

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)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

CUSTOMS-APPROVED TREATMENT OR USE

TITLE III

CUSTOMS PROCEDURES WITH ECONOMIC IMPACT

CHAPTER 3

Inward processing

Section 5

Provisions applying to the suspension system

Subsection 2

Discharge of the procedure

Article 577

1 Pursuant to Article 89 of the Code, the inward processing procedure (**suspension system**) shall be discharged in respect of the import goods when the compensating products or goods in the unaltered state have been declared for another customs-approved treatment or use and all other conditions for use of the procedure have been complied with.

Where Article 115 (1) (b) of the Code applies, the procedure shall be discharged when the customs authorities have accepted the declaration in respect of the non-Community goods.

2 For the purposes of discharging the inward processing procedure, the following shall be treated as export from the customs territory of the Community:

- a the delivery of compensating products to persons in third countries who are eligible for relief pursuant to either the Vienna Convention of 18 April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations or other consular conventions, or the New York Convention of 16 December 1969 on Special Missions;
- b the delivery of compensating products to the armed forces of third countries stationed in the territory of a Member State, in accordance with Article 136 of Council Regulation (EEC) No 918/83;
- c the delivery of civil aircraft to airline companies established in the customs territory of the Community;

- d the repair, modification or conversion of civil aircraft carried out under the inward processing procedure.

3 Discharge of the procedure shall be carried out according either to the quantities of import goods corresponding to the compensating products assigned to one of the treatments or uses referred to in paragraph 1 or paragraph 2 or to the quantities of goods in the unaltered state assigned to such a treatment or use.

Article 578

The declaration to assign compensating products or goods in the unaltered state to one of the customs-approved treatments or uses shall contain all particulars necessary for discharge of the procedure.

Article 579

1 When the nature and/or technical characteristics of the import goods have been altered as a result of unforeseeable circumstances or *force majeure* so that it becomes impossible to obtain the compensating products for which an inward processing authorization (suspension system) has been issued, the holder of the authorization shall inform the supervising customs office of what has happened.

2 Article 571 (3) shall apply *mutatis mutandis*.

3 In cases where the alteration in question may affect the continuation in force or the substance of the authorization, paragraphs 1 and 2 shall be without prejudice to Articles 9 and 87 (2) of the Code.

4 This Article shall apply *mutatis mutandis* to compensating products.

Article 580

1 The conditions for the release for free circulation of goods in the unaltered state or main compensating products shall be deemed to be fulfilled where the person concerned declares that he is unable to assign those products or goods to a customs-approved treatment or use under which import duties would not be payable.

2 The customs authorities may authorize release for free circulation on a general basis. They shall do so only if this does not contravene other Community provisions relating to release for free circulation.

3 Import goods may be put on the Community market in the form either of compensating products or of goods in the unaltered state without the formalities for release for free circulation being completed at the time of their being put on the market.

For the purposes of paragraph 4 only, goods put on the market in such a manner shall not be considered to have been assigned one of the treatments or uses referred to in Article 89 of the Code.

4 Import goods, whether in the form of compensating products or of goods in the unaltered state, which are covered by a general authorization for release for free circulation and which, upon expiry of the period for re-exportation (having due regard to Article 561), have not been assigned to any of the customs-approved treatments or uses referred to in Article 89 of the Code shall be considered to have been released for free circulation, and the declaration for release for free circulation shall be considered to have been lodged and accepted and release granted upon expiry of the said period.

5 Goods put on the market in accordance with paragraph 3 shall be considered to be Community goods forthwith.

Article 581

Without prejudice to use of the simplified procedures, any compensating products or goods in the unaltered state to be assigned to a customs-approved treatment or use shall be presented to the office of destination in order to undergo the customs formalities specified for the treatment or use in question under the general provisions applicable.

However, the supervising office may allow the products or goods concerned to be presented at a customs office other than that referred to in the first subparagraph.

(a)

Normal procedures

Article 582

1 Except where Article 568 is applied, the declaration discharging the inward processing procedure (suspension system) shall be lodged at one of the offices of discharge specified in the authorization.

2 Where Article 568 is applied, the declaration referred to in paragraph 1 shall be lodged with the customs office which issued the authorization.

3 However, the supervising office may allow the declaration referred to in paragraph 1 to be presented at a customs office other than those referred to in paragraphs 1 and 2.

Article 583

1 The declaration referred to in Article 582 shall be made in accordance with the provisions laid down for the customs-approved treatment or use concerned.

