COMMISSION REGULATION (EEC) No 296/86

of 10 February 1986

on the implementation of the arrangements for inward processing, outward processing and processing under customs control in trade between Member States of the Community as constituted on 31 December 1985 and Spain or Portugal and also in trade between the two new Member States for such time as customs duties are levied in such trade

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal and in particular Article 50 (3) and 210 (3) thereof, and Article 8 (3) of Protocol No 3,

Whereas trade with third countries under inward processing relief arrangements is governed by Council Directive 69/73/EEC of 4 March 1969 on the harmonization of provisions laid down by law, regulation or administrative action in respect of inward processing [1], as last amended by the Act of Accession;

Whereas trade with third countries under outward processing relief arrangements is governed by Council Directive 76/119/EEC of 18 December 1975 on the harmonization of provisions laid down by law, regulation or administrative action in respect of outward processing [2];

Whereas trade with third countries under the arrangements for processing under customs control is governed by 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 [3], as amended by Regulation (EEC) No 2110/85 [4];

Whereas, save as otherwise provided in the Act of Accession and Protocol No 3, the provisions of customs legislation relating to trade with third countries shall apply, pursuant to Articles 51 (1) and 211 (1) of that Act and Article 9 (1) of the said Protocol, under the same conditions to trade within the Community, for such time as customs duties are levied in that trade;

Whereas it is in consequence necessary to apply to trade between the Community as composed on 31 December 1985 and the new Member States as well as to trade between the two last mentioned States, the rules laid down in the two Directives referred to above and in the directives and regulations adopted for their implementation;

Whereas, nevertheless, the provisions in force for trade with third countreis can only be extended to apply to trade between Member States subject to certain amendments to take account of the extent to which the customs union has already been established in the Community;

Whereas it is first necessary to provide that the arrangements for inward processing relief and processing under customs control may be applied to goods traded within the enlarged Community, even where such goods are in one of the legal situations referred to in Article 9 (2) of the Treaty: whereas these goods are defined in Regulation (EEC) No 2763/83 as Community goods;

Whereas subject to the transitional mesures laid down in the Act of Accession, Member States must give equal treatment to Community goods regardless of the Member State from which they come; whereas the provisions making use of the inward processing relief arrangements in trade with third countries subject to the requirement that the arrangements about the best conditions for export of processed goods are consequently not justified for trade between Member States; whereas use of inward processing relief arrangements in trade between Member States must therefore always be deemed to contribute in the Member State of processing towards providing the most favourable conditions for export of the products resulting from such processing without conflicting with essential interests of Community producers; whereas, moreover, Council Regulation (EEC) No 866/84 of 31 March 1984 laying down special measures concerning the exclusion of milk products from inward processing arrangements and from certain usual forms of handling [5] must not be applied to inward processing relief arrangements carried out in trade between Member States;

[1] OJ No L 58, 8. 3. 1969, p. 1.
[2] OJ No L 24, 30. 1. 1976, p. 58.
[3] OJ No L 272, 5. 10. 1983, p. 1.
[4] OJ No L 198, 25. 7. 1985, p. 3.
[5] OJ No L 90, 1. 4. 1984, p. 27.

Whereas the rules for discharge of inward processing relief arrangements must be extended to include the use of T2 ES and T2 PT documents and documents having the same effect;

Whereas for the reasons given in connection with the inward processing arrangements, the economic conditions referred to in Article 4 (g) of Regulation (EEC) No 2763/83 should likewise be deemed to be fulfilled where the arrangements for processing under customs control are used for trade within the Community;

Whereas Article 10 (4) of Directive 76/119/EEC already provides that where goods are exported from one Member State for outward processing and reimported in the form of compensating products into another Member State, that the amount of import duties to be deducted pursuant to Article 10 (1) of the Directive shall be reduced, if necessary, by the amount of import duties which would be applicable if the goods were traded directly between the two Member States;

Whereas the requirement that Community goods be treated equally, regardless of the Member State from which they come, means that in trade between Member State, the outward processing relief arrangements must always be deemed not likely to cause serious damage to the essential interests of Community processors;

Whereas the provisions of this Regulation shall, if necessary, be adapted to take account of the application from 1 January 1987 of Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements [1],

HAS ADOPTED THIS REGULATION:

I. Introductory provisions

Article 1

1. Without prejudice to other Community provisions which may apply, this Regulation lays down special provisions for the application of:

(a) inward processing relief arrangements in respect of:

— goods traded within the Community,

— non-Community goods, where some or all of the compensating products or intermediate products are sent to a Member State other than that in which processing was carried out;

(b) outward processing relief arrangements in respect of goods traded within the Community;

(c) the arrangements for processing under customs control in respect of goods traded within the Community.

2. For the purposes of this Regulation:

(a) The Member States of the Community as constituted on 31 December 1985, hereinafter referred to as the 'ten-member Community', shall be deemed to constitute a single Member State;

(b) Member State means:

— in the case of Spain, the territory of the Kingdom of Spain not including the Canary Islands and Ceuta and Melilla,

— in the case of Portugal, the territory of the Portuguese Republic,

— in the case of the ten-member Community, the customs territory of the Community as defined in Council Regulation (EEC) No 2151/84 [2], not including the territories listed in the first and second indents.

II. Provisions relating to the inward processing of Community goods

Article 2

The inward processing relief arrangements referred to in the first indent of Article 1 (1) (a) shall allow working in a Member State, without imposition of,

(a) customs duties,

(b) — as regards products covered by Council Regulation (EEC) No 3033/80 [3];

— for Spain and the ten-member Community, the fixed component referred to in Article 53 (2) and (5) of the Act of Accession,

— for Portugal and the ten-member Community, the fixed component referred to in Article 213 (2) and (5) of the said Act,

— for Spain and Portugal, the fixed component referred to in Article 7 (2) of Protocol No 3 of the said Act,

— as regards products covered by the common organization of markets in the rice and cereal sectors, the component for protection of the processing industry referred to in Articles 78 and 273 of the said Act, and

[1] OJ No L 188, 20. 7. 1985, p. 1.

