COMMISSION REGULATION (EEC) No 2562/90

of 30 July 1990

laying down provisions for the implementation of Council Regulation (EEC) No 2504/88 on free zones and free warehouses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2504/88 of 25 July 1988 on free zones and free warehouses (1), and in particular Article 19 thereof,

Whereas supervision and customs control should not normally be carried out within a free zone or free warehouse; whereas appropriate arrangements should be made to enable the customs authority to carry out supervision and control at the boundaries of such zones and warehouses; whereas certain provisions should therefore be adopted concerning the enclosure of free zones and the premises constituting free warehouses;

Whereas Article 3 (4) of Regulation (EEC) No 2504/88 provides that a copy of the transport document, which must accompany goods entering or leaving a free zone or free warehouse, must be made available to the customs authority; whereas entry or removal of goods should not normally give rise to customs formalities and in particular should not give rise to presentation of the goods or of a declaration to the customs authority, except in particular cases where this is in the interest of the operator; whereas implementing provisions must be adopted for the entry and removal of goods;

Whereas the general absence of customs controls within free zones and free warehouses must not prevent the customs authority from carrying out controls in particular cases and must be accompanied by a situation in which the operators carrying on activities in such zones or warehouses and the nature of the activities carried on in them offer the greatest possible guarantees that goods are not consumed or used under conditions other than those laid down for other parts of the customs territory; whereas certain provisions must be adopted concerning the construction of buildings in free zones and operators must be required to fulfil certain obligations before starting their activities in a free zone or free warehouse, in particular concerning approval of their stock accounts; whereas rules must be laid down concerning the keeping of stock accounts;

Whereas it should be laid down that Commission Regulation (EEC) No 3787/86 (2), as last amended by Regulation (EEC) No 1325/89 (3), shall apply *mutatis mutandis* to the cancellation and revocation of approval of the stock accounts; whereas provision should be made for the modification or revocation of such approval in other cases, in particular where it is repeatedly found that goods have disappeared from the free zone or free warehouse without satisfactory explanation;

Whereas no limits should be placed on the carrying on in a free zone or free warehouse of usual forms of handling intended to conserve the goods, improve their presentation or trade quality or prepare them for distribution or resale, in order not to obstruct activities in free zones and free warehouses; whereas the fact that operations under the customs warehousing arrangements may be carried on in a free zone or free warehouse must not give rise to unjustified advantages regarding import duties; whereas to that end particular rules should be laid down concerning application for prior authorization to carry out usual forms of handling;

Whereas the procedure for entry for free circulation of goods within a free zone or free warehouse must be laid down; whereas all particulars needed for the control of this procedure are to be found in the operator's stock accounts; whereas a simplified procedure should therefore be used for entry of such goods for free circulation;

Whereas procedures should be laid down for Community goods which specific Community rules provide are to benefit, upon their entry into a free zone or free warehouse, from measures relating in principle to the export of the goods;

Whereas Article 24 of Regulation (EEC) No 2504/88 provides that it shall be implemented one year after the date of entry into force of the present Regulation; whereas this date should be fixed as 1 January 1991; whereas this Regulation should therefore be implemented on 1 January 1992;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Customs Warehouses and Free Zones,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

For the purposes of this Regulation:

(a) basic Regulation means Regulation (EEC) No 2504/88;

(1) OJ No L 225, 15. 8. 1988, p. 8.
(2) OJ No L 350, 12. 12. 1986, p. 14.
(3) OJ No L 133, 17. 5. 1989, p. 6.

(b) operator means any person carrying on an activity involving the storage, working, processing, sale or purchase of goods in a free zone or a free warehouse;

(c) supervision means action taken in general by customs authorities to ensure compliance with the legislation applicable to free zones or free warehouses;

(d) control means the performance of specific acts such as examining goods, verifying the existence and authenticity of documents, examining the accounts and other records of undertakings, checking means of transport, checking persons and carrying out administrative investigations and similar acts with a view to ensuring compliance with legislation applicable to free zones and free warehouses;

