

COMMISSION REGULATION (EC) No 1427/97
of 23 July 1997

amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

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 Regulation (EC) No 82/97 of the European Parliament and of the Council⁽²⁾, and in particular Article 249 thereof,

Whereas application of the measures referred to in Article 20 (3) (d), (e) and (f) of Regulation (EEC) No 2913/92 (hereinafter referred to as 'the Code'), may be restricted to a certain volume of imports by reason of the existence of tariff quotas or tariff ceilings;

Whereas, since 1988, the Council has systematically delegated to the Commission the responsibility for managing tariff quotas on a first-come first-served basis and for the surveillance of imports within the framework of preferential tariff measures; whereas the general principles and rules of this management should be codified in the interests of stability and transparency, and with a view to greater efficiency in their operation; whereas the availability of those tariff quotas is limited to goods declared for release for free circulation between the opening date and the closing date of the relevant tariff quota;

Whereas the management rules for these tariff quotas must ensure the uniform and fair treatment of all importers throughout the Community; whereas, accordingly, all Community importers should be ensured equal and continuous access to those tariff quotas until exhaustion thereof, and allocations should be made once per working day, except where technical conditions make that impossible;

Whereas the lodging of security for the import duties potentially not payable as a result of a drawing on a tariff quota, in cases where there is no reason to suppose that the tariff quota will be very shortly exhausted, creates an unnecessary burden for economic operators; whereas in the interests of uniform treatment, Member States may refrain from taking security for import duties in cases where it is determined that a particular tariff quota will not very shortly be exhausted;

Whereas the details of individual commercial transactions should be protected by rules of confidentiality;

Whereas the management of tariff quotas and preferential surveillance requires a high degree of administrative cooperation between the Commission and the customs authorities of the Member States;

Whereas provision should be made for invalidating the declaration of release for free circulation for mail order goods returned by a customer to a third country;

Whereas it is convenient and useful to allow the application, by means of a stamp, of the pictogram identifying consignments transported by rail under the Community transit procedure;

Whereas the existence of the Single Market implies making appropriate use of the special facilities required for the loading and unloading of large containers;

Whereas in order to allow for a more coherent publication of the list of free zones in existence and in operation within the Community, it is appropriate to make such publication in the C series of the *Official Journal of the European Communities*;

Whereas Article 859 of Commission Regulation (EEC) No 2454/93⁽³⁾, as last amended by Regulation (EC) No 89/97⁽⁴⁾, contains a restrictive list of cases having no significant effect, in which no customs debt is incurred even if one of the situations referred to in Article 204 (1) (a) or (b) of the Code pertains; whereas the following cases should be added to that list: goods re-imported after outward processing and placed in temporary storage or under a suspensive customs procedure before being released for free circulation and goods which have undergone an inward processing operation where the renewal of the authorization was not requested in time;

Whereas it is appropriate, in order to facilitate trade activities, in certain limited cases, not to require re-export of goods for which a repayment or a remission of import duties is granted and to permit their placing under the customs warehousing arrangements, or in a free zone or free warehouse;

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ No L 17, 21. 1. 1997, p. 1.

⁽³⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ No L 17, 21. 1. 1997, p. 28.

Whereas the list of standard rates of yield applicable to inward processing of olive oil should be amended to facilitate uniform application throughout the Community and simplify discharge of the procedure;

Whereas it is desirable to define more clearly the conditions in which equivalent compensation may be used for inward processing operations in the maize sector in order to avoid distortions within the sector;

Whereas the list in Annex 78 to Regulation (EEC) No 2454/93 should be expanded in order to define in greater detail the instances and conditions in which equivalent compensation may be used for inward processing operations in the olive oil sector;

Whereas the list of compensating products to which specific duties may apply should be extended;

Whereas it is desirable to extend the list in Annex 87 to that Regulation on economic grounds;

Whereas the measures provided for in 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 hereby amended as follows:

1. the following paragraph 4 shall be added to Article 248:

'4. Notwithstanding paragraph 1, the customs authorities may refrain from taking security in respect of goods which are the subject of a drawing request on a tariff quota if they determine, at the time when the declaration for release for free circulation is accepted, that the tariff quota in question is non-critical within the meaning of Article 308c.;

2. the following point 1b shall be added to Article 251:

'1b. in the case of mail order goods which are returned, the customs authorities shall invalidate the declarations of release for free circulation if a request to that effect is made within three months of the date of acceptance of the declaration, provided that the goods have been exported to the original supplier's address or to another address indicated by the said supplier;'

