

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)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

OTHER CUSTOMS-APPROVED TREATMENTS OR USES

CHAPTER 1

Free zones and free warehouses

Section 1

General provisions

Article 799

1 For the purposes of this Chapter, operator means any person carrying on an activity involving the storage, working, processing, sale or purchase of goods in a free zone or free warehouse.

2 The definitions contained in Article 503 shall also apply to this chapter.

Article 800

Where Community acts provide that commercial policy measures are to apply to:

- (a) the release of goods for free circulation, such measures shall not apply when the goods are placed in a free zone or free warehouse nor for such time as the goods remain there;
- (b) the entry of goods into the customs territory of the Community, such measures shall apply when non-Community goods are placed in a free zone or free warehouse;
- (c) the export of goods, such measures shall apply when Community goods in a free zone or free warehouse are exported from the customs territory of the Community. Such goods shall be subject to supervision by the customs authorities.

Article 801

Any person may apply for a part of the customs territory of the Community to be designated a free zone or for a free warehouse to be set up.

The free zones in existence in the Community and in operation are listed in Annex 108.

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Article 802

The perimeter enclosing free zones and the premises of free warehouses shall be such as to facilitate supervision by the customs authorities outside the free zone or free warehouse and prevent any goods being removed irregularly from the free zone or free warehouse.

The area immediately outside the perimeter shall be such as to permit adequate supervision by the customs authorities. Access to the said area shall require the consent of the said authorities.

Article 803

- 1 Authorization to build in a free zone shall be applied for in writing.
- 2 The application referred to in paragraph 1 shall specify the activity for which the building will be used and give any other information that will enable the customs authorities to evaluate the grounds for granting the authorization.
- 3 The customs authorities shall grant authorization in cases where the application of customs legislation would not be impeded.
- 4 Paragraphs 1, 2 and 3 shall also apply where a building in a free zone or a building constituting a free warehouse is converted.

Article 804

Without prejudice to the supervision referred to in Article 168 (1) of the Code, the customs authorities shall carry out the checks referred to in Article 168 (2) and (4) of the Code only at random or whenever they have reasonable doubts concerning compliance with the applicable legislation.

Section 2

Activity carried on in a free zone or free warehouse and approval of stock records

Article 805

In the case of activities referred to in Article 176 (1) of the Code, the notification referred to in Article 172 (1) of the Code shall take the form of presentation of the application for approval of the stock records referred to in Article 808.

Article 806

The operator shall take the necessary precautions to ensure that the persons he employs to carry on his activities comply with customs legislation.

Article 807

- 1 Before commencing activities in a free zone or a free warehouse, the operator shall obtain the customs authorities' approval of the stock records referred to in Article 176 of the Code.
- 2 The approval referred to in paragraph 1 shall be accorded only to persons offering all the necessary guarantees concerning the application of the provisions on free zones and free warehouses.

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Article 808

1 The application for approval referred to in Article 807, hereinafter referred to as the 'application', shall be submitted in writing to the customs authorities designated by the Member State where the free zone or free warehouse is located.

2 The application shall specify which of the activities referred to in Article 176 (1) of the Code is envisaged. It shall include a detailed description of the stock records kept, or to be kept, the nature and customs status of the goods to which these activities relate, the customs procedure under which the activities are to be carried out, where applicable, and any other information needed by the customs authorities in order to ensure the proper application of the provisions governing free zones and free warehouses.

3 Applications and related documents shall be kept by the customs authorities for at least three years from the end of the calendar year in which the operator ceases activity in the free zone or free warehouse.

Article 809

Approval of the stock records shall be issued in writing and shall be dated and signed.

The applicant shall be notified of approval.

A copy shall be kept for the period referred to in Article 808 (3).

Article 810

1 The customs authorities shall amend or revoke the approval where they prohibit the person to whom the approval was issued from carrying on an activity in the free zone or free warehouse under Article 172 (2) or (3) of the Code.

2 Approval shall be revoked by the customs authorities where they find repeated disappearances of goods which cannot be explained to their satisfaction.

3 Once an approval has been revoked the activities to which the stock records relate may no longer be carried on in the free zone or free warehouse.

Section 3

Entry of goods into a free zone or a free warehouse

Article 811

Without prejudice to Articles 812 and 813, when goods arrive in a free zone or free warehouse they need not be presented nor shall a customs declaration be required.

The arrival of any goods in the places used for the activity shall be entered immediately in the stock records referred to in Article 807.

