applied should, for practical reasons, be as far as possible the same as those laid down for the Community arrangements for exemption from customs duties in Council Regulation (EEC) No 918/83 of 28 March 1983⁹.

↓ 78/1035/EEC

- (4) Finally it appears necessary to set special limits for certain products because of the high level of taxation to which they are at present subject in the Member States.

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- (5) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B,

↓ 78/1035/EEC

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Goods in small consignments of a non-commercial character sent from a third country by private persons to other private persons in a Member State shall be exempt on importation from turnover tax and excise duty.
2. For the purposes of paragraph 1, 'small consignments of a non-commercial character' shall mean consignments which:

↓ 78/1035/EEC (adapted)
→₁ 85/576/EEC Art. 1 (adapted)

- ⊗ (a) ⊗ are of an occasional nature;
- ⊗ (b) ⊗ contain only goods intended for the personal or family use of the consignees, the nature and quantity of which do not indicate that they are being imported for any commercial purpose;
- ⊗ (c) ⊗ contain goods with a total value not exceeding →₁ EUR 45 ←;

⁹ ⊗ OJ L 105, 23.4.1983, p. 1. Regulation as last amended by Regulation (EC) N°1671/2000 (OJ L 193, 29.7.2000, p. 11) ⊗.

☒ (d) ☒ are sent by the sender to the consignee without payment of any kind.

↓ 78/1035/EEC

Article 2

1. Article I shall apply to the goods listed below subject to the following quantitative limits:

(a) *tobacco products*

(i) 50 cigarettes,

or

(ii) 25 cigarillos (cigars of a maximum weight of three grams each),

or

(iii) 10 cigars,

or

(iv) 50 grams of smoking tobacco;

↓ 85/576/EEC Art. 2

(b) *alcohol and alcoholic beverages:*

(i) distilled beverages and spirits of an alcoholic strength exceeding 22% vol.; undenatured ethyl alcohol of 80% vol. and over: one standard bottle (up to 1 litre),

or

(ii) distilled beverages and spirits, and aperitifs with a wine or alcohol base, tafia, saké or similar beverages of an alcoholic strength of 22% vol. or less; sparkling wines, fortified wines: one standard bottle (up to 1 litre),

↓ 78/1035/EEC

or

(iii) still wines: two litres;

(c) *perfumes:* 50 grams,

or

toilet waters: 0.25 litre or eight ounces;

(d) *coffee*: 500 grams,

or

coffee extracts and essences: 200 grams;

(e) *tea*: 100 grams,

or

tea extracts and essences: 40 grams.

2. The Member States shall have the right to reduce the quantities of the products referred to in paragraph 1 eligible for exemption from turnover tax and excise duties, or to abolish exemption for such products altogether.

↓ 78/1035/EEC

Article 3

Any goods listed in Article 2 which are contained in a small consignment of a non-commercial character in quantities exceeding those laid down in the said Article shall be excluded in their entirety from exemption.

↓ 78/1035/EEC (adapted)

Article 4

1. The euro equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.
2. Member States may round off the amounts in national currency resulting from the conversion of the amounts in euros provided for in Article 1(2), provided such rounding-off does not exceed EUR 2 .
3. Member States may maintain the amount of the exemption in force at the time of the annual adjustment provided for in paragraph 1 if, prior to the rounding-off provided for in paragraph 2, conversion of the amount of the exemption expressed in euros would result in a change of less than 5% in the exemption expressed in national currency.

Article 5

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.



Article 6

Directive 78/1035/EEC, as amended by the Directives listed in Annex I, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 7

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

↓ 78/1035/EEC Art. 6

Article 8

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President



ANNEX I

Part A

Repealed Directive with its successive amendments
(referred to in Article 6)

Council Directive 78/1035/EEC¹⁰
(OJ L 366, 28.12.1978, p. 34)

Council Directive 81/933/EEC
(OJ L 338, 25.11.1981, p. 24)

only Article 2

Council Directive 85/576/EEC
(OJ L 372, 31.12.1985, p. 30)

Part B

Time-limits for transposition into national law
(referred to in Article 6)

Directive	Time-limit for transposition
78/1035/EEC	1 January 1979
81/933/EEC	1 January 1982
85/576/EEC	1 July 1986

¹⁰ Directive 78/1035/EEC was also amended by the following act which is still in force:
Act of Accession of Austria, Finland and Sweden.

ANNEX II

CORRELATION TABLE

Directive 78/1035/EEC	This Directive
Article 1(1)	Article 1(1)
Article 1(2), first indent	Article 1(2)(a)
Article 1(2), second indent	Article 1(2)(b)
Article 1(2), third indent	Article 1(2)(c)
Article 1(2), fourth indent	Article 1(2)(d)
Article 2(1)(a), from “50 cigarettes” to “50 grams of smoking tobacco”	Article 2(1)(a)(i) to (iv)
Article 2(1)(b)	Article 2(1)(b)
Article 2(1)(b), first indent	Article 2(1)(b)(i)
Article 2(1)(b), second indent	Article 2(1)(b)(ii)
Article 2(1)(b), third indent	Article 2(1)(b)(iii)
Article 2(1)(c), (d) and (e)	Article 2(1)(c), (d) and (e)
Article 2(2)	Article 2(2)
Article 2(3)	-
Article 3	Article 3
Article 4(1)	-
Article 4(2)	Article 4(1)
Article 4(3)	Article 4(2)
Article 4(4)	Article 4(3)
Article 5(1)	-
Article 5(2)	Article 5

Directive 78/1035/EEC	This Directive
-	Article 6
-	Article 7
Article 6	Article 8
-	Annex I
-	Annex II