

COMMISSION REGULATION (EEC) No 1656/91

of 13 June 1991

laying down special provisions applicable to certain types of inward-processing operations or processing under customs control

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2503/88 of 25 July 1988 on customs warehouses⁽¹⁾, and in particular Article 15 (1) thereof,

Having regard to Council Regulation (EEC) No 2504/88 of 25 July 1988 on free zones and free warehouses⁽²⁾, and in particular Article 8 thereof,

Whereas it is necessary to determine which formalities can be dispensed with in the case of inward-processing operations or processing under customs control carried out on the premises of a customs warehouse or in a free zone or a free warehouse;

Whereas the introduction of a simplified procedure whereby goods are placed under a customs procedure without being presented and prior to the lodging of a declaration would result in a significant number of formalities being abolished;

Whereas the automatic application of the simplified procedure should be limited to those types of warehouse where the warehousekeeper assumes the responsibilities arising in connection with the goods and keeps stock records enabling all operations to be effectively monitored;

Whereas use of the simplified procedure should be withheld in all cases where the necessary guarantees are not provided, or its infrequent use would not justify its being granted; whereas the main function of a customs warehouse, namely the storage of goods, should at the same time be taken into account;

Whereas all provisions governing the procedures in question apply, other than those dealing with the placing of goods under the procedure or the assignment of goods to one of the customs-approved treatments or uses referred to in Article 18 of Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward-processing relief arrangements⁽³⁾ or in Article 10 of Council Regulation (EEC) No 2763/83 of 26 September 1983 on arrangements permitting goods to be processed under customs control before

being put into free circulation⁽⁴⁾, as last amended by Regulation (EEC) No 720/91⁽⁵⁾;

Whereas operators should be required to keep specific records for inward-processing operations and processing under customs control containing all the elements necessary to monitor the operations;

Whereas for customs control to be effective, the entries relating to same goods should be cross-referenced in the stock records of the customs warehouse or free zone or free warehouse and in the specific records concerning inward processing or processing under customs control;

Whereas in order to use storage facilities economically, it must be possible for goods placed under the customs-warehousing procedure and compensating products or goods in the unaltered state placed under the inward-processing procedure to be stored together; whereas common storage should be allowed even where the products or goods can no longer be identified, provided they are equivalent products or goods;

Whereas it is desirable to provide that information concerning authorizations for inward processing operations carried out in the Old Free Port of Hamburg which are not subject to the economic conditions laid down under the inward-processing procedure should be transmitted at regular intervals, and separately from information concerning other authorizations; whereas a three-month interval would appear adequate;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for Customs Procedures with Economic Impact,

HAS ADOPTED THIS REGULATION:

Chapter 1

General provisions

Article 1

1. This Regulation shall apply to inward-processing operations (suspension system) or processing under customs control carried out:

⁽¹⁾ OJ No L 225, 15. 8. 1988, p. 1.

⁽²⁾ OJ No L 225, 15. 8. 1988, p. 8.

⁽³⁾ OJ No L 188, 20. 7. 1985, p. 1.

⁽⁴⁾ OJ No L 272, 5. 10. 1983, p. 1.

⁽⁵⁾ OJ No L 78, 26. 3. 1991, p. 9.

— on the premises of customs warehouses of types A, C and D in which use of one of the simplified procedures referred to in Article 24 (1) (c), Article 48 (1) (c) or Article 54 (1) (c) of Commission Regulation (EEC) No 2561/90 ⁽⁶⁾ is authorized, or

— in a free zone or free warehouse.

2. The provisions laid down for the procedures in question in Council Regulations (EEC) No 1999/85, (EEC) No 3677/86 ⁽⁷⁾, (EEC) No 2763/83 and Commission Regulation (EEC) No 3548/84 ⁽⁸⁾ shall apply to :

— inward-processing operations using the drawback system,

— inward-processing operations (suspension or drawback system) or processing under customs control carried out on the premises of warehouses of types B or F, or on premises used for the storage of goods placed under the customs-warehousing procedure in a type E warehouse,

— operations to be carried out on the premises of type A, C or D warehouses not fulfilling the conditions laid down in paragraph 1.

Article 2

The customs authority shall withhold authorization to use the simplified procedures described in Articles 3 to 18 where the necessary guarantees for the proper conduct of the operations are not afforded.

The customs authority may withhold authorization from persons who do not frequently carry out inward-processing operations or processing under customs control, without prejudice to Article 8 of Regulation (EEC) No 2561/90.

