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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1754/88

of 22 June 1988

amending Council Regulation (EEC) No 3677/86 laying down provisions for the implementation of Regulation (EEC) No 1999/85 on inward processing relief arrangements

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements [1] and in particular Article 31 thereof,

Whereas Council Regulation (EEC) No 3677/86 [2], as last amended by Regulation (EEC) No 4151/87 [3], lays down provisions for the implementation of Regulation (EEC) No 1999/85 on inward processing relief arrangements;

Whereas the scope of Article 7 (1) (a) of Regulation (EEC) No 3677/86 should be more clearly defined by stating that certain economic conditions are deemed to be fulfilled when the applicant obtains 80 % of his global requirements in the Community; whereas steps should be taken to ensure the provision is applied uniformly throughout the Community;

Whereas certain types of processing under the suspension system should be treated as export from the customs territory of the Community where they are so treated under the drawback system, in order that both systems should operate in the same way;

Whereas it is necessary to lay down rules ensuring the uniform application of the second paragraph of Article 14 (2) of Regulation (EEC) No 1999/85; whereas the wording of certain provisions of the Regulation relating to discharge of the arrangements should be amended to illustrate the link between them and the provisions concerning simplified procedures; whereas some examples should be given in these provisions to facilitate that application in practice; whereas more detailed provisions are required concerning the time limit for submitting the bill of discharge, the supporting documents required for discharge and the payment of import duties in respect of compensating products or goods put onto the market in accordance with Article 49 of Regulation (EEC) No 3677/86;

Whereas it is necessary to specify the formalities to be carried out and the compensatory amounts applicable in cases of triangular traffic where compensating products are dispatched from the Member State where processing has taken place to another Member State where the formalities for export from the customs territory of the Community are carried out;

Whereas there is a need under the suspension system for procedures allowing goods in the unaltered state and for compensating products to be placed under a new customs procedure, where their nature or technical characteristics have been appreciably changed by unforeseen circumstances or *force majeure*;

Whereas the market situation justifies the inclusion of semi-finished titanium products in the list of goods in Annex III to Regulation (EEC) No 3677/86;

Whereas there is a need to lay down standard rates of yield to ensure the same facilities for pasta whether or not it contains eggs;

Whereas the list of secondary compensating products on which duty can be levied according to their specific characteristics should be extended;

Whereas the information to be exchanged between Member States and the Commission for the purpose of scrutinizing the economic conditions should be simplified in order to speed up transmission and allow computerization of the procedure;

(1) OJ No L 188, 20. 7. 1985, p. 1.
(2) OJ No L 351, 12. 12. 1986, p. 1.
(3) OJ No L 391, 31. 12. 1987, p. 1.

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 :

Article 1

Regulation (EEC) No 3677/86 is hereby amended as follows :

1. The following points are added to Article 1 :

'13. *time limit for re-exportation* means the date by which the compensating products must have been dealt with in one of the ways listed in Articles 18 or 27 (1) of the basic Regulation ;

14. *monthly aggregation* means application of the second paragraph of Article 14 (2) of the basic Regulation in respect of time limits for re-exportation which begin to run during a given calendar month ;

15. *quarterly aggregation* means application of the second paragraph of Article 14 (2) of the basic Regulation in respect of time limits for re-exportation which begin to run during a given quarter.'

2. Article 7 (1) (a) is replaced by the following :

'(a) during the period in question obtains 80 % of his global requirements for these goods incorporated in the compensating products in the customs territory of the Community, in the form of Community goods being comparable within the meaning of Article 5 (2) to the import goods.

To make use of this provision, the applicant must supply the customs authority with supporting documents which enable the authority to satisfy itself that the intended purchase of Community goods may be reasonably carried out. Such supporting documents, to be annexed to the application, may take the form, for example, of copies of commercial or administrative documents which refer to purchase made in an earlier reference period, or orders or intended purchase for the period under consideration.

Without prejudice to Article 11 (2) of the basic Regulation, the customs authority shall, where necessary, check that the said percentage is correct at the end of the period in question.'

3. The following paragraph 3 is added to Article 8 :

'3. Compensating products shall be deemed to have been re-exported from the customs territory of the Community where they are delivered :

(a) to persons eligible for reliefs under the Vienna Convention of 18 April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations or other consular conventions, or the New York Convention of 16 December 1969 on Special Missions ;

(b) to the armed forces stationed in the territory of a Member State in accordance with Article 136 of Council Regulation (EEC) No 918/83 of 28 March 1983 on the setting up of a Community system of reliefs from customs duty (1).

(1) OJ No L 105, 23. 4. 1983, p. 1.'

4. The following Article 27a is inserted :

'Article 27a

1. In the case of monthly aggregation, all time limits for re-exportation beginning to run in a given month shall expire on the last day of the calendar month during which the time limit for re-exportation relating to the final entry for the arrangements in the month in question would expire.