(e) agricultural goods means goods covered by the Regulations referred to in Article 1 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural goods (1). Goods covered by Council Regulation (EEC) No 3033/80 (2) (goods resulting from the processing of agricultural products) or (EEC) No 3035/80 (3) (agricultural products exported in the form of goods not covered by Annex II to the Treaty) shall be treated as agricultural goods;

(f) advance payment means the payment of an amount equal to the export refund before the goods are exported where such payment is provided for in Regulation (EEC) No 565/80;

(g) prefinanced goods means any goods intended for export in the unaltered state which are the subject of an advance payment, however described in the Community rules permitting such payment;

(h) prefinanced basic product means any product intended for export after processing more extensive than the handling referred to in Article 20 in the form of a processed product which is the subject of an advance payment;

(i) processed goods means any product or goods resulting from the processing of a prefinanced basic product, however described in the Community rules permitting advance payment.

Article 2

1. The commercial policy measures referred to in Article 1 (2) (a) of the basic Regulation are non-tariff measures adopted as part of the common commercial policy.

2. Where Commission acts provide that such measures are to apply to:

(a) the release for free circulation of goods, they shall not apply when the goods are placed in a free zone or free warehouse nor for such time as the goods remain there;

(b) the importation (introduction into the customs territory of the Community) of goods, they shall apply when non-Community goods are placed in a free zone or free warehouse;

(c) the exportation of goods, they shall apply when Community goods in a free zone or free warehouse are exported from the customs territory of the Community of Community goods. Such goods will be subject to supervision by the customs authorities.

Article 3

Any person may apply for a part of the customs territory of the Community to be designated a free zone or for a free warehouse to be set up.

The free zones in existence in the Community and in operation on the date of adoption of this Regulation are listed in Annex I.

The Member States shall notify the Commission of the free zones they have designated or which start to operate having already been designated and of the free warehouses whose creation and operation they have authorized, whatever the titles of those zones or warehouses may be. The Commission shall publish this information in the *Official Journal of the European Communities*, C series.

Article 4

The boundaries of free zones and the premises of free warehouses must be such as to facilitate supervision by the relevant customs authority outside the free zone or free warehouse and prevent any goods being removed irregularly from the free zone or free warehouse.

The area immediately outside the boundary must be such as to permit adequate supervision by the customs authority. Access to the said area shall be subject to the agreement of the customs authority.

Article 5

1. Authorization to build in a free zone must be applied for in writing.

2. The application referred to in paragraph 1 must specify the activity for which the building will be used and give any other information that will enable the customs authority to evaluate the grounds for the authorization.

3. The customs authority shall grant authorization in cases where the implementation of customs legislation would not be impeded.

(1) OJ No L 62, 7. 3. 1980, p. 5.
(2) OJ No L 323, 29. 11. 1980, p. 1.
(3) OJ No L 323, 29. 11. 1980, p. 27.

4. Paragraphs 1, 2 and 3 shall also apply where a building in a free zone or a building constituting a free warehouse is converted.

Article 6

Without prejudice to the supervision referred to in Article 3 (1) of the basic Regulation, the customs authority shall carry out the controls referred to in Article 3 (2) and (4) only at random or whenever it has reasonable doubts concerning compliance with the relevant rules.

TITLE II

ACTIVITY CARRIED ON IN A FREE ZONE OR FREE WAREHOUSE AND APPROVAL OF STOCK ACCOUNTS

Article 7

Without prejudice to Article 7 (2) and (3) of the basic Regulation, the exercise of any activity, including transhipments, referred to in Article 7 (1) of the basic Regulation must be notified in advance to the customs authority.

In the case of activities referred to in Article 11 (1) of the basic Regulation, notification shall take the form of presentation of the application for approval of the stock accounts referred to in Article 10.

Article 8

The operator must take appropriate precautions to ensure that the persons he employs to carry on his activities comply with customs legislation.

Article 9

1. Before commencing activities in a free zone or a free warehouse, the operator must obtain the customs authority's approval of the stock accounts referred to in Article 11 of the basic Regulation.

2. The approval referred to in paragraph 1 shall be accorded only to persons offering all the necessary guarantees concerning the application of the provisions on free zones and free warehouses.