Article 812

The transport document referred to in Article 168 (4) of the Code shall be any document relating to transport, such as a waybill, delivery note, manifest or dispatch note, provided it gives all the information necessary for identification of the goods.

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Article 813

1 Without prejudice to any simplified procedures laid down for the customs procedure to be discharged, where goods placed under a customs procedure need to be presented to the customs authorities pursuant to Article 170 (2) (a) of the Code, the relevant document must be presented with the goods.

2 Where the inward processing procedure or temporary importation procedure is discharged by placing of the compensating products or import goods under the external Community transit procedure, followed by entry into a free zone or a free warehouse with a view to subsequent export from the customs territory of the Community, the customs authorities shall carry out random checks to satisfy themselves that the indications referred to in Article 817 (3) (f) are entered in the stock records.

They shall also satisfy themselves that where goods are transferred from one operator to another within a free zone this is entered in the stock records of the operator receiving them.

Article 814

Where a decision to repay or remit import duties authorizes the placing of the goods in a free zone or a free warehouse, the customs authorities shall issue the certificate referred to in Article 887 (5).

Article 815

Without prejudice to Article 823, the entry into a free zone or a free warehouse of goods which are subject to export duties or other export provisions and which are required by the customs authorities under Article 170 (3) of the Code to be brought to the attention of the customs office shall occasion neither presentation of a document on entry nor systematic and general controls on all goods entering.

Article 816

Where the customs authorities certify the Community or non-Community status of the goods, in accordance with Article 170 (4) of the Code, they shall use a form conforming to the model and provisions in Annex 109.

Section 4

Operation of a free zone or a free warehouse

Article 817

1 The operator keeping the approved stock records in accordance with Article 807 shall enter therein all particulars necessary to check the proper application of customs legislation.

2 If the operator discovers that goods have disappeared other than by natural causes he shall notify the customs authorities.

3 Without prejudice to Article 824, the stock records shall include:

- a particulars of marks, identifying numbers, number and kind of packages, the quantity and usual commercial description of the goods and, where relevant, the identification marks of the container;
- b information enabling the goods to be monitored, in particular their location;
- c reference particulars of the transport document used on entry and removal of the goods;

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- d indication of customs status and, where relevant, reference particulars of the certificate certifying this status referred to in Article 816;
- e particulars of usual forms of handling;
- f where the bringing of goods into a free zone or a free warehouse discharges either an inward processing procedure, a temporary importation procedure or a customs warehousing procedure, or an external Community transit procedure which itself discharged one of these procedures, the indications referred to in:
 - Article 522 (4),
 - Article 610 (1) and Article 644 (1),
 - Article 711;
- g where goods have been entered for the external Community transit procedure following removal from a free zone or a free warehouse, and that procedure is discharged by bringing them into a free zone or a free warehouse, the indication provided for in Article 818 (4);
- h particulars concerning goods which would not be subject upon release for free circulation or temporary importation to import duties or commercial policy measures, the use or destination of which must be checked.

4 Where accounts have to be kept for the purposes of a customs procedure, the information contained in those records need not appear in the stock records referred to in paragraph 1.

Article 818

1 The usual forms of handling referred to in Article 173 (b) of the Code are those defined in Annex 69.

2 Where handling could give rise to an advantage in terms of the import duties applicable to non-Community goods after handling compared with those applicable before handling, it may be carried out only on condition that the request referred to in Article 178 (2) of the Code is lodged at the same time as the application for authorization, in accordance with Article 523 (1) and (2).

3 Where handling would result in higher import duties on the goods than those applying to the goods before handling, it shall be carried out without authorization and the person concerned may no longer present the request referred to in Article 178 (2) of the Code.

4 Where goods placed in a free zone or free warehouse are declared for a customs approved treatment or use other than release for free circulation or re-exportation, or placed in temporary storage, and paragraph 2 applies, box 31 of the declaration entering the goods for the treatment or use in question or the box reserved for the description of the goods in the document used for the temporary storage shall contain one of the following indications:

- Mercancías MU,
- SB-varer,
- UB-Waren,
- Εμπορεύματα ΣΕ,
- UFH goods,
- Marchandises MU,
- Merci MU,
- GB-goederen,
- Mercadorias MU.

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5 Where goods to which paragraph 2 applies, having been placed under one customs procedure, are released for free circulation or placed under another customs procedure which could result in a customs debt being incurred, information sheet INF 8 referred to in Annex 70 shall be used.