2. In the case of quarterly aggregation, all time limits for re-exportation beginning to run in a given quarter shall expire on the last day of the quarter during which the time limit for re-exportation relating to the final entry for the arrangements in the quarter in question would expire.

3. Where monthly or quarterly aggregation has been requested and authorized, that fact shall be indicated at point 9 of the inward processing application and of the authorization itself (see specimens in Annex II).

4. Monthly or quarterly aggregation may be authorized where the import goods are expected to be entered, on a regular basis, for the arrangements for processing and exportation in the form of compensating goods so that the time taken for re-exportation will be more or less constant.

5. Monthly or quarterly aggregation shall be applied taking account of the examples in Annex XII.'

5. Article 28 becomes Article 28 (1), to which are added the following paragraphs 2 and 3 :

'2. Where monthly aggregation is authorized for the agricultural products referred to in paragraph 1, the time limits for re-exportation referred to in Article 27a (1) shall expire no later than the last day of the fifth calendar month following that for which aggregation was authorized.

3. Where quarterly aggregation is authorized for the agricultural products referred to in paragraph 1, the time limits for re-exportation referred to in Article 27a (2) shall expire no later than the last day of the quarter following that for which aggregation was authorized.'

6. The following paragraphs 3, 4 and 5 are added to Article 33 :

'3. Where the compensating products are dispatched to a Member State other than the Member State where the processing took place in order that the export formalities for the dispatch of those compensating products from the customs territory of the Community might be carried out in the customs office of this other Member State, the compensating products shall be consigned from the Member State of processing to the Member State of export using the Community transit procedure (external procedure). The box reserved for the description of goods on the transit document shall contain one of the indications referred to in Article 71 (1), plus the letters "EX-IM".

The procedure for use of the INF 5 sheet shall be modified as follows :

— the original and the three copies duly completed (boxes 1 to 8) must be lodged with the customs office which is requested to issue the T 1 document,

— that office shall enter particulars of the T 1 document in box 9 and shall affix the "T 1 stamp",

— box 10 shall be completed when the compensating products are actually exported from the customs territory of the Community.

4. The compensating products referred to in paragraph 3 may only be exported direct to third countries.

5. For the purposes of Article 37, in the cases referred to in paragraph 3, "the exporter of the compensating products from the exporting Member State" referred to in the first indent of Article 37 (1) (b) shall mean the holder of the authorization who consigns the compensating products to the Member State from which they are exported from the customs territory of the Community, and "the exporting Member State" referred to in Articles 35 and 37 (1) (a), the first and second indents of Article 37 (1) (b), and in Article 37 (2) shall mean the Member State where the compensating products are placed under the procedure referred to in paragraph 3.'

7. The following Article 41a is inserted :

'Article 41a

1. When the nature or technical characteristics of the import goods have been altered as a result of unforeseeable circumstances or *force majeure* so that it becomes impossible to obtain the compensating products for which an inward processing authorization under the suspension procedure has been granted, the holder of the authorization must inform the customs authority of what has happened and apply for the import goods concerned to be placed under another customs procedure.

2. On receipt of the application referred to in paragraph 1, the customs authority shall allow the arrangements to be discharged in respect of the import goods concerned in accordance with Article 18 of the basic Regulation, which shall be applied *mutatis mutandis.*

3. Article 12 (3) shall be applicable *mutatis mutandis.*

4. In cases where the alteration in question may affect the continuation in force or the substance of the authorization, paragraphs 1 and 2 shall be without prejudice to Article 11 (2) of the basic Regulation.

5. The provisions of this Article shall apply *mutatis mutandis* to the compensating products.'

8. Article 49 (2) is replaced by the following :

'2. Import goods, whether in the form of compensating products or of goods in the unaltered state, which are covered by a general authorization for release for free circulation issued in accordance with Article 46 and which, on expiry of the time limit for re-exportation, have not been dealt with, having due regard to Article 27 (a), in one of the ways referred to in Article 18 of the basic Regulation shall be deemed to have been released for free circulation, and the entry for release for free circulation shall be deemed to have been lodged and accepted and release granted upon expiry of the said time limit.'

9. Article 61 is replaced by the following :

'Article 61

1. Without prejudice to paragraph 2, where the suspension system is used the holder of the authorization must supply the customs authority with a bill of discharge within 30 days of the expiry of the time limit set for re-exportation having regard, where appropriate, to Article 27a.

Where monthly or quarterly aggregation is used, a bill of discharge shall be supplied for each month or quarter in question.

2. The customs authority may itself draw up the bill of discharge referred to in paragraph 1 subject to the same time limits. That fact shall be indicated in the authorization.