Chapter 2

Inward processing

Article 3

Processing operations carried out under the inward-processing relief procedure on the premises of a customs warehouse referred to in Article 1 (1) or in a free zone or free warehouse shall not take place until the authorization referred to in Article 3 of Regulation (EEC) No 1999/85 has been granted.

⁽¹⁾ OJ No L 246, 10. 9. 1990, p. 1.

⁽²⁾ OJ No L 351, 12. 12. 1986, p. 1.

⁽³⁾ OJ No L 331, 19. 12. 1984, p. 5.

The authorization must specify the warehouse (indicating type) or the free zone or free warehouse where the operations will be carried out.

Article 4

1. The holder of the authorization shall keep specific accounts relating to inward processing (hereinafter referred to as 'inward-processing records') showing the quantities of goods placed under the inward-processing relief procedure and of compensating products obtained, and all the particulars needed to monitor the operations and to calculate correctly any import duties which may be payable. Entries shall contain *inter alia* the particulars necessary for identification of the goods or products and a reference to the authorization.

2. For the purpose of drawing up the bill of discharge referred to in Article 61 of Regulation (EEC) No 3677/86, the reference to the entries specified in paragraph 1 shall replace the reference to the declarations and documents specified in Article 61 (3) of Regulation (EEC) No 3677/86.

Article 5

1. Where goods are placed under the inward-processing relief procedure at the time when they are brought onto the premises of the customs warehouse or into the free zone or free warehouse, the simplified procedure laid down in Article 24 (1) (c) of Regulation (EEC) No 3677/86 shall apply.

2. The entry in the inward-processing records pursuant to Article 24 (2) (b) of Regulation (EEC) No 3677/86 shall replace the entry in the stock records of the free zone or free warehouse, referred to in Article 11 (1) of Regulation (EEC) No 2504/88.

3. The entry in the inward-processing records shall refer to the document under which the goods were carried.

Article 6

1. Where goods already on the premises of a customs warehouse under the customs-warehousing procedure, or goods already in a free zone or free warehouse, are placed under the inward-processing relief procedure, the simplified procedure laid down in Article 24 (1) (c) of Regulation (EEC) No 3677/86 shall apply.

2. The customs-warehousing procedure shall be discharged by entry in the inward-processing records. The particulars of such entry shall be recorded in the stock records of the customs warehouse.

3. Particulars of the entry in the inward-processing records shall be recorded in the stock records of the free zone or free warehouse.

Article 7

1. Where compensating products or goods in the unaltered state which have been placed under the inward-processing relief procedure on the premises of a customs warehouse are placed under the customs-warehousing procedure, the simplified procedure laid down in Article 24 (1) (c) of Regulation (EEC) No 2561/90 shall apply.

2. The inward-processing relief procedure shall be discharged by entry in the stock records of the customs warehouse. The particulars of such entry shall be recorded in the inward-processing records.

3. The inward-processing relief arrangements shall be discharged in respect of compensating 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. The particulars of such entry shall be recorded in the inward-processing records.

4. The indications referred to in Article 71 of Regulation (EEC) No 3677/86 must be entered in the stock records of the customs warehouse or free zone or free warehouse.

Article 8

1. Where the inward-processing relief procedure is discharged at the time when the compensating products or goods in the unaltered state are removed from the premises of the customs warehouse or from the free zone or free warehouse by the export of those products or goods, the simplified export procedure laid down in Article 44 (1) (b) of Regulation (EEC) No 3677/86 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 out of a free area or free warehouse from the customs territory of the Community, the export declaration referred to in Article 44 (2) (b) shall not be required.

2. Where the inward-processing relief procedure is discharged at the time when the compensating products or goods in the unaltered state are removed from the premises of the customs warehouse or the free zone or free warehouse by the release for free circulation of those products or goods, the simplified procedure for release for

free circulation laid down in Article 47 (1) (c) of Regulation (EEC) No 3677/86 shall apply.

3. Where the inward-processing relief procedure is discharged at the time when the compensating products or goods in the unaltered state are removed from the premises of the customs warehouse or the free zone or free warehouse in order that they may be assigned one of the treatments referred to in Article 18 of Regulation (EEC) No 1999/85 other than release for free circulation or export, the normal or simplified procedures laid down for that purpose shall apply.

4. The removal of compensating products or goods in the unaltered state from the premises of a customs warehouse or from a free zone or free warehouse need not be entered in the stock records of the customs warehouse or the free zone or free warehouse.

