

COMMISSION REGULATION (EC) No 1677/98**of 29 July 1998****amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, as last amended by European Parliament and Council Regulation (EC) No 82/97⁽²⁾, and in particular Article 249 thereof,

Whereas the provisions of Commission Regulation (EEC) No 2454/93⁽³⁾, as last amended by Regulation (EC) No 75/98⁽⁴⁾, regarding the customs value declarant, should be aligned on those applicable to the customs declarant, in order to have a more coherent application of both sets of provisions;

Whereas Community legislation on outward processing provides for cases in which authorisations are granted pursuant to a decision of the Commission; whereas use of the procedure should be simplified by amending the procedure for granting authorisation to a person other than the one arranging for the outward processing operations performed, with recourse to the Committee procedure as required;

Whereas in order to benefit from treatment as returned goods, agricultural products must be reimported within 12 months of the date of acceptance of the export declaration, with no possibility of an extension; whereas in the light of experience, the customs authorities should be permitted to allow this period to be exceeded in duly justified exceptional circumstances; whereas in order to ensure uniformity in the regularisation of refunds under the common agricultural policy, details of cases should be communicated to the Commission;

Whereas situations arise, particularly in the air-freight sector, in which large quantities of goods have to be dispatched under conditions of considerable pressure; whereas this can lead to errors in the designation of the status of goods which are rectified at the initiative or on behalf of the person concerned when the goods arrive at

their destination; whereas in such cases, where the goods are subject only to post-clearance controls, they may be regarded, provided that the error is put right without damage to financial interests, as not having been removed definitively from customs supervision; whereas this possibility should not be open to abuse;

Whereas it is appropriate to rationalise the procedures to be implemented at Community level concerning, on the one hand, situations not necessitating a subsequent entry in the accounts of import duties or export duties and, on the other hand, requests for repayment or remission of import or export duties;

Whereas it is advisable to increase the existing threshold below which the Member States themselves may decide, unless they are in doubt, not to carry out subsequent entry in the accounts of duty not charged when they consider that all the conditions referred to in point (b) of Article 220(2) of Regulation (EEC) No 2913/92 (hereinafter 'the Code') are met; whereas in addition, it is advisable to lay down a threshold in ecus below which the Member States themselves can decide, unless they are in doubt, to grant repayment or remission when they consider that the conditions referred to in Article 239(1) of the Code are met;

Whereas the right to a hearing, on the part of persons affected by a decision on post-clearance entry in the accounts of import or export duties and of applicants for repayment or remission of import or export duties, should be safeguarded; whereas, therefore, such interested parties must be given the opportunity to give their comments in writing on all the objections that the Commission envisages making in its decisions; whereas this situation requires an adjustment of the time limits for adoption of those decisions by the Commission;

Whereas Council Regulation (EC) No 974/98 of 3 May 1998 concerning the introduction of the euro⁽⁵⁾ provides that the euro is to become the currency of the participating Member States from 1 January 1999; whereas the euro is expressed, until 31 December 2001, in national monetary units according to the conversion rates; whereas,

⁽¹⁾ OJ L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ L 17, 21. 1. 1997, p. 1.

⁽³⁾ OJ L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ L 7, 13. 1. 1998, p. 3.

⁽⁵⁾ OJ L 139, 11. 5. 1998, p. 1.

consequently, there is a legal equivalence between the euro unit and the national currency units; whereas, during the transitional period, contracts, national laws and other legal instruments can validly be established in the euro unit or in the national monetary unit;

Whereas, therefore, it appears necessary to introduce measures to adjust the rules for the Single Administrative Document in order to allow the euro unit to be used; whereas, consequently, it is necessary to amend Annex 37 to this end;

Whereas Council Regulation (EC) No 374/98 of 12 February 1998 amending Articles 6 and 9 of Regulation (EC) No 1172/95 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries⁽¹⁾ provides for the replacement from 1 January 1999 of the country nomenclature currently used for the statistics relating to the trading of goods by an alphabetical nomenclature based on the ISO alpha-2 code;

