COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 490 final

Brussels, 5 December 1991

Proposal for a

COUNCIL DECISION

concerning the conclusion of an Agreement in the form of an Exchange of Letters relating to the amendment of the Convention of 20 May 1987 on a common transit procedure

(presented by the Commission)

EXPLANATORY MEMORANDUM

Subject: proposal for a Council Decision concerning the conclusion of an agreement in the form of an exchange of letters in respect of recommandation No 1/91 of the EEC-EFTA Joint Committee on common transit relating to the amendment of the Convention of the 20th May 1987 on a common transit procedure.

1. The Convention of the 20th May 1987 put into effect most of the rules of the Community Transit System which relate to trade between the Community and the EFTA countries and between those countries themselves.

2. In Regulation (EEC) No 2726/90 of 17.9.90 (OJ No L 262 of 26.9.1990), the Council introduced to these rules the amendments necessary for the realisation of the internal market on 1.1.1993.

3. It is now, therefore, considered appropriate to amend the Convention in order to take account of these reforms.

4. Such is the objective of Recommendation No 1/91 which the EEC-EFTA-Joint Committee adopted formally at its forth meeting which was held in Heisinki on 19.9.1991.

5. It is essential that this Recommendation 1/91 be accepted by means of an agreement concluded in the form of an exchange of letters between the contracting parties to the Convention.

6. This agreement must be approved on behalf of the Community by a Council decision, the proposal for which is attached.

Proposal for a Council Decision concerning the conclusion of an Agreement in the form of an Exchange of Letters relating to the amendment of the Convention of 20 May 1987 on a common transit procedure

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Article 15(2) of the Convention between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on a common transit procedure[1] empowers the Joint Committee set up by that Convention to make recommendations for amendments to the Convention;

Whereas the Convention has been amended to take account of recent changes to Community transit rules forming part of the reforms to that procedure in the light of the completion of the internal market by 1 January 1993;

Whereas the amendments to the Convention are set out in the Joint Committee's Recommendation No 1/91; whereas the Agreement in the form of an Exchange of Letters relating to that recommendation should be approved;

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1 OJ No L 226, 13.8.1987, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters relating to the amendment of the Convention of 20 May 1987 on a common transit procedure is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreement in order to bind the Community.

Done at Brussels,

For the Council
The President

AGREEMENT

in the form of an Exchange of Letters relating to the amendment of the Convention between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on a common transit procedure

Sir,

In its Recommendation No 1/91 of 19 September 1991, the EEC-EFTA Joint Committee on common transit proposed a number of amendments to the EEC-EFTA Convention of 20 May 1987 on a common transit procedure. The proposed amendments are set out in the Annex.

I have the honour to confirm that the Community is in agreement with those amendments and I propose that, subject to any change which may be made, they come into force on 1 January 1993. I should be obliged if you would confirm that the Government of ... is in agreement with the amendments and the proposed date on which they are to enter into force.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council
of the European Communities

Brussels,

Sir,

I have the honour to acknowledge receipt of your letter which reads as follows:

"In its Recommendation No 1/91 of 19 September 1991, the EEC-EFTA Joint Committee on common transit proposed a number of amendments to the EEC-EFTA Convention of 20 May 1987 on a common transit procedure. The proposed amendments are set out in the Annex.

I have the honour to confirm that the Community is in agreement with those amendments and I propose that, subject to any change which may be made, they come into force on 1 January 1993. I should be obliged if you would confirm that the Government of ... is in agreement with the amendments and the proposed date on which they are to enter into force."

I have the honour to confirm that the Government of ... is in agreement with the contents of your letter and on the proposed date on which the amendments are to enter into force.

Please accept, Sir, the assurance of my highest consideration.