The customs authorities with which the entry for free circulation or for another customs procedure which could result in a customs debt being incurred is lodged shall use information sheet INF 8, which they shall endorse, to ask the customs authorities competent to supervise the free zone or free warehouse where the usual forms of handling were carried out to indicate the nature, customs value and quantity of the declared goods which would be taken into consideration if the goods concerned had not undergone the said handling.

The original of form INF 8 shall be sent to the customs authorities competent to supervise the free zone or free warehouse; the copy shall be retained by the customs authorities which endorsed box 14 of the form.

The customs authority competent to supervise the free zone or free warehouse shall provide the information requested in boxes 11, 12 and 13, endorse box 15 and send the original of the form INF 8 back to the customs office referred to in box 4.

6 The declarant may ask for form INF 8 to be issued at the time when the goods are removed from the free zone or the free warehouse for placing under a customs procedure other than free circulation or re-export.

In this case, the customs authority competent to supervise the free zone or the free warehouse shall provide the information referred to in boxes 11, 12 and 13, endorse box 15 and return the original of form INF 8 to the declarant.

Article 819

1 Without prejudice to Article 175 (2) of the Code, where non-Community goods are released for free circulation within a free zone or a free warehouse, the procedure provided for in Article 253 (3) shall apply without prior authorization from the customs authorities. In this case approval of the stock records referred to in Article 809 shall also cover the use of the said stock records for checking the simplified procedure for release for free circulation.

2 The Community status of the goods released for free circulation in accordance with paragraph 1 shall be certified by the document referred to in Annex 109, to be issued by the operator.

Section 5

Removal of goods from a free zone or a free warehouse

Article 820

Particulars of the removal of goods from the places used for the activity shall be entered immediately in the stock records referred to in Article 807 in order to provide a basis for the checks by the customs authorities referred to in Article 822.

Article 821

Without prejudice to the procedures applicable in cases where exports are subject to export duties or commercial policy measures or to the provisions of Section 6, where

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goods are taken direct from the customs territory of the Community neither presentation of the goods nor a customs declaration shall be required.

Article 822

Without prejudice to Article 827, in order to satisfy themselves that the provisions on export, re-export or dispatch applicable to goods removed from a free zone or free warehouse have been complied with, the customs authorities shall carry out random checks on the operator's stock records.

Section 6

Special provisions concerning Community agricultural goods

Article 823

1 Prefinanced goods placed in a free zone or a free warehouse pursuant to Article 5 of Council Regulation (EEC) No 565/80 shall be presented and a customs declaration lodged.

2 The declaration referred to in paragraph 1 shall be made in accordance with Article 530.

Article 824

The stock records referred to in Article 807 shall include, in addition to the particulars referred to in Article 817, the date on which the prefinanced goods were placed in the free zone or the free warehouse and reference particulars of the entry declaration.

Article 825

Article 532 shall apply to the handling of prefinanced goods.

Article 826

The processing of prefinanced basic products in a free zone or a free warehouse shall be carried out in accordance with Article 4 of Council Regulation (EEC) No 565/80.

Article 827

1 Prefinanced goods shall be declared for export and leave the customs territory of the Community within the time limits laid down in Community agricultural legislation.

2 The declaration referred to in paragraph 1 shall be made in accordance with Article 534.

3 Without prejudice to Council Regulation (EEC) No 386/90⁽¹⁾, the customs authorities shall carry out random checks on the basis of the stock records in order to ensure that the time limits referred to in paragraph 1 are observed.

Article 828

A victualling warehouse may be set up in a free zone or a free warehouse in accordance with Article 38 of Commission Regulation (EEC) No 3665/87⁽²⁾.

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Section 7

Procedures applicable where the inward processing procedure (suspension system) or procedure for processing under customs control is used in a free zone or free warehouse

Article 829

Processing operations carried out under the inward processing procedure (suspension system) or the procedure for processing under customs control in a free zone or free warehouse shall not take place until the authorization referred to in Article 556 or Article 651 has been granted.

The authorization shall specify the free zone or free warehouse where the operations will be carried out.

Article 830

The customs authority shall withhold authorization to use the simplified procedures referred to in this Section where the necessary guarantees for the proper conduct of the operations are not afforded.

The customs authorities may withhold authorization from persons who do not frequently carry out inward processing operations or processing under customs control.

Article 831

1 The holder of the authorization shall keep inward processing records or records of processing under customs control, as referred to in Articles 556 (3) and 652 (3) respectively, which shall also contain a reference to the authorization.

2 For the purpose of drawing up the bill of discharge referred to in Article 595 or Article 664, a reference to the entries in the records specified in paragraph 1 shall replace the reference to the declarations and documents specified in Article 595 (3) or Article 664 (3).