[2] OJ No L 197, 27. 7. 1984, p. 1.

[3] OJ No L 323, 29. 11. 1980, p. 1.

(c) other charges imposed in trade between Member States under the Common Agricultural Policy or under specific arrangements applicable to certain goods resulting from the processing of agricultural products

in respect of goods imported from another Member State which meet the conditions laid down in Articles 9 and 10 of the Treaty, where all or part of such goods are intended for export from the customs territory of the processing Member States in the form of compensating products.

The inward processing relief arrangements shall, however, not be applicable when the goods are only subject to monetary compensatory amounts.

Article 3

The rules established in Directive 69/73/EEC and implementing directives with the exception of Commission Directive 84/318/EEC of 23 May 1984 on the application of Articles 13 and 14 of Directive 69/73/EEC [1] shall apply to the inward processing relief arrangements referred to in Article 1 (1) (a) as provided in this Regulation.

Article 4

1. The inward processing relief arrangements referred to in the first indent of Article 1 (1) (a) shall be deemed to contribute towards providing the most favourable conditions for the export of products resulting from such processing without conflicting with essential interests of producers within the Community.

2. Regulations prohibiting the use of inward processing relief arrangements in respect of certain goods shall not apply to the arrangements referred to in paragraph 1.

Article 5

For the purpose of applying the rules laid down in Article 15 of Directive 69/73/EEC to the inward processing relief arrangements referred to in the first indent of Article 1 (1) (a):

(a) 'the Community market' means the market of the Member State where inward processing takes place;

(b) 'external markets' means not only the markets of third countries but also the markets of other Member States;

Article 6

For the purposes of applying the rules laid down in Article 22 of Directive 69/73/EEC to the inward processing relief arrangements referred to in Article 1 (1) (a), temporary exportation for further processing in another Member State shall be treated as analogous to temporary exportation for further processing in a third country.

Article 7

Where the goods placed under the inward processing relief arrangemnts are sent in the form of compensating or intermediate products to another Member State, the following shall be applied in the Member State where processing arrangements are authorized:

— the charges set out in the first paragraph of Article 2, at (c) relating to goods imported from the originating Member State;

— the amounts provided for at dispatch, to the Member State of destination, of compensating or intermediate products.

Account shall not be taken in applying this Article of monetary compensatory amounts, without prejudice to Article 8 of Commission Regulation (EEC) No 3154/85 of 11 November 1985 laying down detailed rules for the administrative application of monetary compensatory amounts [2].

III. Provisions concerning inward processing of non-Community goods

Article 8

1. The inward processing relief arrangements as defined in Article 2 (1) of Directive 69/73/EEC shall be considered as terminated when, except for the cases provided for in Article 13 of the abovementioned Directive, these compensating products are:

(a) sent to another Member State either under the Community transit system (external procedure) or covered by a T2 ES or T2 PT document, or by a document having equivalent effect.

or

(b) placed in a free zone or under the customs warehousing arrangements in order to be dispatched later in accordance with sub-paragraph (a).

2. Directive 84/318/EEC shall not apply.

IV. Provisions relating to outward processing

Article 9

1. The outward processing relief arrangements in Article 1 (1) (b) shall allow the temporary dispatch of goods from one Member State to another with a view to their reintroduction in the form of compensating products with partial or total exemption from:

(a) customs duties, and

(b) — as regards products covered by Regulation (EEC) No 3033/80:

— for Spain and the ten-member Community, the fixed component referred to in Article 53 (2) and (5) of the Act of Accession,

— for Portugal and the ten-member Community, the fixed component referred to in Article 213 (2) and (5) of the said Act,

— for Spain and Portugal, the fixed component referred to in Article 7 (2) of Protocol No 3 of the said Act,

[1] OJ No L 166, 26. 6. 1984, p. 19.

[2] OJ No L 310, 21. 11. 1985, p. 9.

— as regards products covered by the common organization of markets in the rice and cereal sectors, the component for protection of the processing industry referred to in Articles 78 and 273 of the said Act,

after these goods have been the subject, in another Member State, of one or more processing operations.

2. The rules set out in Directive 76/119/EEC and implementing directives shall apply to the arrangements provided for in paragraph 1.

3. The arrangements provided for in paragraph 1 shall be deemed not to conflict with essential interests of producers within the Community.

4. When goods are placed under the outward processing relief arrangements, the amounts instituted under the Common Agricultural Policy or under specific arrangements applicable to certain goods resulting from processing of agricultural products shall not be applied, as regards goods dispatched to the processing Member State.

However, monetary compensatory amounts shall be applicable.

V. Provisions relating to processing under customs control

Article 10

1. Community goods imported from one Member State may be worked in another Member State under the arrangements for processing under customs control referred to in Article 1 (1) (c).

2. The rules laid down by Regulation (EEC) No 2763/83 and implementing regulations shall apply to the arrangements referred to in paragraph 1.

3. The arrangements referred to in paragraph 1 shall be deemed to contribute toward creating or maintaining the activity of processing goods in the Community without the essential interests of Community producers of similar goods being adversely affected.

VI. Final provisions

Article 11

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

It shall apply, for so long as charges other than the monetary compensatory amounts are levied on inter-Community trade,

(a) on goods in the unaltered state subject to one or other of these charges, in the case of application under II, IV and V,

(b) on compensating products subject to one or other of these charges, in the case of application under III.

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

Done at Brussels, 10 February 1986.

For the Commission

COCKFIELD

Vice-President