3. Article 256 (2) shall be replaced by the following text:

'2. Where a reduced or zero rate of import duty is applicable to goods released for free circulation within tariff quotas or, provided that the levying of normal import duties is not re-introduced, within tariff ceilings or other preferential tariff measures, the

benefit of the tariff quota or preferential tariff measure shall only be granted after presentation to the customs authorities of the document on which the granting of the reduced or zero rate is conditional. The document must in any case be presented:

- before the tariff quota has been exhausted, or
- in other cases, before the date on which a Community measure re-introduces the levying of normal import duties.;

4. the following Chapter 3 shall be added to Part II, Title I:

CHAPTER 3

Management of tariff measures

Section 1

Management of tariff quotas designed to be used following the chronological order of dates of customs declarations

Article 308a

1. Save as otherwise provided, where tariff quotas are opened by a Community provision, those tariff quotas shall be managed in accordance with the chronological order of dates of acceptance of declarations for release for free circulation.
2. Where a declaration for release for free circulation incorporating a valid request by the declarant to benefit from a tariff quota is accepted, the Member State concerned shall draw from the tariff quota, through the Commission, a quantity corresponding to its needs.
3. Member States shall not present any request for drawing until the conditions laid down in Article 256 (2) and (3) are satisfied.
4. Subject to paragraph 8, allocations shall be granted by the Commission on the basis of the date of acceptance of the relevant declaration for release for free circulation, and to the extent that the balance of the relevant tariff quota so permits. Priority shall be established in accordance with the chronological order of these dates.
5. The Member States shall communicate to the Commission all valid requests for drawing without delay. Those communications shall include the date referred to in paragraph 4, and the exact amount applied for on the relevant customs declaration.
6. For the purposes of paragraphs 4 and 5, the Commission shall fix order numbers where none are provided by the Community provision opening the tariff quota.

7. If the quantities requested for drawing from a tariff quota are greater than the balance available, allocation shall be made on a pro rata basis with respect to the requested quantities.

8. For the purposes of this Article, acceptance of a declaration by the customs authorities on 1, 2 or 3 January shall be regarded as acceptance on 3 January. However, if one of those days falls on a Saturday or a Sunday, such acceptance shall be regarded as having taken place on 4 January.

9. Where a new tariff quota is opened, drawings shall not be granted by the Commission before the 11th working day following the date of publication of the provision which created that tariff quota.

10. Member States shall immediately return to the Commission the amount of drawings which they do not use. However, where an erroneous drawing representing a customs debt of ECU 10 or less is discovered after the first month following the end of the period of validity of the tariff quota concerned, Member States need not make a return.

11. If the customs authorities invalidate a declaration for release for free circulation in respect of goods which are the subject of a request for benefit of a tariff quota, the complete request shall be cancelled in respect of those goods. The Member States concerned shall immediately return to the Commission any quantity drawn, in respect of those goods, from the tariff quota.

12. Details of drawings requested by individual Member States shall be treated by the Commission and other Member States as confidential.

Article 308b

1. The Commission shall make an allocation each working day, except:

- days which are holidays for the Community institutions in Brussels, or
- in exceptional circumstances, any other day, provided that the competent authorities of the Member States have been informed in advance.

2. Subject to Article 308a (8), any allocation shall take into account all unanswered requests which relate to declarations for release for free circulation accepted up to and including the second previous day, and which have been communicated to the Commission.

Article 308c

1. A tariff quota shall be considered, after the first allocation, as non-critical in cases where:

- a tariff quota for the same products and origins, opened in each of the last two years for a minimum period of six months, was not exhausted before the last working day of the seventh month of its quota period during those two years, and
- the initial volume of the new tariff quota is not less than each of those of the last two years.

2. As soon as 75 % of the initial volume of a non-critical tariff quota has been used, or at the discretion of the competent authorities, that tariff quota shall thereafter be considered as critical.

Section 2

Surveillance of preferential imports

Article 308d

1. Where Community surveillance of preferential imports is to be made, the Member States shall provide to the Commission once each month, or at more frequent intervals if requested by the Commission, details of the quantities of products put into free circulation with the benefit of preferential tariff arrangements during the previous months.

2. The surveillance reports of the Member States shall indicate the total quantities put into free circulation, since the first day of the period concerned, with the benefit of the preferential tariff arrangements.

3. The Member States shall transmit their monthly surveillance reports to the Commission no later than the 15th day of the month following the end of the period being reported on.

4. The information communicated by individual Member States shall be treated as confidential;

5. the following paragraph shall be added to Article 417:

'The label referred to in the first paragraph may be replaced by a stamp reproducing the pictogram shown in Annex 58 in green ink.'