3. On the basis of the rate of yield established, the bill of discharge shall show the quantity of import goods, giving particulars of the inward processing declarations, and the quantity of compensating products, giving particulars of the documents under which the products were placed under one of the procedures referred to in Article 18 of the basic Regulation. Where a simplified procedure is used for entry under the arrangements or placement under a customs procedure referred to in Article 18 of the basic Regulation, the declarations and documents shall be those stipulated in Articles 25 (2), 45 (2) and 48 (2), and in the provisions relating to other simplified customs procedures. The bill of discharge shall also show the quantity of goods deemed to have been released for free circulation in accordance with Article 49.

4. Import duties on import goods, whether in the form of compensating products or of goods in the unaltered state, deemed to have been released for free circulation in accordance with Article 49, shall be paid, at the latest, on presentation of the bill of discharge possibly based on a summary declaration.

5. Where identification of other items of charge relating to the import goods is necessary in order to determine the amount of import duties, the bill of discharge shall in addition show such items and, where appropriate, the proportion of the import goods incorporated in the compensating products, calculated in accordance with Articles 57 to 60.

6. Any document relating to goods deemed to have been released for free circulation in accordance with Article 49 which is necessary for the proper implementation of the provisions governing the release of goods for free circulation must be made available to the customs authority by the holder of the authorization.

7. The customs authority may agree that the bill of discharge referred to in paragraph 1 be made out by computer or in such other manner as the said authority shall stipulate.'

10. Annex III is replaced by Annex I to this Regulation.

11. The text of Annex II to this Regulation is added to Annex V.

12. The following is added to Annex VII :

No	CN code and description of the compensating products		Processing operations from which they result
1	2		3
'5a	ex 0305	Off-cuts from operations referred to in column 3	Smoking and slicing of fish
90a	3823 90 99	Residues	Manufacture of 1,4-butanediol 1,4-butanediol and tetrahydrofuran from methanol
90b	3823 90 99	Waste, mixed with caffeine, coffee wax, water and impurities ("effluents")	Decaffeination and specific treatment to reduce the stimulant content of the raw coffee
139	Chapters 84, 85, 88 and 90	Components and spare parts of machines, apparatus, aircraft and other devices	Repair or overhaul (setting and cleaning by electrical or mechanical methods) and reconditioning (replacement of working parts) of machines, apparatus, aircraft and other devices
140	8708	Parts and accessories for motor vehicles	Adapting motor vehicles for particular purposes'

13. Annexes VIII and IX are replaced by Annexes III and IV to this Regulation

14. The text in Annex V to this Regulation is added as Annex XII

Article 2

This Regulation shall enter into force on 1 July 1988.

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

Done at Brussels, 22 June 1988.

For the Commission

COCKFIELD

Vice-President

ANNEX I

'ANNEX III

GOODS WHOSE TOTAL VALUE FOR THE PURPOSES OF ARTICLE 6 (4) OF THE BASIC REGULATION MUST NOT EXCEED 100 000 ECU

Chapter, heading or subheading of the combined nomenclature	Description of goods/products
1 — 24	— Live animals ; animal products
	— Vegetable products
	— Animal and vegetable fats and oils and their cleavage products ; prepared edible fats ; animal and vegetable waxes
	— Prepared foodstuffs ; beverages, spirits and vinegar ; tobacco
28 — 38	— Products of the chemical and allied industries
50 — 63	— Textiles and textile articles
72	— Articles of iron or steel
8108 90	— Titanium products'

ANNEX II

'Import goods		Numerical order	Compensating products		Quantity of compensating products for each 100 kg of import/goods (kg) (2)
CN code	Description		Code (1)	Description	
1		2	3	4	5
1001 10 90	Durum wheat	24a	1902 11 00	(a) Pasta, containing eggs but no common wheat flour or meal, with an ash content, referred to dry matter, of less than 0,95 % by weight (**)	(**)
			1101 00 00	(b) Flour	15,00
			ex 2302 30 10	(c) Bran	20,00
		24b	1902 11 00	(a) Pasta, containing eggs but no common wheat flour or meal, with an ash content, referred to dry matter, of 0,95 % or more, but less than 1,30 % by weight (**)	(**)
			1101 00 00	(b) Flour	8,00
			ex 2302 30 10	(c) Bran	20,00
		24c	1902 11 00	(a) Pasta, containing eggs but no common wheat flour or meal, with an ash content, referred to dry matter, of 1,30 % or more by weight (**)	(**)
			ex 2302 30 10	(b) Bran	19,00

(**) The standard rate of yield to be applied is based on the number of eggs used per kg of pasta produced, using the following formula:

Numerical order 24a: $T = \frac{100}{167 - (X \times 1{,}6)} \times 100$

24b: $T = \frac{100}{150 - (X \times 1{,}6)} \times 100$

24c: $T = \frac{100}{133 - (X \times 1{,}6)} \times 100$

X represents the number of eggs in shell (or the 50th of their weight expressed in grams of their equivalent in other egg products) used per kg of pasta produced, the result being given to two decimal points.'

