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(Acts whose publication is obligatory)

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the experience gained since the establishment of the Customs Union with regard to the determination and calculation of import duties shows that, despite the coherent structure of the Common Customs Tariff and of the system of agricultural levies laid down by the different agricultural Regulations, it happens that, in certain particular cases, the charging of goods in accordance with their tariff description or their state at the time of their importation leads to a higher charge than can be economically justified and one that tends to encourage certain economic activities to move outside the Community;

Whereas, after examination of the various national regulations, it has been found that some Member States at present apply a specific customs system taking account of this special situation, whilst other Member States apply only *ad hoc* measures or have only partially settled the different problems arising from this situation; whereas the diversity which results from this is not compatible with the uniformity which is required in the application of the Common Customs Tariff in the whole of the Community;

Whereas the Customs Union established by the Treaty makes it necessary to introduce a Community system which will allow the alteration, under customs control, of the description or the state of non-Community goods and then the application to the products obtained, at the time they are put into free circulation, of the import duties appropriate to them; whereas the aim pursued is on line with Community objectives;

Whereas it is important to guarantee the uniform application of these common rules and for that purpose to lay down a Community procedure which will allow the methods of application to be adopted within an appropriate time;

Whereas the specific provisions of the Treaty do not confer on the institutions of the Community the power to lay down the necessary provisions to that end; whereas it is therefore necessary to base the provisions of this Regulation on Article 235,

HAS ADOPTED THIS REGULATION:

TITLE I

General principles

Article 1

1. This Regulation lays down the rules governing the arrangements for the processing of goods under customs control (hereinafter referred to as 'the arrangements').

2. Under the arrangements, non-Community goods are allowed into the customs territory of the Community for the purposes of processing which alters their description or state, without being subject to import duties, and the products resulting from the processing are put into free circulation at the rate of import duty appropriate to them.

3. For the purposes of this Regulation:

(a) 'Community goods' means goods:

— wholly obtained or produced in the customs territory of the Community, without the addition of goods imported from third countries,

(1) OJ No C 37, 4. 6. 1973, p. 30.
(2) OJ No C 69, 28. 8. 1973, p. 2.

— imported from countries or territories not forming part of the customs territory of the Community which have been released for free circulation in a Member State in accordance with the Treaties,

— obtained or produced in the customs territory of the Community either exclusively from goods referred to in the second indent, or from goods referred to in the first and second indents ;

(b) 'import goods' means non-Community goods placed under the arrangements ;

(c) 'processed products' means all products resulting from processing ;

(d) 'goods in the unaltered state' means import goods which have not undergone any processing ;

(e) 'import duties' means not only customs duties and charges having equivalent effect but also agricultural levies and other import charges provided for under the common agricultural policy or under specific arrangements applicable to certain goods resulting from the processing of agricultural products ;

(f) customs authority' means any authority competent to apply customs rules, even if that authority is not part of the customs administration ;

(g) 'person' means either a natural or a legal person.

Article 2

1. Goods in column I of the list in the Annex and intended to undergo the processing referred to in column II of that list may benefit from the arrangements.

2. The list may be amended by the Council acting unanimously on a proposal from the Commission.

3. However, in an emergency, temporary measures may be taken with a view to supplementing the list. Such measures shall be valid for a maximum of six months. They shall be adopted in accordance with the procedure laid down in Article 28 (2) and (3) of Directive 69/73/EEC (1), as last amended by Directive 83/89/EEC (2).

TITLE II

Issue of the authorization

Article 3

1. The use of the arrangements shall be conditional on the issue, by the customs authority of the Member State in which the processing is to be carried out, of an authorization.

2. The authorization shall be issued at the request of the person who carries out the processing or who arranges for it to be carried out on his behalf.

This person shall supply, with his application all the information required for issue of the authorization.

Article 4

Authorization shall be granted only :

(a) to persons established in the Community ;

(b) to persons who provide all the guarantees which the customs authority considers appropriate ;

(c) if the customs authority is able to exercise control over the processing ;

(d) if it is possible to identify the import goods in the processed products ;

(e) if the description or state of these goods at the time the arrangements are applied to them can no longer be economically restored after the processing ;

(f) if use of the system cannot result in evasion of the effects of rules concerning origin and quantitative restrictions applicable to imported goods ;

(g) in cases where the necessary conditions have been fulfilled for the arrangements to contribute towards creating or maintaining the activity of processing goods in the Community without the essential interests of Community producers of similar goods being adversely affected.