Whereas it is therefore necessary to adjust the rules for using the Single Administrative Document so as to take account of this change; whereas Annex 38 should be adjusted accordingly; whereas it is desirable, however, to allow Member States to continue using the current codes until Annexes 37 and 38 are replaced;

Whereas it is desirable to extend the list in Annex 87 on economic grounds for certain electronic components and the like, following the introduction of the Information Technology Agreement;

Whereas the measures provided for by this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2454/93 is amended as follows:

1. Article 178(2) is replaced by the following:

‘2. The value declaration provided for in paragraph 1 shall be made only by a person established in the Community and in possession of the relevant facts.

The second indent of Article 64(2)(b) and Article 64(3) of the Code shall apply *mutatis mutandis*’.

2. Article 759(3) is replaced by the following:

‘3. Where more than one Member State is involved in the export operations and an application for a single authorisation is made, the procedure provided for in Article 751(2) shall apply.

If there are objections to a draft authorisation, the Commission may decide in accordance with the Committee procedure whether the authorisation can be issued and on what conditions’.

3. The following subparagraph is added to Article 844(4):

‘However, where the goods are declared for free circulation after expiry of the period referred to in the first subparagraph, the customs authorities of the Member State of reimportation may allow the period to be exceeded where exceptional circumstances justify this. Where the customs authorities do allow the period to be exceeded, they shall send details of the case to the Commission’.

4. The following paragraph is added to Article 865:

‘However, in the case of airline companies authorised to use a simplified transit procedure with the use of an electronic manifest, the goods shall not be considered to have been removed from customs supervision if, at the initiative or on behalf of the person concerned, they are treated in accordance with their status as non-Community goods before the customs authorities find the existence of an irregular situation and if the behaviour of the person concerned does not suggest any fraudulent dealing’.

5. In Article 869(b), the term ‘ECU 2 000’ is replaced by the term ‘ECU 50 000’.

6. The following Article 872a is inserted:

Article 872a

Where, at any time in the procedure provided for in Articles 872 and 873, the Commission intends to take a decision unfavourable towards the person concerned by the case presented, it shall communicate its objections to him/her in writing, together with all the documents on which it bases those objections. The person concerned by the case submitted to the Commission shall express his/her point of view in writing within a period of one month from the date on which the objections were sent. If he/she does not give a point of view within that period, he/she shall be deemed to have waived the right to express a position’.

7. Article 873 is amended as follows:

(a) In the first and second sentences of the second paragraph, the words ‘six months’ are replaced by the words ‘nine months’.

⁽¹⁾ OJ L 48, 19. 2. 1998, p. 6.

(b) The following paragraph is added:

'Where the Commission has communicated its objections to the person concerned by the case presented, in accordance with Article 872a, the nine-month deadline shall be extended by a period equivalent to that between the date on which the Commission sent the objections and the date on which it received the answer of the person concerned or, in the absence of an answer, the date of expiry of the period which was set to give his/her point of view'.

8. In Article 905(1), the following second subparagraph is inserted:

'However, except if the decision-making customs authority is in doubt, it can decide itself to grant repayment or remission of the duties in cases in which it considers that the conditions laid down in Article 239(1) of the Code are fulfilled, provided that the amount concerned per operator in respect of one or more import or export operations, but arising from one and the same special situation, is less than ECU 50 000'.

9. The following Article 906a is inserted:

Article 906a

Where, at any time in the procedure provided for in Articles 906 and 907, the Commission intends to take a decision unfavourable towards the applicant for repayment or remission, it shall communicate its objections to him/her in writing, together with all the documents on which it bases those objections. The applicant for repayment or remission shall express his/her point of view in writing within a period of one month from the date on which the objections

were sent. If he/she does not give his/her point of view within that period, he/she shall be deemed to have waived the right to express a position'.

10. Article 907 is amended as follows:

(a) In the first and second sentences of the second paragraph, the words 'six months' are replaced by the words 'nine months'.

