

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)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

CUSTOMS DEBT

TITLE II

INCURRENCE OF THE DEBT

CHAPTER I

Failures which have no significant effect on the operation of temporary storage or of the customs procedure

Article 859

The following failures shall be considered to have no significant effect on the correct operation of the temporary storage or customs procedure in question within the meaning of Article 204 (1) of the Code, provided:

- they do not constitute an attempt to remove the goods unlawfully from customs supervision,
- they do not imply obvious negligence on the part of the person concerned, and
- all the formalities necessary to regularize the situation of the goods are subsequently carried out:
 1. exceeding the time limit allowed for assignment of the goods to one of the customs-approved treatments or uses provided for under the temporary storage or customs procedure in question, where the time limit would have been extended had an extension been applied for in time;
 2. in the case of goods placed under a transit procedure, exceeding the time limit for presentation of the goods to the office of destination, where such presentation takes place later;
 3. in the case of goods placed in temporary storage or under the customs warehousing procedure, handling not authorized in advance by the customs authorities, provided such handling would have been authorized if applied for;
 4. in the case of goods placed under the temporary importation procedure, use of the goods otherwise than as provided for in the authorization, provided such use would have been authorized under that procedure if applied for;
 5. in the case of goods in temporary storage or placed under a customs procedure, unauthorized movement of the goods, provided the goods can be presented to the customs authorities at their request;

6. in the case of goods in temporary storage or placed under a customs procedure, removal of the goods from the customs territory of the Community or their entry into a free zone or free warehouse without completion of the necessary formalities;
7. in the case of goods having received favourable tariff treatment by reason of their end-use, transfer of the goods without notification to the customs authorities, before they have been put to the intended use, provided that:
 - (a) the transfer is recorded in the transferor's stock records; and
 - (b) the transferee is the holder of an authorization for the goods in question.

Article 860

The customs authorities shall consider a customs debt to have been incurred under Article 204 (1) of the Code unless the person who would be the debtor establishes that the conditions set out in Article 859 are fulfilled.

Article 861

The fact that the failures referred to in Article 859 do not give rise to a customs debt shall not preclude the application of provisions of criminal law in force or of provisions allowing cancellation and withdrawal of authorizations issued under the customs procedure in question.

CHAPTER 2

Natural wastage

Article 862

1 For the purposes of Article 206 of the Code, the customs authorities shall, at the request of the person concerned, take account of the quantities missing wherever it can be shown that the losses observed result solely from the nature of the goods and not from any negligence or manipulation on the part of that person.

2 In particular, negligence or manipulation shall mean any failure to observe the rules for transporting, storing, handling, working or processing the goods in question imposed by the customs authorities or by normal practice.

Article 863

The customs authorities may waive the obligation for the person concerned to show that the goods were irretrievably lost for reasons inherent in their nature where they are satisfied that there is no other explanation for the loss.

Article 864

The national provisions in force in the Member States concerning standard rates for irretrievable loss due to the nature of the goods themselves shall be applied where the person concerned fails to show that the real loss exceeds that calculated by application of the standard rate for the goods in question.

CHAPTER 3

Customs status of goods in certain irregular situations

Article 865

The presentation of a customs declaration for the goods in question, or any other act having the same legal effects, and the production of a document for endorsement by the competent authorities, shall be considered as removal of goods from customs supervision within the meaning of Article 203 (1) of the Code, where these acts have the effect of wrongly conferring on them the customs status of Community goods.

Article 866

Without prejudice to the provisions laid down concerning prohibitions or restrictions which may be applicable to the goods in question, where a customs debt on importation is incurred pursuant to Articles 202, 203, 204 or 205 of the Code and the import duties have been paid, those goods shall be deemed to be Community goods without the need for a declaration for entry into free circulation.

Article 867

The confiscation of goods pursuant to Article 233 (c) and (d) of the Code shall not affect the customs status of the goods in question.