6. Article 426 shall be replaced by the following text:

Article 426

Where the Community transit procedure is applicable, formalities under that procedure shall be simplified in accordance with Articles 427 to 442 for goods carried by the railway companies in large containers using transport undertakings as intermediaries, under cover of transfer notes referred to as "TR

transfer notes". Such operations may include the dispatch of consignments by transport undertakings using modes of transport other than rail, to the nearest suitable railway station to the point of loading and from the nearest suitable railway station to the point of unloading, and any transport by sea in the course of the movement between those two stations.;

7. the following point 5 shall be added to Article 427:

'5. "nearest suitable railway station" means a railway station or terminal nearest to the point of loading or unloading, which is equipped to handle the large containers defined in point 2.;

8. the following paragraph shall be added to Article 432:

'The label referred to in the first paragraph may be replaced by a stamp reproducing the pictogram shown in Annex 58 in green ink.;

9. the second paragraph of Article 801 shall be deleted;

10. Article 840 (1) (a) shall be replaced by the following text:

'(a) the free zones in existence and in operation in the Community.;

11. the following points 8 and 9 shall be added to Article 859:

'8. in the case of goods eligible on release for free circulation for the total or partial relief from import duties referred to in Article 145 of the Code, the existence of one of the situations referred to in Article 204 (1) (a) or (b) of the Code while the goods concerned are in temporary storage or under another customs procedure before being released for free circulation;

9. in the case of inward processing operations carried out on an ongoing basis, the failure to request renewal of the requisite authorization even though the conditions for its issue have been met.;

12. Article 900 shall be amended as follows:

(a) in paragraph 2, the following subparagraph is inserted between the second and subparagraphs:

'However, concerning the cases referred to in paragraph 1 (g), (i) and (l), the decision-making authority may, if requested, permit re-export of the goods to be replaced by placing them under the customs warehousing arrangements, or in a free zone or free warehouse.;

(b) in paragraph 3, 'and (i)' is deleted;

13. Annex 77 shall be amended in accordance with Annex I hereto;

14. Annex 78 shall be amended in accordance with Annex II hereto;

15. Annex 79 shall be amended in accordance with Annex III hereto;

16. Annex 87 shall be amended in accordance with Annex IV hereto;

17. Annex 108 shall be deleted.

Article 2

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

Points 1 and 4 of Article 1 shall apply from 1 January 1998.

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

Done at Brussels, 23 July 1997.

For the Commission

Mario MONTI

Member of the Commission

ANNEX I

In Annex 77, the text of order numbers 131 and 132 is replaced by the following:

Import goods		Numerical order	Compensating products		Quantity of compensating products for each 100 kg of imported goods (kg) ⁽²⁾
CN code	Description		Code ⁽¹⁾	Description	
(1)	(2)	(3)	(4)	(5)	
'1509 10 10	Lampante virgin olive oil	131	ex 1509 90 00 ex 1519 19 90	(a) Olive oil, refined, or olive oil (b) Acid oils from refining ⁽¹⁵⁾	98,00
1510 00 10	Unrefined olive-pomace oil	132	ex 1510 00 90 ex 1522 00 39 ex 1519 19 90	(a) Olive-pomace oil, refined, or olive-pomace oil (b) Stearin (c) Acid oils of refining ^(15a)	95,00 3,00

⁽¹⁾ Twice the percentage expressed as oleic acid of the lampante virgin olive oil shall be deducted from the quantity of product shown in column 5 for refined olive oil/olive oil and shall constitute the quantity of acid oil of refining.

^(15a) Twice the percentage expressed as oleic acid of the unrefined olive-residue oil shall be deducted from the quantity of product shown in column 5 for refined olive-residue oil/olive-residue oil and shall constitute the quantity of acid oil of refining.'

ANNEX II

In Annex 78, the following points are added:

5. Maize

Recourse to equivalent compensation between Community and non-Community maize is possible only in the following cases and subject to the following conditions:

1. In the case of maize for use in animal feed, equivalent compensation is possible provided that a customs control system is set up to ensure that the non-Community maize is in fact used for processing into animal feed.
2. In the case of maize used in the manufacture of starch and starch products, equivalent compensation is possible between all varieties with the exception of maizes rich in amylopectin (wax-like maize or "waxy" maize) which are only equivalent between themselves.
3. In the case of maize used in the manufacture of meal products, equivalent compensation is possible between all varieties with the exception of maizes of the vitreous type ("Plata" maize of the "Duro" type, "Flint" maize) which are only equivalent between themselves.