Article 9

Articles 7 (2) and (3) and Article 8 (2) and (4) shall be without prejudice to the application of Article 21 of Regulation (EEC) No 1999/85.

Article 10

1. Provided the proper conduct of operations is not affected, the customs authority shall allow non-Community goods placed under the customs-warehousing procedure and import goods or compensatory products placed under the inward-processing relief procedure to be stored together in the same storage facilities.

2. Where common storage, as referred to in paragraph 1, makes it impossible to identify at all times the customs procedure under which the goods or products are placed, such storage shall be permitted only where the goods or products are equivalent.

Equivalent goods or products are those falling within the same subheading of the combined nomenclature, of the same commercial quality and having the same technical characteristics.

3. Where equivalent goods or products referred to in paragraph 2 are stored in common, goods or products declared for a customs-approved treatment shall be considered to be goods or products placed under either the customs-warehousing procedure or the inward-processing procedure, at the declarant's choice.

Application of the first subparagraph may in no case result in a given status being conferred on a quantity of goods or products greater than the quantity of goods and products having that status actually stored in the customs warehouse when the goods or products declared for a customs-approved treatment are removed.

4. Where the status of goods placed under the customs-warehousing procedure or of compensating products or goods in the unaltered state placed under the inward-processing relief procedure is conferred on goods, those goods shall be subject to all provisions governing the procedures, including in particular those concerning charges and the collection of compensatory interests.

5. In the event of the total destruction or irretrievable loss of goods or products, the share of goods or products placed under one of the procedures in question which has been destroyed or lost shall be calculated by reference to the proportion of goods or products of the same type placed under the procedure on the premises of the warehouse at the time when the destruction or loss occurred, unless the warehousekeeper can produce evidence of the actual quantity of goods or products placed under the arrangements which was destroyed or lost.

Article 11

Before the end of the month following each quarter, Germany shall send the Commission the information referred to in Annex VIII to Regulation (EEC) No 3677/86 concerning inward-processing authorizations issued or modified in the Old Free Port of Hamburg during the preceding quarter which are not subject to the economic conditions laid down for the inward-processing relief procedure.

Chapter 3

Processing under customs control

Article 12

Processing operations carried out under the procedure for processing under customs control on the premises of a customs warehouse referred to in Article 1 (1) or in a free zone or free warehouse shall not take place until the authorization referred to in Article 3 of Regulation (EEC) No 2763/83 has been granted.

The authorization must specify the warehouse (indicating type) or the free zone or free warehouse where the operations will be carried out.

Article 13

The holder of the authorization shall keep specific accounts relating to processing under customs control (hereinafter referred to as 'records of processing under customs control') showing the quantities of goods placed under the procedure for processing under customs control

and of processed products obtained and all the particulars needed to monitor the operations and to calculate correctly any import duties which may be payable. Entries in the records shall contain *inter alia* the particulars necessary for identification of the goods or products and a reference to the authorization.

Article 14

1. Goods may be entered for processing under customs control at the time when they are brought onto the premises of the customs warehouse or into the free zone or free warehouse without being presented to the customs authority, as laid down in paragraph 2.

2. The person concerned shall, upon the arrival of the goods at the designated place:

(a) duly notify the customs authority of such arrival in the manner specified by the said authority. However, the customs authority may:

- permit the authorized person to notify it of the arrival of the goods when this is imminent, rather than requiring him to wait for their actual arrival,
- in special circumstances, where the nature of the goods and the frequency of entries for the procedure so warrant, exempt the person concerned from the requirement to notify each arrival of goods, provided that he supplies the said authority with all the information it judges necessary to enable it to exercise its right to examine the goods should the need arise;

(b) enter the goods in the records of processing under customs control. Such entry shall be effected in the manner specified by the customs authority. It shall be dated and shall indicate particulars of the document under which the goods were carried. Such entry may be replaced by any other formality of comparable probative effect stipulated by the customs authority;

(c) make available to the customs authority all documents relating to the placing of the goods under the procedure.

3. The entry in the records shall have the same force in law as acceptance of the declaration placing the goods under the procedure. Any examination of the goods shall be based on the particulars shown in the records. Entry of the goods in the records shall be equivalent to their release.

4. A summary declaration in respect of goods entered for processing under customs control shall be lodged with the competent customs office within the period specified by the customs authority.

5. The entry referred to in paragraph 2 (b) shall replace the entry in the stock records of the free zone or free warehouse referred to in Article 11 (1) of Regulation (EEC) No 2504/88.