Article 832

1 Where goods are placed under the inward processing procedure or the procedure for processing under customs control at the time when they are brought into the free zone or free warehouse, the local clearance procedure laid down in Article 276 shall apply.

2 Nevertheless the operator may request application of the normal procedure for placing of goods under the inward processing procedure or procedure for processing under customs control.

3 Where the local clearance procedure applies in accordance with Article 276 the entry in the inward processing records or records of processing under customs control shall replace the entry in the stock records of the free zone or free warehouse.

4 The entry in the inward processing records or records of processing under customs control shall refer to the document under which the goods were carried.

Article 833

1 Where goods already in a free zone or free warehouse are placed under the inward processing procedure or the procedure for processing under customs control, the local clearance procedure referred to in Article 276 shall apply.

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2 Reference particulars of the entry in the inward processing records or records of processing under customs control shall be recorded in the stock records of the free zone or free warehouse.

Article 834

1 The inward processing procedure or procedure for processing under customs control shall be discharged in respect of the compensating products, processed products or goods in the unaltered state situated in a free zone or free warehouse by entry in the stock records of the free zone or free warehouse. Reference particulars of such entry shall be recorded in the inward processing records or records of processing under customs control, as the case may be.

2 The indications referred to in Article 610 shall be entered in the stock records of the free zone or free warehouse.

Article 835

1 Where the inward processing procedure, in respect of the compensating products or goods in the unaltered state, or the procedure for processing under customs control, in respect of the processed products or goods in the unaltered state, is discharged at the time of removal from the free zone or free warehouse by the re-export of those products or goods, the local clearance procedure laid down in Article 283 shall apply.

Without prejudice to the procedures applicable in cases where exports are subject to export duties or commercial policy measures, where the products or goods are taken direct from a free zone or free warehouse out of the customs territory of the Community, an export declaration shall not be required.

2 Where the inward processing procedure, in respect of the compensating products or goods in the unaltered state, or the procedure for processing under customs control, in respect of the processed products or goods in the unaltered state, is discharged at the time of removal from the free zone or free warehouse by the release for free circulation of those products or goods, the local clearance procedure referred to in Articles 263 to 267 shall apply.

3 Where the inward processing procedure or procedure for processing under customs control is discharged at the time when the compensating products, processed products or goods in the unaltered state are removed from the free zone or free warehouse to be entered for a procedure other than release for free circulation or export, the normal or simplified procedures laid down for that purpose shall apply.

4 The provisions of Article 832 (2) shall apply *mutatis mutandis*.

5 Where paragraphs 1 and 2 apply, the removal of compensating products, processed products or goods in the unaltered state from a free zone or free warehouse need not be entered in the stock records of the free zone or free warehouse.

Article 836

Article 835 (2) and (5) shall be without prejudice to the application of Articles 122, 135 and 136 of the Code concerning the taxation of goods or products entered for the inward processing procedure or the procedure for processing under customs control.

Article 837

Before the end of the month following each quarter, the customs authorities of the Federal Republic of Germany shall send the Commission the information referred to in Annex 85 concerning inward processing authorizations issued or modified in the

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Old Free Port of Hamburg during the preceding quarter which are not subject to the economic conditions laid down for the inward processing procedure.

Article 838

The Community status of compensating or processed products or goods in the unaltered state released for free circulation in or on removal from a free zone or free warehouse shall be certified by the document referred to in Annex 109, to be issued by the operator.

The first paragraph shall also apply to compensating products or goods in the unaltered state put on the Community market pursuant to Article 580 (3).

Article 839

Entries in the inward processing records or records of processing under customs control must enable the customs authority to verify at any time the exact situation of all goods or products placed under one of the procedures in question or in the free zone or free warehouse.

Section 8

Communication of information

Article 840

1 The customs authorities of the Member States shall communicate the following information to the Commission:

- a the free zones which they have designated or which start to operate, having already been designated, and the free warehouses whose creation and operation they have authorized, however such zones or warehouses may be described;
- b the designated customs authorities to which the application referred to in Article 808 must be presented;
- c changes to the arrangements for control of the inward processing procedure or procedure for processing under customs control pursuant to Article 173 of the Code.

2 The Commission shall publish the information referred to in paragraph 1 (a) and (b) in the *Official Journal of the European Communities*, C series.

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- (1) OJ No L 42, 16. 2. 1990, p. 6.
- (2) OJ No L 351, 14. 12. 1987, p. 7.

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