For the Government

Recommendation No 1/91
of the EEC-EFTA Joint Committee on Common Transit
of
for the amendment of the Convention
of 20 May 1987
on a common transit procedure

THE JOINT COMMITTEE,

Having regard to the Convention of 20 May 1987 on a common transit procedure, and in particular Article 15(2)(a) thereof,

Whereas the Convention of the 20 May 1987 gave effect to the Communicty Transit rules on trade between the Community and the EFTA countries and between those countries themselves;

Whereas substantial changes have recently been made to the basic provisions of the Commmunity Transit system in operation within the European Economic Community with a view to the achievement of the internal market on 1.1.1993; whereas steps should accordingly be taken to modify the Convention;

Whereas it is considered necessary to arrange for the simultaneous entry into force of these modifications and of the changes in the Community Transit system;

HEREBY RECOMMENDS that the Contracting Parties to the Convention:

- amend it, with effect from 1.1.1993 along the lines set out in the proposal annexed to this Recommendation,

- review, before 1 November 1992, this Recommendation on the basis of a report from the Commission of the European Communities on the harmonization of provisions on the achievement of the internal market.

- inform each other, by means of an exchange of letters, of their acceptance of this Recommendation.

Done at Helsinki, 19 September 1991. For the Joint Committee

The Chairman

Proposed amendment to the Convention
between the European Economic Community,
the Republic of Austria, the Republic of Finland, the Republic of Iceland,
the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation
on a common transit procedure

The Convention between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation is amended as follows:

A. Article 2 is replaced by the following text: -

"Article 2

1. The common transit procedure shall hereinafter be described as the T1 procedure or the T2 procedure, as the case may be.

2. The T1 procedure may be applied to any goods carried in accordance with Article 1, paragraph 1.

3. The T2 procedure shall apply to goods carried in accordance with Article 1, paragraph 1:

(a) in the Community:
only when the goods are Community goods. By "Community goods" is meant goods:

- entirely obtained in the customs territory of the Community without the addition of goods from third countries or territories which are not part of the customs territory of the Community.

- from countries or territories not forming part of the customs territory of the Community which have been released for free circulation in a Member State.

- obtained in the customs territory of the Community from goods referred to either exclusively in the second indent or in the first and second indents.

However, without prejudice to this Convention, or to other Agreements concluded by the Community, goods which, although fulfilling the conditions laid down in one of the preceding three indents, are reintroduced into the customs territory of the Community after being exported outside that territory shall be deemed not to be Community goods.

(b) in an EFTA country:
only when the goods have arrived in that EFTA country under the T2 procedure and are reconsigned under the special conditions laid down in Article 9 below.

4. The special conditions laid down in this Convention in respect of placing goods under the T2 procedure shall apply also to the issue of documents certifying the Community status of goods and goods covered by such a document shall be treated in the same way as goods carried under the T2 procedure, except that the document certifying the Community status of the goods need not accompany them."

B. Article 3 is replaced by the following text:-

"Article 3

1. For the purposes of this Convention, the term:

(a) "transit" shall mean a procedure under which goods are carried under the control of the competent authorities from one office of a Contracting Party to another office of the same Contracting Party or that of another Contracting Party over at least one frontier;

(b) "country", shall mean any EFTA country and any Member State of the Community;

(c) "third country" shall mean any State which is neither an EFTA country nor a Member State of the Community.

2. In the application of the rules laid down in this Convention for the T1 or T2 procedure, the EFTA countries and the Community and its Member States shall have the same rights and obligations."

C. Article 4 is replaced by the following text:-

"Article 4

1. This Convention shall be without prejudice to the application of any other international agreement concerning a transit procedure, subject to any limitations to such application in respect of the carriage of goods from one point in the Community to another point in the Community and to any limitations on the issue of documents certifying the Community status of goods.

2. This Convention shall be without prejudice also to:

(a) movements of goods under a temporary admission procedure;

and

(b) agreements concerning frontier traffic."

D. Article 6 is replaced by the following text:-

"Article 6

Provided that the implementation of any measures applicable to the goods is ensured, countries may, within the T1 or T2 procedure, introduce among themselves simplified procedures, by means of bilateral or multilateral agreements, which shall conform to criteria to be laid down , where necessary, in Appendix II and which shall be applicable to certain types of traffic or to designated undertakings.
Such agreements shall be communicated to the Commission of the European Communities and to the other countries."