2 The description of the compensating products or goods in the unaltered state in the declaration referred to in paragraph 1 shall correspond to the specifications in the authorization.

3 For the purposes of Article 62 (2) of the Code, the documents to accompany the discharge declaration shall be those whose production is necessary for placing the goods under the procedure requested, as provided for in Articles 218 to 221.

(b)

Simplified procedures

Article 584

The simplified procedures provided for in Article 76 of the Code shall apply in accordance with Article 278.

(c)

Provisions concerning application of charges

Article 585

1 Where the import goods are olive oils falling within headings 1509 or 1510 of the combined nomenclature and their release for free circulation either in the unaltered state or in

the form of compensating products falling within CN codes 1509 90 00 or 1510 00 90 has been authorized, the agricultural levy to be charged shall be:

- the agricultural levy indicated on the import licence issued under the tendering procedure, subject to the provisions of Article 4 (2) of Commission Regulation (EEC) No 3136/78 of 28 December 1978⁽¹⁾,
- or
- the last minimum agricultural levy fixed by the Commission before the date of acceptance of the declaration for free circulation, when the licence referred to in Article 6 of the said Regulation has been presented or when the quantity released for free circulation does not exceed 100 kilograms.

2 Paragraph 1 shall also apply where the import goods are olives falling within CN code 0709 90 39 or 0711 20 90 and the release for free circulation of compensating products falling within tariff CN code 1509 90 00 or 1510 00 90 has been authorized.

Article 586

In the event of the release for free circulation of goods in the unaltered state or compensating products in a Member State other than the one in which the goods were entered for the procedure, the said Member State shall collect the import duties which are mentioned on information sheet INF 1 provided for in Article 611, in accordance with the corresponding indications.

Article 587

1 Where the compensating products are released for free circulation and the customs debt is calculated on the basis of the items of charge appropriate to the import goods, in accordance with Article 121 of the Code, boxes 15, 16, 34, 41 and 42 of the declaration shall refer to the goods in the unaltered state.

2 The particulars referred to in paragraph 1 need not be supplied where information sheet INF 1 referred to in Article 611 or another document containing the same particulars as the INF 1 sheet accompanies the declaration for release for free circulation.

Article 588

1 The list of compensating products and processing operations to which the first indent of Article 122 (a) of the Code applies is in Annex 79.

For the purposes of this Article, destruction of compensating products other than those to which the first indent of Article 122 (a) of the Code applies shall be treated as export from the customs territory of the Community.

2 The date to be used for determining import duties on the compensating products referred to in paragraph 1 shall be that on which the declaration for release for free circulation is accepted.

3 The supervising office may allow the first indent of Article 122 (a) of the Code to be applied to waste, scrap, residues, offcuts and rejects other than those in the list referred to in paragraph 1.

Each Member State shall notify the Commission every six months of cases in which this paragraph has been applied.

Article 589

1 Where a customs debt is incurred in respect of compensating products or goods in the unaltered state, compensatory interest shall be paid on the import duty applicable.

2 Paragraph 1 shall not apply:

- where a customs debt is incurred pursuant to Article 216 of the Code,
- where waste and scrap resulting from destruction under Article 182 of the Code is released for free circulation,
- where the secondary compensating products referred to in Annex 79 are released for free circulation, provided they are in proportion to exported quantities of main compensating products,
- where compensatory interest calculated in accordance with paragraph 4 does not exceed ECU 20 per declaration for free circulation,
- where the holder of the authorization requests release for free circulation and supplies proof that particular circumstances not arising from any negligence or deception on his part make it impossible or uneconomic to carry out the export operation under the conditions he had anticipated and duly substantiated when applying for the authorization.

3 The request for consideration of a case under the terms of the fifth indent of paragraph 2 shall be submitted to the customs authorities indicated by the Member State which issued the authorization. It shall be admissible only if accompanied by all the supporting documents needed for a full examination of the case.

Where a customs authorities receive a request relating to compensatory interest on a sum of ECU 3 000 or less per bill of discharge and finds that the grounds supporting the request indicate a situation of the kind provided for in the fifth indent of paragraph 2, they shall waive application of paragraph 1. In this case the supporting documents shall be kept for three years by the customs authorities.

In all other cases, where they intend to grant the request they shall forward the said request to the Commission with the file containing the material needed for a full examination of the case. Release granted by the customs authorities for entry for free circulation of compensating products or goods in the unaltered state may be made subject to the provision of a security, the amount of which shall be determined in accordance with paragraph 4.