Article 15

1. Where goods already on the premises of a customs warehouse under the customs-warehousing procedure or goods in a free zone or free warehouse are entered for processing under customs control, the simplified procedure laid down in Article 14 (1) to (4) shall apply.

2. The customs-warehousing procedure shall be discharged by entry of the goods in the records of processing under customs control. Particulars of such entry are recorded in the stock records of the customs warehouse.

3. Particulars of the entry in the records of processing under customs control shall be recorded in the stock records of the free zone or free warehouse.

Article 16

1. Where processed products or goods in the unaltered state which have been placed under the procedure for processing under customs control on the premises of a customs warehouse are placed under the customs-warehousing procedure, the simplified procedure laid down in Article 24 (1) (c) of Regulation (EEC) No 2561/90 shall apply.

2. The procedure for processing under customs control shall be discharged in respect of the processed products or goods in the unaltered state, by entry in the stock records of the customs warehouse. Particulars of such entry shall be recorded in the records of processing under customs control.

3. The procedure for processing under customs control shall be discharged in respect of the 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. Particulars of such entry shall be recorded in the records of processing under customs control.

Article 17

1. The procedure for processing under customs control shall be discharged at the time when the processed products or goods in the unaltered state are removed from the premises of the customs warehouse or from the free

zone or free warehouse by the release for free circulation or export of those products or goods without such products or goods being presented to the customs authority, as laid down in paragraph 2.

2. The person concerned shall :

(a) notify the customs authority in the manner specified by the said authority, and before the goods leave his premises, of the imminent dispatch of consignments. However, the customs authority may, in special circumstances, where the nature of the goods and the frequency of release for free circulation or export so warrant, exempt the person concerned from the requirement to notify each dispatch of goods provided that he supplies the said authority with all the information it judges necessary to enable it to exercise its right to examine the goods should the need arise ;

(b) enter the processed products or goods in the unaltered state in the records of processing under customs control. Such entry shall be effected in the manner laid down by the customs authority. It shall be dated. Such entry may be replaced by any other formality of comparable probative effect stipulated by the customs authority ;

(c) draw up an export declaration, where the goods are exported ; without prejudice to the procedures applicable in cases where exports are subject to export duties or commercial policy measures, where the processed products or goods in the unaltered state are taken straight from a free zone or free warehouse out of the customs territory of the Community, the export declaration shall not be required ;

(d) make available to the customs authority all documents relating to the release for free circulation or export of the processed products or goods in the unaltered state, and in particular the import or export licence required under the common agricultural policy or documents provided for by the common commercial policy.

3. The entry in the records shall have the same force in law as acceptance of the declaration for release of the goods for free circulation or the export declaration. Any examination of the goods shall be based on the particulars shown in the records. Entry of the goods in the records shall be equivalent to their release.

4. A summary declaration in respect of the processed products or goods in the unaltered state for which the procedure for processing under customs control has been discharged must be lodged with the competent customs office within the period specified by the customs authority.

5. Where the procedure for processing under customs control is discharged at the time when the processed products or goods in the unaltered state are removed from the premises of the customs warehouse or the free zone or free warehouse in order that they may be assigned one of the treatments referred to in Article 10 of Regulation (EEC) No 2763/88 other than release for free circulation or export, the normal or simplified procedures laid down for that purpose shall apply.

6. The removal of processed products or goods in the unaltered state from the premises of the customs warehouse or the free zone or the free warehouse need not be recorded in the stock records of the customs warehouse or free zone or free warehouse.

Article 18

Article 16 (2) and (3) and Article 17 (1) and (5) shall be without prejudice to the application of Articles 11 and 12 of Regulation (EEC) No 2763/83.

Chapter 4

Final provisions

Article 19

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 II to Council Regulation (EEC) No 2562/90 ⁽¹⁾, to be issued by the operator.

The first subparagraph shall also apply to compensating products or goods in the unaltered state put on the Community market pursuant to Article 49 (1) of Regulation (EEC) No 3677/86.

Article 20

The entries in the inward-processing records or records of processing under customs control must enable the customs authority to verify at any time the precise status of all goods or products placed under one of the procedures in question or in the free zone or free warehouse, and, in the case of the common storage referred to in Article 10, the exact quantity of each type of goods or products will placed under one of the procedures in question.

Article 21

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

It shall apply from 1 January 1992.

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

Done at Brussels, 13 June 1991.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 246, 10. 9. 1990, p. 33.