Article 5

1. The conditions under which the arrangements are used shall be set out in the authorization.

2. The holder of the authorization is required to notify the customs authority of all factors arising after the issue of that authorization which are likely to influence its continuation or contents.

3. Where the circumstances under which the authorization was issued are found to have changed, the customs authority shall, in consequence alter the contents of that authorization.

Article 6

Cases where the authorization shall be revoked or considered as being null and void shall be determined in accordance with the procedure set out in Article 28 (2) and (3) of Directive 69/73/EEC.

(1) OJ No L 58, 8. 3. 1969, p. 1.
(2) OJ No L 59, 5. 3. 1983, p. 1.

Article 7

The placing of goods under the arrangements may be conditional upon the provision of a security in order to ensure that any customs debt which may be incurred in respect of these goods will be paid.

Article 8

1. The customs authority may permit the holder of an authorization to arrange for a third party to carry out the processing on his behalf.

2. The holder of the authorization and, if necessary, any third party who carries out the processing on behalf of the holder shall be obliged to consent to any supervision or inspection measures laid down by the customs authority.

TITLE III

Functioning of the arrangements

Article 9

The conditions for placing goods under the arrangements shall be determined in accordance with the procedure laid down in Article 28 (2) and (3) of Directive 69/73/EEC.

Article 10

The arrangements shall be discharged when the processed products or the goods in the unaltered state are :

(a) put into free circulation ;

(b) exported outside the customs territory of the Community ;

(c) placed in a free zone or under another customs procedure or placed again under customs control for processing ;

(d) destroyed under the supervision of the customs authority ; the waste and scrap resulting from this destruction may themselves be dealt with in one or other of the ways provided for in this Article ;

(e) abandoned to the Exchequer where national regulations provide for this possibility ;

all the other conditions for using the arrangements having been observed.

Article 11

When the products processed under the terms of the authorization are put into free circulation, the import duties shall be collected at the rates or amounts applicable to those products on the date of acceptance of the declaration of their being put into free circulation. This date shall also be taken into account in determining the other factors for taxing these products.

However :

— where the import goods fulfilled the conditions for receiving preferential import treatment, the processed products may also benefit from such preferential treatment where it exists for such products,

— where the waste and scrap resulting from the processing cease to have any value, no import duties shall be collected on them.

Article 12

In the event of withdrawal from the arrangements and where a customs debt arises in respect of goods in the unaltered state or a processed product, other than through the putting into free circulation of that product, the amount of import duties shall be determined on the basis of the taxation factors relevant to the import goods at the time of acceptance of the declaration that the goods were placed under the arrangements.

TITLE IV

Final provisions

Article 13

1. In order to ensure that Article 4 (g) is applied correctly and uniformly, the Member States shall notify the Commission, provided that the economic significance of the processing warrants such a notification, of the factors which led the customs authority to :

(a) issue authorizations for processing under customs control ;

(b) reject application for such authorizations.

2. The conditions under which the notifications referred to in paragraph 1 shall be carried out, and under which these notifications shall be examined by the Committee referred to in Article 14, shall be determined in accordance with the procedure referred to in Article 28 (2) and (3) of Directive 69/73/EEC.

Article 14

The Committee set up by Directive 69/73/EEC may examine any matter relating to the application of this Regulation which is raised by its chairman, either on his own initiative or at the request of the representative of a Member State.

Article 15

The provisions required for implementing this Regulation, except for Articles 1, 2 (1) and (2), 7, 12 and 14, shall be laid down in accordance with the procedure defined in Article 28 (2) and (3) of Directive 69/73/EEC.

Article 16

This Regulation shall enter into force on 1 January 1984.

It shall apply with effect from 1 January 1985.

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

Done at Brussels, 26 September 1983.

For the Council

The President

C. SIMITIS

ANNEX

List referred to in Article 2

Column I	Column II
Goods for which processing under customs control is authorized	Processing which may be carried out
Goods of any kind	Processing into samples presented as such or put up into sets
Goods of any kind	Reduction to waste and scrap or destruction
Goods of any kind	Denaturing
Goods of any kind	Recovery of parts or components
Goods of any kind	Separation and/or destruction of damaged parts
Goods of any kind	Processing to correct the effects of damage suffered
Raw or unmanufactured tobacco	Processing into stripped tobacco or stems
Unmanufactured tobacco, tobacco refuse and miscellaneous tobacco products	Processing into homogenized tobacco and/or reconstituted tobacco