Measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights

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OBJECTIVE: to amend Regulation 3295/94/EC on action against counterfeit goods to extend its scope and to modify it to reflect the development of Community legislation on intellectual property rights. SUBSTANCE: the main aim of Regulation 3295/94/EC concerning the role of customs in combating counterfeit and pirated goods is to allow the customs authorities to suspend customs operations in cases where the goods concerned are suspected of being counterfeit or are pirated goods covered by an intellectual property right (brand or trade mark, design right, copyright or neighbouring right) in respect of which the right holder has requested 'customs protection'. In order to increase the effectiveness of this regulation (in the two year period July 1995 to June 1997 there were 4 133 cases) the Commission proposes: - extension of the scope of the regulation to cover a new intellectual property right, patents on inventions (in particular patents on products, excluding those on processes and supplementary protection certificates (SPC) for medicinal and plant protection products); - extension of the customs authorities' scope for action to cover free zones and free warehouses and all suspect goods from the moment that they come under customs supervision, including those in temporary storage; - updating (simplifying) the regulation to take account of the Community trade mark (fully operational through Regulation 40/94/EC since 1 April 1996) through the introduction for the benefit of holders of such marks of a single system for applying for 'customs protection' which is valid in a number of Member States. This procedure will alow the holder of the mark to lodge a single application for customs protection instead of the 15 required at present. The holder could thus make his application in a single Member State (of his choice) specifying the other Member States in which the action is sought. Acceptance or rejection by the competent authority would then be valid for all the countries concerned. However, in the absence of a unified Community customs administration, any fees and guarantees required in the individual Member States concerned would continue to be dealt with nationally. The amended regulation also provides for a uniform period of protection for Community trade marks (one year, with a possible one year extension) and provides for standard forms for applying for the protection of a Community trade mark and for the processing of such applications by the Member States.