6. Olive oil

A. Recourse to equivalent compensation is permitted only in the following cases and under the following conditions:

1. Virgin olive oil

- (a) Between Community extra virgin olive oil falling within CN code 1509 10 90 which corresponds to the description in point 1 (a) of the Annex to Council Regulation No 136/66/EEC (*), as last amended by Regulation (EC) No 1581/96 (**), and non-Community extra virgin olive oil of the same CN code, provided that the processing operation produces extra virgin olive oil falling within the same CN code and satisfying the requirements of the said point 1 (a).
- (b) Between Community virgin olive oil falling within CN code 1509 10 90 which corresponds to the description in point 1 (b) of the Annex to Regulation No 136/66/EEC and non-Community virgin olive oil of the same CN code, provided that the processing operation produces virgin olive oil falling within the same CN code and satisfying the requirements of the said point 1 (b).
- (c) Between Community ordinary virgin olive oil falling within CN code 1509 10 90 which corresponds to the description in point 1 (c) of the Annex to Regulation No 136/66/EEC and non-Community ordinary virgin olive oil of the same CN code, provided that the compensating product is:
 - refined olive oil falling within CN code 1509 90 00 which corresponds to the description in point 2 of the abovementioned Annex,
 - olive oil falling within CN code 1509 90 00 which corresponds to the description in point 3 of the said Annex and is obtained by blending with Community virgin olive oil falling within CN code 1509 10 90.
- (d) Between Community lampante virgin olive oil falling within CN code 1509 10 10 which corresponds to the description in point 1 (d) of the Annex to Regulation No 136/66/EEC and non-Community lampante virgin olive oil of the same CN code, provided that the compensating product is:
 - refined olive oil falling within CN code 1509 90 00 which corresponds to the description in point 2 of the abovementioned Annex, or
 - olive oil falling within CN code 1509 90 00 which corresponds to the description in point 3 of the said Annex and is obtained by blending with Community virgin olive oil falling within CN code 1509 10 90.

2. *Olive-pomace oil*

Between Community unrefined olive-pomace oil falling within CN code 1510 00 10 which corresponds to the description in point 4 of the Annex to Regulation No 136/66/EEC and non-Community unrefined olive-pomace oil of the same CN code, provided that the olive-pomace oil compensating product falling within CN code 1510 00 90 and corresponding to the description in point 6 of the said Annex is obtained by blending with Community virgin olive oil falling within CN code 1509 10 90.

- B. The blending referred to in point A.1 (c) second indent and (d) second indent and point A.2, with non-Community virgin olive oil, used in an identical manner, are authorized only where the arrangements for supervision of the procedure are organized in a manner that makes it possible to identify the proportion of non-Community virgin olive oil in the total quantity of blended oil exported.
- C. The compensating products must be put into immediate packaging of 220 litres or less. By way of derogation, in the case of agreed containers of 20 tonnes maximum, the customs authorities may allow the exportation of the oils found in the preceding points on condition that there is systematic control of the quality and quantity of the exported product.
- D. Equivalence shall be checked by using commercial records to verify the quantity of oils used for blending and, for the purpose of verifying the quality concerned, by comparing the technical characteristics of samples of the non-Community oil taken when it was entered for the procedure with the technical characteristics of the samples of the Community oil used taken when the compensating product concerned was processed against the technical characteristics of the samples taken at the time of actual exportation of the compensating product at the point of exit.

Samples shall be taken in accordance with international standards EN ISO 5555 (sampling) and EN ISO 661 (sending of samples to laboratories and preparation of samples for tests). The analysis shall be carried out with reference to the parameters in Annex I to Commission Regulation (EEC) No 2568/91 (**), as last amended by Regulation (EEC) No 2527/95 (****).

(*) OJ No L 172, 30. 9. 1996, p. 3025/66.

(**) OJ No L 206, 16. 8. 1996, p. 11.

(***) OJ No L 248, 5. 9. 1991, p. 1.

(****) OJ No L 258, 28. 10. 1995, p. 49.

ANNEX III

In Annex 79, the following order number 69a is inserted

Serial No	CN code and description of the compensating products		Processing operations from which they result
'69a	ex 2827 51 00	Solution of potassium bromide	1,3-bromochloropropane of CN code 2903 49 80'

ANNEX IV

In Annex 87, the following point is added:

Order No	Column 1	Column 2
	Goods for which processing under customs control is authorized	Processing which may be carried out
'17	Motor chassis fitted with cabs, of CN code 8704 21 31	Processing into fire engines fitted with integral fire fighting and/or life-saving equipment, of CN code 8705 30 00'