COMMISSION REGULATION (EEC) No 3318/85

of 27 November 1985

on the annulment or revocation of authorizations for 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 2763/83 of 26 September 1983 on arrangements permitting goods to be processed under customs control before being put into free circulation (1), and in particular Article 6 thereof,

Whereas Article 6 of Regulation (EEC) No 2763/83 provides that 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 Council Directive 69/73/EEC (2); whereas it is therefore important to determine cases in which the validity of an authorization is affected for reasons specifically relating to the arrangements for processing under customs control;

Whereas such reasons concern the conditions governing the issue of authorizations under those arrangements and, also, failure to observe the obligations imposed by the arrangements;

Whereas whether or not the invalidation should be retroactive or deferred will depend on the degree to which the holder of the authorization is responsible for its issue or for non-compliance with the conditions for its use;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee for Customs Processing Arrangements;

HAS ADOPTED THIS REGULATION:

Article 1

An authorization shall be annulled when it has been issued on the basis of incorrect or incomplete information furnished by the applicant although:

(a) he knew or should reasonably have known that the information concerned was incorrect or incomplete, and

(b) the authorization would not have been issued to him on the basis of correct or complete particulars.

The authorization shall be annulled by decision of the customs authority and the holder of the authorization notified accordingly.

The annulment shall take effect from the date of issue of the authorization.

Article 2

1. An authorization shall be revoked, when, in cases other than those provided for in Article 1:

(a) a condition laid down for its issue has not been or is no longer fulfilled; or

(b) its holder fails to fulfil an obligation imposed under the arrangements.

However, the customs authority may refrain from revoking the authorization when:

— the holder fulfils his obligations within a time limit set by the customs authority, or

— when the failure to fulfil an obligation is without any real consequence as regards the correct operation of the arrangements.

2. The revocation shall be by decision of the customs authority and the holder of the authorization notified accordingly.

Article 3

1. The revocation referred to in Article 2 shall take effect from the date of such notification.

However, the customs authority may:

(a) in exceptional cases, where legitimate interests of the holder of the authorization so require, defer the date when revocation takes effect;

(b) decide that the revocation shall take effect from the date on which the customs authority determined the failure to fulfil an obligation.

2. The revocation shall not effect goodswhich, at the moment of its entry into effect, have already been placed under the arrangements by virtue of the revoked authorization.

However, the customs authority may, within the period which it shall set, require that such goods be dealt with in one of the ways provided for in Article 10 of Regulation (EEC) No 2763/83.

Article 4

This Regulation shall apply without prejudice to the provisions relating to the amendment of an authorization.

Article 5

This Regulation shall be without prejudice to national rules governing the rendering null or void of authorizations for reasons not specific to the arrangements for processing under customs control.

Article 6

This Regulation shall enter into force on 1 July 1986.

(1) OJ No L 272, 5. 10. 1983, p. 1.
(2) OJ No L 58, 8. 3. 1969, p. 1.

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

Done at Brussels, 27 November 1985.

For the Commission

COCKFIELD

Vice-President