Article 10

1. The application for approval referred to in Article 9, hereinafter referred to as the 'application', must be submitted in writing to the customs authority designated by the Member State where the free zone or free warehouse is located. Member States shall notify the Commission of the customs authorities they have designated. The Commission shall publish this information in the *Official Journal of the European Communities,* C series.

2. The application must specify which of the activities referred to in Article 11 (1) of the basic Regulation is envisaged. It must include a detailed description of the stock accounts kept, or to be kept, the nature and customs status of the goods to which these activities relate, and any other information needed by the customs authority in order to ensure the correct application of the provisions governing free zones and free warehouses.

3. Applications and related documents shall be kept by the customs authority for at least three years from the end of the calendar year in which the operator ceases activity in the free zone or free warehouse.

Article 11

Approval of the stock accounts shall be issued in writing and dated and signed.

The applicant shall be notified of approval.

A copy shall be kept for the period referred to in Article 10 (3).

Article 12

1. Regulation (EEC) No 3787/86 shall apply *mutatis mutandis* to the annulment and revocation of approval of the stock accounts.

2. Approval shall be modified or withdrawn by the customs authority if the latter prohibits the person to whom it was issued from exercising an activity in the free zone or free warehouse pursuant to Article 7 (2) or (3) of the basic Regulation.

3. Approval shall be withdrawn if the customs authorities find repeated disappearances of goods, which cannot be explained to their satisfaction.

4. Once approval has been withdrawn the activities to which the stock accounts relate may no longer be exercised in the free zone or free warehouse.

TITLE III

ENTRY OF GOODS INTO A FREE ZONE OR A FREE WAREHOUSE

Article 13

Without prejudice to Articles 15 and 16 and Title VI, goods entering a free zone or free warehouse shall be subject neither to presentation nor to the lodging of a customs declaration on entry.

The entry of any goods into the premises used for the activity shall be recorded immediately in the stock accounts referred to in Article 9.

Article 14

The transport document referred to in Article 3 (4) of the basic Regulation shall be any document relating to the transport, such as a waybill, delivery note, manifest or dispatch note, as long as it gives all the information necessary for identification of the goods.

Article 15

1. Without prejudice to any simplified procedures laid down for the customs procedure to be discharged, where goods placed under a customs procedure need to be presented to the customs authority pursuant to Article 5 (2) (a) of the basic Regulation, the relevant customs document must be presented with the goods.

2. Where inward processing relief arrangements or temporary importation arrangements are discharged by placement of the compensating products or import goods under the Community transit arrangements (external procedure), followed by entry into a free zone or a free warehouse with a view to export from the customs territory of the Community, the customs authority shall carry out random controls to ensure that the particulars referred to in Article 19 (f) are entered in the stock accounts.

The customs authority shall also ensure that where goods are transferred from one operator to another within a free zone this is entered in the stock accounts of the operator receiving them.

Article 16

Where goods have been the subject of a decision to grant repayment or remission of import duties authorizing the placing of these goods in a free zone or a free warehouse, the customs authority shall issue the certificate referred to in Article 8 (5) of Commission Regulation (EEC) No 1574/80 of 20 June 1980 laying down provisions for the implementation of Articles 16 and 17 of Council Regulation (EEC) No 1430/79 on the repayment or remission of import or export duties [1].

Article 17

Without prejudice to Article 27, the entry into a free zone or a free warehouse of goods subject to export duties or other export provisions for which the customs authority requires notification to the customs service in accordance with Article 5 (3) of the basic Regulation, shall not give rise to presentation of a document on entry nor to systematic and general controls on all goods entering.

[1] OJ No L 161, 26. 6. 1980, p. 3.

Article 18

When a request is made in accordance with Article 5 (4) of the basic Regulation, the customs authority shall certify the Community or non-Community status of the goods placed in a free zone or a free warehouse on a form conforming to the model and provisions in Annex II.

TITLE IV

OPERATION OF A FREE ZONE OR A FREE WAREHOUSE

Article 19

1. The operator keeping the approved stock accounts in accordance with Article 9 must enter therein all information necessary to control the correct application of customs rules.