(b) The following paragraph is added:

'Where the Commission has communicated its objections to the applicant for repayment or remission, in accordance with Article 906a, the nine-month deadline shall be extended by a period equivalent to that between the date on which the Commission sent the objections and the date on which it received the answer of the interested party or, in the absence of an answer, the date of the expiry of the period which was given to him/her to give his/her point of view'.

11. Annex 37 is amended in accordance with Annex I hereto.

12. Annex 38 is amended in accordance with Annex II hereto.

13. Annex 87 is amended in accordance with Annex III hereto.

Article 2

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

Points 11 and 12 of Article 1 shall apply from 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 July 1998.

For the Commission

Mario MONTI

Member of the Commission

ANNEX I

Annex 37 is amended as follows:

1. The explanatory notes in title II, sections A and C for box 44 are supplemented by the following paragraphs:

‘From 1 January 1999, the declarations made in the Member States which give the opportunity to operators to opt for the use of the euro unit for the establishment of their customs declarations will include in this box, preferably in the subdivision in the bottom right-hand corner, an indicator of the currency unit, national unit or euro unit, used.

Member States may provide that this indicator be entered only in box 44 for the first item of goods of the declaration. In this case, the information will be deemed valid for all the good items of the declaration.

This indicator will be constituted by the iso-alpha-3 currency code (ISO 4217)’.

2. The first paragraph of the explanatory note in title II, section A, for box 46 is replaced by the following text:

‘Enter the statistical value expressed in the currency unit the code for which may appear in box 44, or, in the absence of such a code in box 44, in the currency of the Member State where the export formalities are completed, in accordance with the Community provisions in force’.

3. The explanatory note in title II, section A for box 47 is completed with the following paragraph which is inserted after the current text:

‘The amounts in this box are expressed in the currency unit the code for which may appear in box 44, or, in the absence of such a code in box 44, in the currency of the Member State where the export formalities are completed’.

4. The explanatory note in title II, section C for box 45 is completed with the following paragraph which is inserted after the current text:

‘The amounts in this box are expressed in the currency unit the code for which may appear in box 44, or, in the absence of such a code in box 44, in the currency of the Member State of destination’.

5. The first paragraph of the explanatory note in title II, section C, for box 46 is replaced by the following text:

‘Enter the statistical value expressed in the currency unit the code for which may appear in box 44, or, in the absence of such a code in box 44, in the currency of the Member State of destination, in accordance with the Community provisions in force’.

6. The explanatory note in title II, section C for box 47 is completed with the following paragraph which is inserted after the current text:

‘The amounts in this box are expressed in the currency unit the code for which may appear in box 44, or, in the absence of such a code in box 44, in the currency of the Member State of destination’.

ANNEX II

Annex 38 is amended as follows:

The explanatory note to box 22 (invoice currency) is replaced by the following:

'The invoice currency is to be indicated by means of the ISO alpha-3 currency code (ISO 4217).

However, Member States may continue to use the three-digit nomenclature codes adopted by virtue of Article 9 of Council Regulation (EC) No 1172/95 (*).

(* OJ L 118, 25. 5. 1995, p. 10.'

ANNEX III

The following point is added to Annex 87:

| | Column 1 | Column 2 |
|----------|---|---|
| Order No | Goods for which processing under customs control is authorised | Processing which may be carried out |
| '18 | Any electronic type of components, parts, assemblies (including sub-assemblies), or materials (whether or not electronic), which are vital to the electronic working performance of the processed product | <p>Processing into information technology products falling within:</p> <ol style="list-style-type: none"> 1. a CN subheading found on the "EC-ITA-schedule CXL" of Council Decision 97/359/EC (*) where a duty exemption operates on the date of authorisation, or 2. a CN subheading provided for in Articles 1, 2 or 3 of Council Regulation (EC) No 2216/97 (**) where an autonomous suspension of duty operates on the date of authorisation <p>(*) OJ L 155, 12. 6. 1997, p. 1 (the Information Technology Agreement). (**) OJ L 305, 8. 11. 1997, p. 1.'</p> |