Footnote 15 shall be amended as follows:

'(15) In the case of soluble cocoa, add 1,5 % alkaline to the quantity shown in column 5.'

ANNEX III

'ANNEX VIII

Member State :	**INWARD PROCESSING RELIEF ARRANGEMENTS** **Return of information as required by Article 70 (3) (a) of Regulation (EEC) No 3677/86**	Year : Authorizations granted during the month of .....

(Return to be submitted not later than the end of the month following the end of the calendar month in question)

Serial No	Goods to be processed			Main compensating products	Month / year of expiry of authorization	Code (2)
	Subheading of the combined nomenclature	Estimated value	Estimated quantity (1)	Subheading of the combined nomenclature		
1	2	3	4	5	6	7

(1) Quantity : (a) weight (tonnes) ; (b) no of units ; (c) hectolitres (hl) ; (d) length : (m).

(2) When the authorization has been granted on the basis of more codes referring to the economic conditions only the decisive code is to be indicated.

Note : The information concerning quality or description is to be supplied on request, if the need arises.'

ANNEX IV

'ANNEX IX

'Member State :	**INWARD PROCESSING RELIEF ARRANGEMENTS** **Return of information as required by Article 70 (3) (b) of Regulation (EEC) No 3677/86**	Year : Applications rejected during the month of .....

(Return to be submitted not later than the end of the month following the end of the calendar month in question)

Serial No	Goods to be processed				Main compensating products	Reason for rejection of application
	Subheading of the combined nomenclature	Estimated value	Estimated quantity (1)	Description / Quantity (2)	Subheading of the combined nomenclature	
1	2	3	4	5	6	7

(1) Quantity : (a) weight (tonnes) ; (b) no of units ; (c) hectolitres (hl) ; (d) length : (m).

(2) The particulars of the quality or the description shall be supplied only if they have a direct bearing on the refusal of authorization.'

ANNEX V

'ANNEX XII

EXAMPLES OF MONTHLY AND QUARTERLY AGGREGATION

Combined application of the following provisions :

— Article 14 (2), second paragraph of the basic Regulation,

— Articles 27a, 49 and 61 of the implementing Regulation.

The examples given below are based on the following assumptions :

(a) that the inward processing arrangements (suspension system) have been authorized in accordance with Article 8 of the implementing Regulation ;

(b) that a general authorization for release for free circulation in accordance with Article 46 has been issued ;

(c) that the import goods, whether in the form of goods in the unaltered state or of compensating products, are put on the Community market in accordance with Article 49 of the implementing Regulation ;

(d) that the time limit for re-exportation when placing the goods under one of the customs procedures referred to in Article 18 of the basic Regulation is, for the example given, three months.

	January	February	March	April	May	June
A	1	.....	 31			
	15	.....	.....	 15		
	31	.....	.....	 30		
B	1	.....	 31			
	15	.....	.....	 15		
	31	.....	.....	 30		
		1	.....	 30		
		15	.....	.....	 15	
		28	.....	.....	 31	
			1	.....	 31	
			15	.....	.....	 15
			31	.....	.....	 30

Example A : monthly aggregation

Three consignments of goods entered for the arrangements in January are to be aggregated (1, 15 and 31 of the month).

The time limit for re-exportation for all these consignments is 30 April ; the deadline for presentation of the bill of discharge in accordance with Article 61 of the implementing Regulation is then 30 May.

The duties on import goods or compensating products put on the Community market specified in Article 49 must be paid no later than 30 May possibly on the basis of a summary declaration in accordance with Article 61 (4) of the implementing Regulation. The items of charge for the goods or products are determined on the basis of Article 20 of the basic Regulation or Article 21 of that Regulation if applicable. The date taken into consideration is 30 April.

Example B: quarterly aggregation

Nine consignments of goods entered for the arrangements in the course of a quarter are to be aggregated :

— 1, 15 and 31 January,

— 1, 15 and 28 February,

— 1, 15 and 31 March.

The time limit for re-exportation for all these consignments is 30 June ; the deadline for presentation of the bill of discharge in accordance with Article 61 of the implementing Regulation is then 30 July.

The duties on import goods or compensating products put on the Community market specified in Article 49 must be paid no later than 30 July possibly on the basis of a summary declaration in accordance with Article 61 (4) of the implementing Regulation. The items of charge for the goods or products are determined on the basis of Article 20 of the basic Regulation or Article 21 of that Regulation if applicable. The date taken into consideration is 30 June.'