2. If the operator discovers that goods have disappeared other than by natural cause he must notify the customs authority thereof.

3. Without prejudice to Article 29, the stock accounts must include:

(a) particulars concerning marks, identifying numbers, number and kind of packages, the quantity and usual commercial description of the goods and, where relevant, the identification marks of the container;

(b) particulars enabling a check to be kept on the goods, in particular their location;

(c) particulars of the transport document used on entry and exit of the goods;

(d) reference to the customs status and, where relevant, the document certifying this status referred to in Article 16;

(e) particulars of usual forms of handling;

(f) where the entry into a free zone or a free warehouse discharges either inward processing relief or temporary importation arrangements, or Community transit arrangements (external procedure) which themselves discharged one of these arrangements, the indications referred to in:

— Article 71 of Council Regulation (EEC) No 3677/86 of 24 November 1986 laying down provisions for the implementation of Regulation (EEC) No 1999/85 on inward processing relief arrangements [2],

— Article 17 (2) of Commission Regulation (EEC) No 1751/84 of 13 June 1984 laying down certain provisions for the application of Council Regulation (EEC) No 3599/82 on temporary importation arrangements [3];

[2] OJ No L 351, 12. 12. 1986, p. 1.
[3] OJ No L 171, 29. 6. 1984, p. 1.

(g) goods which would not be subject upon release for free circulation or temporary importation to import duties or commercial policy measures and for which the use or destination must be controlled.

4. Where accounts have to be kept for the purposes of a customs procedure, the information contained in those accounts need not appear also in the stock accounts referred to in paragraph 1.

Article 20

1. The usual forms of handling referred to in Article 8 (a) of the basic Regulation are those set out in Annex IV of Commission Regulation (EEC) No 2561/90 (1).

2. Where handling could give rise to an advantage in terms of the import duties applicable to non-Community goods after handling compared with those applicable before handling, it may be carried out only on condition that the request referred to in Article 13 (2) of the basic Regulation is made at the same time as the lodging of the application for authorization, in accordance with Article 35 (1) and (2) of Regulation (EEC) No 2561/90.

3. Where handling would result in higher import duties on the goods than those applying to the goods before handling, handling shall be carried out without authorization and the party concerned may no longer make the request referred to in Article 13 (2) of the basic Regulation.

Article 21

Where non-Community goods are placed under the inward processing relief arrangements or the arrangements for processing under customs control in a free zone or a free warehouse, the following provisions respectively shall apply: Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements (2), 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 well as those provisions adopted in accordance with Article 8 (b) and (c) of the basic Regulation.

Article 22

Member States shall notify the Commission of any changes in the control methods for inward processing and processing under customs control that they propose pursuant to Article 8 (b) and (c) of the basic Regulation.

Article 23

1. Without prejudice to Article 10 (3) of the basic Regulation, where non-Community goods are released for free circulation within a free zone or a free warehouse, the procedure referred to in Article 48 (1) (c) of Regulation (EEC) No 2561/90 shall apply without prior authorization from the customs authority. In this case approval of the stock accounts referred to in Article 11 must cover also the use of the said stock accounts for the control of the simplified procedure for release for free circulation.

2. The Community status of the goods released for free circulation in accordance with paragraph 1 shall be certified by the document referred to in Annex II, to be issued by the operator.

TITLE V

REMOVAL OF GOODS FROM A FREE ZONE OR A FREE WAREHOUSE

Article 24

Removal of goods from the premises used for the activity must be recorded immediately in the stock accounts referred to in Article 9 in order to provide a basis for the customs controls referred to in Article 26.

Article 25

Without prejudice to the procedure applicable in cases where exports are subject to export duties or commercial policy measures or to the provisions of Title VI, the direct removal of the goods from the customs territory of the Community shall be subject neither to presentation of the goods nor to the lodging of a customs declaration.

Article 26

Without prejudice to Article 31, to ensure compliance with the provisions on export or dispatch applicable to goods leaving a free zone or free warehouse referred to in Article 24, the customs authority shall carry out random controls on the operator's stock accounts.

