Basic information

1998/0018(CNS) CNS - Consultation procedure Regulation	Procedure completed
Measures concerning the entry into the Community and the export and re-export from the Community of goods infringing certain intellectual property rights Amending Regulation (EC) No 3295/94 1993/1024(CNS) **Subject** 3.50.15 Intellectual property, copyright 6.20.02 Export/import control, trade defence, trade barriers 7.30.30.10 Action against counterfeiting	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
RELA External Economic Relations	VALDIVIELSO DE CUÉ Jaime (PPE)	30/03/1998

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	The committee decided not to give an opinion.	
JURI Legal Affairs, Citizens' Rights	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2158	1999-01-25

Key events

Date	Event	Reference	Summary
28/01/1998	Legislative proposal published	COM(1998)0025	Summary
13/03/1998	Committee referral announced in Parliament		
04/06/1998	Vote in committee		Summary

04/06/1998	Committee report tabled for plenary, 1st reading/single reading	A4-0223/1998	
16/06/1998	Debate in Parliament		
09/11/1998	Modified legislative proposal published	COM(1998)0639	Summary
25/01/1999	Act adopted by Council after consultation of Parliament		
25/01/1999	End of procedure in Parliament		
02/02/1999	Final act published in Official Journal		

Technical information

Procedure reference	1998/0018(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 3295/94 1993/1024(CNS)
Legal basis	EC Treaty (before Amsterdam) E 113
Stage reached in procedure	Procedure completed
Committee dossier	RELA/4/09865

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0223/1998 OJ C 210 06.07.1998, p. 0008	04/06/1998	
Text adopted by Parliament, 1st reading/single reading		T4-0354/1998 OJ C 210 06.07.1998, p. 0103-0125	17/06/1998	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1998)0025 OJ C 108 07.04.1998, p. 0063	28/01/1998	Summary
Modified legislative proposal	COM(1998)0639 OJ C 377 05.12.1998, p. 0016	09/11/1998	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0961/1998 OJ C 284 14.09.1998, p. 0003	01/07/1998	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Regulation 1999/0241 OJ L 027 02.02.1999, p. 0001	Summary

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) - 28/01/1998 - Legislative proposal

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.

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.

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) - 17/06/1998 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mr Jaime VALDIVIELSO DE CUÉ (PPE, E) on counterfeit and pirated goods, the European Parliament endorsed the proposal for an amendment to the regulation concerned, subject to a number of modifications as follows: - fees charged to right-holders to cover administrative costs should be the same in all Member States; - Member States may require right-holders to provide a security to cover the loss of sales to the importer or consignee as well as the cost of any remanufacturing that may be required as a result of possible damage caused by the detention or suspension. Security would be required in particular in the case of goods suspected of infringing patents on products, certificates or design rights; - customs authorities can only detain goods requiring regulated storage conditions when the following conditions are met: (1) the importer or consignee of the goods fails to possess a valid marketing authorization certificate granted in accordance with EU law (2) the customs authorities possess suitable storage facilities so as not to damage the suspected goods. - the penalties must be effective and proportionate and constitute an effective deterrent. Finally, Parliament calls on the Commission to analyse the macroeconomic and sectoral impact of counterfeit goods and make appropriate proposals.

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) - 09/11/1998 - Modified legislative proposal

Following the adoption by the EP of its Opinion on 17 June 1998, the Commission has submitted amendments to its initial proposal. The following is the gist of the amendments : - member States receiving an application for action lodged and granted in another Member State in respect of a Community trade mark are obliged to notify any national customs offices which may be concerned of the content of the application; - the scope for suspending release of or detaining medicines and phyto-pharmaceutical products where the operator holds a marketing authorisation certificate and customs lacks suitable storage is limited. This limitation will avoid perishable products being needlessly damaged by customs intervention whereas their conformity with trade mark legislation is established on the basis of the marketing authorisation; - they will require the introduction into national law of effective, deterrent and proportionate penalties.