The Commission shall notify the Member State concerned immediately it receives the file. The Member State which forwarded the request shall waive application of paragraph 1 if the Commission has failed to inform it of any objections within two months of the date of acknowledgement of receipt.

The Commission shall inform the Member States of requests received and the action taken on them.

4

- a The annual interest rates shall be set by the Commission on the basis of the arithmetical average of representative short-term rates for each Member State in the same six-month period of the previous year.

They shall apply to all customs debts incurred in the course of a six-month period.

The rate applied shall be that for the Member State where the inward processing operations, or the first such operation, took place or should have taken place.

Rates shall be published in the L series of the *Official Journal of the European Communities* at least one month before they become applicable.

- b Interest shall be applied per calendar month for the period running from the first day of the month following the month in which the import goods in respect of which the procedure is discharged were first entered for the procedure to the last day of the month in which the customs debt is incurred.

In order to simplify determination of the period to be taken into account for the application of compensatory interest, particularly in the case of operations in which the number of import goods and/or compensating products makes it economically impracticable to apply the normal provisions, the customs authorities, at the request of the person concerned, may allow the period for application of interest to be based on turnover periods of stocks of goods used to obtain the compensating products.

The stock turnover period should be taken to mean the average time from the moment the goods to be used for obtaining the compensating products enter the factory until the moment they leave the factory. This period shall be determined from the ratio at cost price of the value of the average stock of goods necessary for obtaining the compensating products to the annual turnover.

The figure obtained, multiplied by 12 and rounded up to the next whole number, shall constitute the number of months on which compensatory interest shall be applicable.

The simplification mentioned above shall be accorded by the customs authorities only on condition that the stock turnover period can be verified.

The period to take into account for the application of compensatory interest shall not be less than one month.

- c The amount of interest shall be calculated on the basis of the import duties, the interest rate referred to in (a) above and the period referred to in (b) above.

Article 590

1 In specific cases, particularly in the case of processing operations involving two or more Member States, simplified methods may be used at the request of the persons concerned for the calculation and accounting of compensatory interest.

2 When the Member States concerned have satisfied themselves that the proposed procedures can be implemented, they shall communicate them to the Commission and the Commission shall inform the other Member States. The procedures communicated to the Commission may be applied unless the Commission notifies the Member States concerned, within two months of the date of receipt of the draft, of any objections to such application.

Article 591

1 The proportion of import goods incorporated in compensating products shall be calculated when necessary in order to determine the import duties to be charged. Such calculation shall not be effected when, *inter alia*, the amount of the debt is determined solely on the basis of Article 122 of the Code.

2 The calculations shall be effected in accordance with the methods referred to in Articles 592 to 594 or by any other method giving the results.

Article 592

The quantitative scale method (compensating products) shall be used where one kind of compensating product only is derived from the inward processing operations. In that case the quantity of import goods corresponding to the quantity of compensating products in respect of which a customs debt is incurred shall be calculated by applying to the total quantity of the said goods a coefficient corresponding to the ratio of the quantity of compensating products in respect of which a customs debt is incurred to the total quantity of compensating products.

Article 593

1 The quantitative scale method (import goods) shall be applied where all elements of the import goods are found in each compensating product.

In deciding whether this method shall apply, losses shall not be taken into account.

The quantity of import goods used in the manufacture of each compensating product shall be determined by successively applying to the total quantity of import goods a coefficient corresponding to the ratio of the quantity of the said goods found in each type of compensating product to the total quantity of the goods found in the compensating products as a whole.

The quantity of import goods corresponding to the quantity of compensating products in respect of which a customs debt is incurred shall be determined by applying the coefficient arrived at by the method indicated in Article 592 to the quantity of import goods used in the manufacture of the said product calculated in accordance with the third subparagraph.

2 By way of derogation from paragraph 1, the quantitative scale method (import goods) shall also apply to operations in which durum wheat is processed to obtain 'couscous' meal, groats and other meal.

Article 594

1 Where Articles 592 and 593 do not apply, the value scale method shall be applied in all cases. However, with the agreement of the holder of the authorization and for the purposes of simplification, the customs authorities may apply the quantitative scale method (import goods) instead of the value scale method where either method would give similar results.