Implementation of the transit procedure

E. Article 7 is replaced by the following text:-

"Article 7

1. Subject to any special provisions of this Convention, the competent offices of the EFTA countries are empowered to assume the functions of offices of departure, offices of transit, offices of destination and offices of guarantee.

2. The competent offices of the Member States of the Community shall be empowered to issue T1 or T2 documents for transit to an office of destination situated in an EFTA country. Subject to any special provisions of this Convention, they shall also be empowered to issue, for goods consigned to an EFTA country, documents certifying the Community status of those goods.

3. Where several consignments of goods are grouped together and loaded on a single means of transport, within the meaning of Article 12, paragraph 2, of Appendix I, and are dispatched as a consolidated load by one principal in a single T1 or T2 operation, from one office of departure to one office of destination for delivery to one consignee, a Contracting Party may require that those consignments shall, save in exceptional, duly justified cases, be included in one single T1 or T2 declaration with the corresponding loading lists.

4. Notwithstanding the requirement for the Community status of goods to be certified where applicable, a person completing export formalities at the frontier customs office of a Contracting Party shall not be required to place the goods consigned under the T1 or the T2 procedure, irrespective of the customs procedure under which the goods will be placed at the neighbouring frontier customs office.

5. Notwithstanding the requirement for the Community status of goods to be certified where applicable, the frontier customs office of the Contracting Party where export formalities are completed may refuse to place the goods under the T1 or T2 procedure if that procedure is to end at the neighbouring frontier customs office."

F. Article 9 is replaced by the following text:-

"Article 9

1. Goods which are brought into an EFTA country under the T2 procedure and may be reconsigned under that procedure shall remain at all times under the control of the customs authorities of that country to ensure that there is no change in their identity or state.

2. Where such goods are reconsigned from an EFTA country after having been placed, in that EFTA country, under a customs procedure other than a transit or a warehousing procedure, no T2 procedure may be applied.

This provision shall, however, not apply to goods which are admitted temporarily to be shown at an exhibition, fair or similar public display and which have received no treatment other than that needed for their preservation in their original state or for splitting up consignments.

3. Where goods are reconsigned from an EFTA country after storage under a warehousing procedure, the T2 procedure may be applied only on the following conditions:

- that the goods have not been warehoused over a period exceeding five years; however, as regards goods falling within Chapters 1 to 24 of the Nomenclature for the Classification of Goods in Customs Tariffs (International Convention on the Harmonized Commodity Description and Coding System of 14 June 1983), that period shall be limited to six months,

- that the goods have been stored in special spaces and have received no treatment other than that needed for. their preservation in their original state, or for splitting up consignments without replacing the packaging;

- that any treatment has taken place under customs supervision.

4. Any T2 document or any document certifying the Community status of goods issued by a competent office of an EFTA country shall bear a reference to the corresponding T2 document or document certifying the Community status of goods under which the goods arrived in that EFTA country and shall include all special endorsements appearing thereon."

G. Article 10 is replaced by the following text:-

"Article 10

1. Except where otherwise provided for in paragraph 2 below or in the Appendices, any T1 or T2 operation shall be covered by a guarantee valid for all Contracting Parties involved in that operation.

2. The provisions of paragraph 1 shall not prejudice the right:

(a) of Contracting Parties to agree among themselves that the guarantee shall be waived for T1 or T2 operations involving only their territories;

(b) of a Contracting Party not to require a guarantee for the part of a T1 or T2 operation between the office of departure and the first office of transit.

3. For the purposes of the flat rate guarantee as provided for in Appendices I and II, the "ecu" means the total of the following amounts:

0,6242	German mark
0,08784	Pound sterling
1,332	French francs
151,8	Italian lira
0,2198	Dutch guilder
3,301	Belgian francs
0,130	Luxembourg franc
0,1976	Danish krone
0,008552	Irish pound
1,440	Greek drachmas
6,885	Spanish pesetas
1,393	Portuguese escudos.

The value of the ecu in a given currency shall be equal to the sum of the exchange values in that currency of the amounts set out in the first sub-paragraph."

