COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

Amending Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession concerning rules on goods, services and persons crossing the Green Line in Cyprus

(presented by the Commission)

EXPLANATORY MEMORANDUM

By Regulation No 866/2004, the Council established a regime under Article 2 of Protocol 10 to the Act of Accession 2003 which provides for special rules concerning goods, services and persons crossing the line between those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and those areas in which the Government of the Republic of Cyprus exercises effective control.

Trade and economic interaction on the island need to be enhanced in the light of experience gained since the Regulation including the previous substantial amendment (Council Regulation No 293/2005) entered into force. To this end, the duties on agricultural products originating in the areas in which the Government of the Republic of Cyprus does not exercise effective control should be generally lifted. So far, only duties on citrus fruit have been lifted by Commission Regulation No 1624/2005. In future, such cumbersome procedure can be avoided. To allow for this, it is proposed to strengthen the safeguard clause of the Regulation.

There is also the need to regulate in a transparent way the temporary introduction of goods (for up to six months) from the areas in which the Government of the Republic of Cyprus does not exercise effective control into the areas in which the Government of the Republic of Cyprus exercises effective control. Firstly, this aims at encouraging the provision of services by companies established in the areas in which the Government of the Republic of Cyprus does not exercise effective control across the line by allowing them to bring their equipment along. Secondly, it should facilitate the participation of those companies in trade fairs or similar events in areas in which the Government of the Republic of Cyprus exercises effective control. Thirdly, goods destined to undergo a repair in the areas in which the Government of the Republic of Cyprus exercises effective control should be allowed to cross. Reasonable evidence should be provided that the introduction of such goods takes place on a temporary basis. The proposed amendments anticipate that details of the temporary introduction can be regulated via implementing rules. In practice, this would be done by a revision of Commission Regulation No 1480/2004 shortly after the adoption of this proposed amending Regulation.

Finally, the total value of goods contained in the personal luggage of persons crossing the line needs to be substantially increased from 135 € to 260 € so as to encourage the economic development in the areas in which the Government of the Republic of Cyprus does not exercise effective control.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Protocol 10 on Cyprus to the 2003 Act of Accession[1], and in particular Article 2 thereof,

Having regard to Protocol 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus[2] to the said Act of Accession, in particular Article 6 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession[3] lays down special rules concerning goods, services and persons crossing the line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control.

(2) Trade and economic interaction on the island need to be enhanced in the light of experience gained since the Regulation including the previous amendment entered into force,

(3) To this end, the duties on agricultural products originating in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control should be generally lifted. To allow for this, the safeguard clause of Regulation (EC) No 866/2004 needs to be strengthened.

(4) The temporary introduction of goods from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control into the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control should be regulated, in order to encourage the provision of services by companies established in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control across the line and at facilitating the participation of those companies in trade fairs or similar events in areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control. Furthermore, goods destined to

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1 OJ L 236, 23.9.2003, p. 955

2 OJ L 236, 23.9.2003, p. 940

3 OJ L 161, 30.4.2004, p. 128, corrected version in OJ L 206 of 9.6.2004, p. 51, Regulation as last amended by Commission Regulation (EC) No 1283/2005 (OJ L 203, 4.8.2005, p.8).

undergo a repair in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control should be allowed to cross the line.

(5) Reasonable evidence should be provided that the introduction of such goods takes place on a temporary basis. The customs authorities of the Republic of Cyprus or the authorities of the Eastern Sovereign Base Area may ask for a guarantee to cover any potential customs or fiscal debts if certain temporarily introduced goods are not returned to the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

(6) For persons crossing the line from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control into the areas of the Republic of Cyprus in which this Government exercises effective control it should be clarified that their personal effects shall be considered to have been declared for temporary introduction. The same applies to means of transport.

(7) The total value of goods contained in the personal luggage of persons crossing the line from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control into the areas of the Republic of Cyprus in which this Government exercises effective control needs to be substantially increased so as to encourage the economic development in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control,

(8) Regulation (EC) No 866/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 866/2004 is hereby amended as follows:

1. In Article 4, paragraph 2 is replaced by the following:

'2. The goods referred to in paragraph 1 shall not be subject to customs declaration. They shall not be subject to customs duties or charges having equivalent effect. In order to ensure effective controls, the quantities crossing the line shall be registered.'

2. The following Article 4a is inserted:

'Article 4a

Temporary introduction of goods

1. With the exception of goods which are subject to veterinary and phytosanitary requirements, the following goods may be temporarily introduced from the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control into the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control:

(a) personal effects of persons crossing the line reasonably required for the journey and goods for sport purposes;

(b) means of transport;

(c) professional equipment;

(d) goods destined to be repaired;

(e) goods to be exhibited or used at a public event.

2. The period for which the goods referred to in paragraph 1 are introduced may be of a duration up to six months.

3. The goods referred to in paragraph 1 do not need to fulfil the conditions laid down in Article 4(1).

4. In the case the goods referred to in paragraph 1 upon the expiry of the period of temporary introduction provided for under paragraph 2, are not returned to the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control, they shall be subject to confiscation by the customs authorities of the Republic of Cyprus..

5. For temporary introduction of the goods referred to in points (a) and (b) of paragraph 1, Articles 229, 232, 579 and 581 of Commission Regulation (EEC) No 2454/93[4] shall apply *mutatis mutandis*.

For temporary introduction of the goods referred to in points (c), (d) and (e) of paragraph 1 the following procedure shall be followed:

(a) The goods shall be accompanied by a declaration of the person introducing them mentioning the purpose of the temporary introduction and supporting documentation, as appropriate, giving reasonable evidence that the goods fall under one of the three categories listed in points (c), (d) and (e) of paragraph 1.

(b) The goods shall be registered by the customs authorities of the Republic of Cyprus or by the authorities of the Eastern Sovereign Base Area when they enter into and leave the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control or the Eastern Sovereign Base Area.

(c) The customs authorities of the Republic of Cyprus and the authorities of the Eastern Sovereign Bases Area may make the temporary introduction of the goods conditional upon the provision of guarantee in order to ensure that any customs or fiscal debt which may be incurred in respect of those goods will be paid.

6. The Commission may adopt specific rules in accordance with the procedure referred to in Article 4(12).'

3. In Article 6, paragraph 1 and paragraph 2 are replaced by the following:

'1. Council Directive 69/169/EEC(*) and Council Regulation (EEC) 918/83 shall not apply, but goods contained in the personal luggage of persons crossing the line shall be exempt from turnover tax and excise duty as well as from import duties provided they have no commercial character and their total value does not exceed EUR 260 per person.

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[4] Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p.1). Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5)

2. The quantitative limits for exemptions from turnover tax and excise duty as well as from import duties shall be 40 cigarettes and 1 litre of spirits for personal consumption.'

(*) OJ L 133, 4.6.1969, p. 6.'

4. In Article 11(4), the second sentence is replaced by the following:

'In the event of other emergencies, notably those caused by irregularities, trade distortions or fraud, or where other exceptional circumstances arise which require immediate action, the Commission may, in consultation with the Government of the Republic of Cyprus, apply forthwith such measures as are strictly necessary to remedy the situation.'

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*.

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

Done at Brussels, […]

For the Council
The President
[…]