2 In order to determine the quantity of import goods used in the manufacture of each type of compensating product, successive coefficients corresponding to the ratio of the value of each compensating product to the total value of those products, calculated in accordance with paragraph 3, shall be applied to the total quantity of import goods.

3 Pursuant to Article 36 (1) of the Code, the value of each of the different compensating products to be used for applying the value scale shall be:

- the recent selling price in the Community of identical or similar products, provided that this has not been influenced by the relationship between buyer and seller, or, where this is not known,
- the recent ex-works price in the Community, provided that this has not been influenced by the relationship between buyer and seller.

Where the value cannot be ascertained under the first subparagraph it shall be determined by the supervising customs office using any reasonable method.

4 The quantity of import goods corresponding to the quantity of compensating products in respect of which a customs debt is incurred shall be calculated by applying the coefficient arrived at by the method indicated in Article 592 to the quantity of import goods used in the manufacture of the products in question, calculated in accordance with paragraph 2.

(d)

Bill of discharge

Article 595

1 Without prejudice to Article 596 (3), the holder of the authorization shall supply the supervising office with a bill of discharge.

2 The bill of discharge shall contain *inter alia* the following particulars:

- a reference particulars of the authorization;
- b the quantity of each type of import goods and reference particulars of the declarations entering them for the procedure;
- c the combined nomenclature code of the import goods;
- d the customs value of the import goods and the rate of import duties to which they are liable;
- e the rate of yield established;
- f the nature and quantity of the compensating products and the customs-approved treatment or use to which they are assigned, together with reference particulars of the declarations assigning the said products to a customs-approved treatment or use;
- g the value of the compensating products if the value scale method is used for the purposes of discharge;
- h the amount of import duties to be paid on the quantity of import goods considered to be released for free circulation under Article 580 (3);
- i the import goods entered for the procedure under the triangular traffic system.

3 Where simplified procedures are used for entry for the procedure or discharge of the procedure, the declarations and documents in question shall be those provided for in Article 76 (3) of the Code. The bill of discharge shall also show the quantity of goods considered to be released for free circulation pursuant to Article 580.

Article 596

1 The bill of discharge shall be supplied within 30 days of the expiry of the time limit for re-exportation, calculated, where appropriate, in accordance with Article 565. Where monthly or quarterly aggregation is used, a bill of discharge shall be presented for each month or quarter.

2 Without prejudice to paragraph 3 and Article 597 (4), where the prior exportation system is used the bill of discharge shall be supplied within 30 days of the expiry of the period fixed in accordance with Article 561.

3 The supervising office may itself make out the bill of discharge subject to the same time limits referred to in paragraphs 1 and 2. This fact shall be indicated in the authorization.

Article 597

1 Import duties on import goods, whether in the form of compensating products or of goods in the unaltered state considered to have been released for free circulation in accordance with Article 580 (3), shall be paid at the latest on presentation of the bill of discharge, which may be based on a summary declaration.

2 Where identification of other items of charge relating to the import goods is necessary in order to determine the amount of import duties, the bill of discharge shall in addition show such items and, where appropriate, the proportion of the import goods incorporated in the compensating products, established in accordance with Articles 592 to 594.

3 The holder of the authorization shall make available to the supervising office any document relating to goods considered to have been released for free circulation in accordance with Article 580 (3) whose production is necessary for the correct application of the provisions governing the release of goods for free circulation.

4 The supervising office may agree that:

- a the bill of discharge referred to in Article 595 (1) should be made out by computer or in any other form that the said office shall stipulate;
- b the bill of discharge should be made out on the declaration entering the goods for the procedure.

Article 598

The supervising office shall annotate the bill of discharge on the basis of the verification which has been carried out, informing the holder of the authorization if necessary of the result of that verification, and shall keep the bill of discharge and related documents for at least three calendar years from the end of the year in which the bill was drawn up. However, the said customs office may decide that documents relating to the bill of discharge shall be kept by the holder of the authorization. In that case the said documents shall be kept for the same period.

Article 599

1 Where import goods have been entered for the procedure by virtue of a single authorization but under several declarations, the compensating products or goods in the unaltered state assigned to a customs-approved treatment or use shall be considered to have been obtained from the import goods entered for the procedure under the earliest of the declarations.

2 Where the holder of the authorization can show the specific import goods from which the compensating products or goods in the unaltered state referred to in paragraph 1 were obtained, paragraph 1 shall not apply.

Status: This is the original version (as it was originally adopted).

(1) [OJ No L 370, 30. 12. 1978, p. 72.](#)