

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)

PART I

GENERAL IMPLEMENTING PROVISIONS

TITLE II

BINDING TARIFF INFORMATION

CHAPTER 1

Definitions

Article 5

For the purpose of this Title:

1. *binding tariff information:*
means tariff information binding on the administrations of all Community Member States when the conditions laid down in Articles 6 and 7 are fulfilled;
2. *applicant:*
means a person who has applied to the customs authorities for binding tariff information;
3. *holder:*
means the person in whose name the binding tariff information is issued.

CHAPTER 2

Procedure for obtaining binding tariff information — Notification of information to applicants and transmission to the Commission

Article 6

- 1 Applications for binding tariff information shall be made in writing either to the competent customs authorities in the Member State or Member States in which the information is to be used, or to the competent customs authorities in the Member State in which the applicant is established.
- 2 An application for binding tariff information shall relate to only one type of goods.
- 3 Applications shall include the following particulars:
 - a the holder's name and address;
 - b the name and address of the applicant where that person is not the holder;

- c the customs nomenclature in which the goods are to be classified. Where an applicant wishes to obtain the classification of goods in one of the nomenclatures referred to in Article 20 (3) (b) and (6) (b) of the Code, the application for binding tariff information shall make express mention of the nomenclature in question;
- d a detailed description of the goods permitting their identification and the determination of their classification in the customs nomenclature;
- e the composition of the goods and any methods of examination used to determine this, where the classification depends on it;
- f any samples, photographs, plans, catalogues or other documents available which may assist the customs authorities in determining the correct classification of the goods in the customs nomenclature, to be attached as annexes;
- g the classification envisaged;
- h agreement to supply a translation of any attached document in the official language (or one of the official languages) of the Member State concerned if requested by the customs authorities;
- i any particulars to be treated as confidential;
- j indication by the applicant whether to his knowledge binding tariff information for identical or similar goods has already been applied for or issued in the Community;
- k acceptance that the information supplied may be stored on a database of the Commission of the European Communities; however, apart from Article 15 of the Code, the provisions governing the protection of information in force in the Member States shall apply.

4 Where the customs authorities consider that the application does not contain all the particulars they require to give an informed opinion, they shall ask the applicant to supply the missing information.

5 The list of customs authorities designated by the Member States to receive applications for or to issue binding tariff information shall be published in the C series of the *Official Journal of the European Communities*.

Article 7

1 Binding tariff information shall be notified to the applicant in writing as soon as possible. If it has not been possible to notify binding tariff information to the applicant within three months of acceptance of the application, the customs authorities shall contact the applicant to explain the reason for the delay and indicate when they expect to be able to notify the information.

2 Binding tariff information shall be notified by means of a form conforming to the specimen shown in Annex 1. The notification shall indicate what particulars are to be considered as having been supplied on a confidential basis. The possibility of appeal referred to in Article 243 of the Code shall be mentioned.

Article 8

1 A copy of the binding tariff information notified (copy No 2 of Annex 1) and the facts (copy No 4 of the same Annex) shall be transmitted to the Commission without delay by the customs authorities of the Member State concerned. Such transmission shall be effected by electronic means as soon as possible.

2 Where a Member State so requests the Commission shall send it without delay the particulars contained in the copy of the form and the other relevant information. Such transmission shall be effected by electronic means as soon as possible.

CHAPTER 3

Provisions applying in the event of inconsistencies in binding tariff information

Article 9

Where the Commission finds that different binding tariff information exists in respect of the same goods it shall if necessary adopt a measure to ensure the uniform application of the customs nomenclature.

CHAPTER 4

Legal effect of binding tariff information

Article 10

1 Without prejudice to Articles 5 and 64 of the Code, binding tariff information may be invoked only by the holder.

2 The customs authorities may require the holder, when fulfilling customs formalities, to inform the customs authorities that he is in possession of binding tariff information in respect of the goods being cleared through customs.

3 The holder of binding tariff information may use it in respect of particular goods only where it is established to the satisfaction of the customs authorities that the goods in question conform in all respects to those described in the information presented.

4 The customs authorities may ask for this information to be translated into the official language or one of the official languages of the Member State concerned.

Article 11

Binding tariff information supplied by the customs authorities of a Member State since 1 January 1991 shall become binding on the competent authorities of all the Member States under the same conditions.

Article 12

1 Upon adoption of one of the acts or measures referred to in Article 12 (5) of the Code, the customs authorities shall take the necessary steps to ensure that binding tariff information shall thenceforth be issued only in conformity with the act or measure in question.

2 For the purposes of paragraph 1 above, the date to be taken into consideration shall be as follows:

- for the regulations provided for in Article 12 (5) (a) of the Code concerning amendments to the customs nomenclature, the date of their applicability,
- for the regulations provided for in (a) of the same article and paragraph and establishing or affecting the classification of goods in the customs nomenclature, the date of their publication in the 'L' series of the *Official Journal of the European Communities*,
- for the measures provided for in (b) of the same article and paragraph, concerning amendments to the explanatory notes to the combined nomenclature, the date of their publication in the 'C' series of the *Official Journal of the European Communities*,
- for judgments of the Court of Justice of the European Community provided for in (b) of the same article and paragraph, the date of the judgment,

- for the measures provided for in (b) of the same article and paragraph concerning the adoption of a classification opinion or amendments to the explanatory notes to the Harmonized System Nomenclature by the Customs Cooperation Council, the date of the Commission communication in the ‘C’ series of the *Official Journal of the European Communities*.
- 3 The Commission shall communicate the dates of adoption of the measures and acts referred to in this article to the customs authorities as soon as possible.

CHAPTER 5

Provisions applying in the event of expiry of binding tariff information

Article 13

Where, pursuant to the second sentence of Article 12 (4) and Article 12 (5) of the Code, binding tariff information is void or ceases to be valid, the customs authority which supplied it shall notify the Commission as soon as possible.

Article 14

1 When a holder of binding tariff information which has ceased to be valid for reasons referred to in Article 12 (5) of the Code, wishes to make use of the possibility of invoking such information during a given period pursuant to paragraph 6 of that Article, he shall notify the customs authorities, providing any necessary supporting documents to enable a check to be made that the relevant conditions have been satisfied.

2 In exceptional cases where the Commission, in accordance with the last subparagraph of Article 12 (7) of the Code, adopts a measure derogating from the provisions of paragraph 6 of that Article, or where the conditions referred to in paragraph 1 concerning the possibility of continuing to invoke binding tariff information have not been fulfilled, the customs authorities shall notify the holder in writing.

CHAPTER 6

Transitional provision

Article 15

Binding tariff information supplied nationally before 1 January 1991 shall remain valid. Nevertheless, binding tariff information supplied nationally whose validity extends beyond 1 January 1997 shall be invalid from that date.