H. Article 11 is replaced by the following text:-

"Article 11

1. As a general rule, identification of the goods shall be ensured by sealing.

2. The following shall be sealed:

(a) the space containing the goods, when the means of transport has already been approved under other regulations or recognized by the office of departure as suitable for sealing;

(b) each individual package in other cases.

3. Means of transport may be recognized as suitable for sealing on condition that:

(a) seals can be simply and effectively affixed to them;

(b) they are so constructed that no goods can be removed or introduced without leaving visible traces of tampering or without breaking the seals;

(c) they contain no concealed spaces where goods may be hidden;

(d) the spaces reserved for the load are readily accessible for inspection by the competent authorities.

4. The office of departure may dispense with sealing if, having regard to other possible measures for identification, the description of the goods in the T1 or T2 declaration or in the supplementary documents makes them readily identifiable."

I. In the German version, at Article 12/1 (a) and (b) the word "Grenzübergangsstelle" is replaced by the word "Durchgangszollstelle".

J. Article 13 is replaced by the following text:-

"Article 13

1. The competent authorities of the countries concerned shall furnish each other with any information at their disposal which is of importance in order to verify the proper application of this Convention.

2. Where necessary, the competent authorities of the countries concerned shall communicate to one another all findings, documents, reports, records of proceedings and information relating to transport operations carried out under the T1 or T2 procedure as well as to irregularities or infringements in connection with such operations.

Furthermore, where necessary, they shall communicate to one another all findings relating to goods in respect of which mutual assistance is provided for and which have been subject to a customs warehousing procedure.

3. Where irregularities or infringements are suspected in connection with goods which have been brought into one country from another country or have passed through a country or have been stored under a warehousing procedure, the competent authorities of the countries concerned shall on request communicate to one another all information concerning:

(a) the conditions under which those goods were carried:
- whatever the way in which they were reconsigned, where they arrived in the country to which the request is addressed under cover of a T1 or T2 document or a document certifying the Community status of the goods, or
- whatever the way in which they arrived, where they were reconsigned from the country to which the request is addressed under cover of a T1 or T2 document or a document certifying the Community status of the goods;

(b) the conditions of any warehousing of those goods where they arrived in the country to which the request is addressed under cover of a T2 document or a document certifying the Community status of the goods or where they were reconsigned from that country under cover of a T2 document or a document certifying the Community status of the goods.

4. Any request made under paragraphs 1 to 3 shall specify the case or cases to which it refers.

5. If the competent authority of a country requests assistance which it would not be able to give if requested, it will draw attention to that fact in the request. Compliance with such a request will be within the discretion of the competent authority to whom the request is made.

6. Information obtained in accordance with paragraphs 1 to 3 shall be used solely for the purpose of this Convention and shall be accorded the same protection by a receiving country as is afforded to information of like nature under the national law of that country. Such information may be used for other purposes only with the written consent of the competent authority which furnished it and subject to any restrictions laid down by that authority."

. . COMMISSION STATEMENT CONCERNING
IMPACT ON ECONOMIC ACTIVITY

Subject: proposal for a Council decision concerning the conclusion of an agreement by an exchange of letters relating to an amendment to the Convention of 20 May 1987 on Common transit.

1. The agreement by exchange of letters which is the subject of this proposed Council decision relates to the acceptance of Recommendation 1/91 adopted by the Joint EEC/EFTA Committee on Common transit on 19.9.91. This Recommendation amends the EEC/EFTA Convention on Common transit in such a way as to make the necessary amendments following the recently introduced modifications to the Community Transit regime in the light of the completion of the internal market on 1.1.93, which involves an area without internal borders and within which in particular the free circulation of goods is guaranteed.

2. It should be noted that the said Convention does constitute in itself a measure of harmonisation and simplification in trade between the Community and the EFTA countries and is intended to promote economic activity between the Parties.

3. This agreement on Recommendation 1/91 follows the same line in improving EEC/EFTA trade procedures and will have therefore a positive economic impact.

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