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

1998/0018(CNS) - 25/01/1999 - Final act

PURPOSE: to amend regulation 3295/94/EC on the fight against counterfeit goods with a view to extending its field of application and adapting it to the evolution of Community reglementation with regard to intellectual property rights. COMMUNITY MEASURE: Council regulation 241/1999/EC amending regulation 3295/94/EC laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods. CONTENT: the main objective of regulation 3295/94/EC regarding the role of customs services in fighting counterfeit and pirated goods, is to allow customs services to suspend customs operations when the goods concerned are suspected of being counterfeit or pirated even if they are covered by "customs protection" previously obtained by the holder of the right. In order to further increase the effectiveness of this measure, the regulation proposes that: - the regulation's field of application should be extended to include patents (more precisely to product patents excluding process patents and complementary protection certificates for medicines and pharmaceutical products); - the possibility of intervention by the customs services should be extended to include free zones and free warehouses as well as with regard to all goods which are suspected of infringement of intellectual property rights during customs checks, including those in temporary storage; - account should be taken of the Community trademark by establishing, for the benefit of the holders of such trademarks, a single request procedure to allow them customs protection throughout the Community. The holder will hence be able to place his request in a single Member State of his choice, indicating in which other Member States he also wishes the action to be taken. The applicant may also be charged a fee in each of the Member States where the decision granting the application is effective, to cover the costs incurred in implementing the decision. The amended regulation also provides for a single action period for Community trademarks (one year, extendable for a further year). The customs authorities should also take account of developments in electronic data interchange systems in the context of their activities. Those Member States which are the subject of an application for action are also expected to inform the other national customs authorities likely to be affected of the content of the application. Finally, efforts will be made to ensure that penalties taken against offenders are effective and proportionate and constitute an effective deterrent. ENTRY INTO FORCE: the regulation enters into force on 03/02/1999. It becomes applicable on 01/07/99.