TITLE VI

SPECIAL PROVISIONS CONCERNING COMMUNITY AGRICULTURAL GOODS

Article 27

1. Prefinanced goods placed in a free zone or a free warehouse pursuant to Article 5 of Regulation (EEC) No 565/80 shall be presented and a customs declaration lodged.

(1) See page 1 of this Official Journal.
(2) OJ No L 188, 20. 7. 1985, p. 1.
(3) OJ No L 272, 5. 10. 1983, p. 1.

2. The declaration referred to in paragraph 1 shall be made in accordance with Article 57 of Regulation (EEC) No 2561/90.

Article 28

The stock accounts referred to in Article 9 shall include, in addition to the particulars referred to in Article 19, the date on which the prefinanced goods were placed in the free zone or the free warehouse and particulars of the entry declaration.

Article 29

Article 59 of Regulation (EEC) No 2561/90 shall apply to the handling of prefinanced goods.

Article 30

The processing of prefinanced basic products in a free zone or a free warehouse shall be carried out in accordance with Article 4 of Regulation (EEC) No 565/80.

Article 31

1. Prefinanced goods must be declared for export and leave the customs territory of the Community within the time limits laid down in Community agricultural rules.

2. The declaration referred to in paragraph 1 must be made in accordance with Article 62 of Regulation (EEC) No 2561/90.

3. Without prejudice to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts [1], the customs authority shall carry out random controls on the basis of the stock accounts in order to ensure that the time limits referred to in paragraph 1 are observed.

TITLE VII

TRANSITIONAL AND FINAL PROVISIONS

Article 32

A victualling warehouse may be set up in a free zone or a free warehouse in accordance with Article 38 of Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products [2].

Article 33

1. Article 5 (1) shall not apply to buildings which, on the date of adoption of this Regulation, are located in free zones or which constitute free warehouses, provided the buildings used permit adequate supervision by the customs authority.

2. Operators who already carry on activities in free zones and free warehouses must present their application for approval of the stock accounts referred to in Article 9 before 1 January 1992.

Article 34

This Regulation shall enter into force on 1 January 1991.

It shall apply from 1 January 1992.

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

Done at Brussels, 30 July 1990.

For the Commission
Christiane SCRIVENER
Member of the Commission

(1) OJ No L 42, 16. 2. 1990, p. 6.
(2) OJ No L 351, 14. 12. 1987, p. 1.

ANNEX I

Free zones in existence in the Community and in operation on the date of adoption of this Regulation:

DENMARK:	Kobenhavns Frihavn
FEDERAL REPUBLIC OF GERMANY:	Freihafen Bremen Freihafen Bremerhaven Freihafen Cuxhaven Freihafen Emden Freihafen Hamburg Freihafen Kiel
HELLENIC REPUBLIC:	Ελεύθερη Ζώνη Ηρακλείου Ελεύθερη Ζώνη Πειραιά Ελεύθερη Ζώνη Θεσσαλονίκης
SPAIN:	Zona franca de Barcelona Zona franca de Cádiz Zona franca de Vigo
IRELAND:	Ringaskiddy Free Port Shannon Free Zone
ITALY:	Punto franco di Trieste Punto franco di Venezia
PORTUGAL:	Zona Franca da Madeira (Caniçal) Zona Franca de Sines
UNITED KINGDOM:	West Midlands Freeport (Birmingham) Liverpool Freeport Southampton Freeport Ronaldsway Airport (Ballasala, Isle of Man)

EUROPEAN COMMUNITY *ANNEX II*

1 Holder (full name and address):	**CERTIFICATE OF THE CUSTOMS STATUS OF GOODS ENTERED IN A FREE ZONE OR FREE WAREHOUSE** **No:**
2 Customs office:	**ORIGINAL**

3 Order number — Marks, identifying numbers, number and kind of packages — Quantity and description of the goods:

4 The goods described in box 3 are (1):

— Community goods

— non-Community goods

5 Place and date: Signature and stamp of the customs office:	*Note:* (1) Cross out whatever does not apply in such a way that no subsequent change is possible

PROVISIONS CONCERNING THE CERTIFICATE OF THE CUSTOMS STATUS OF GOODS ENTERED IN A FREE ZONE OR FREE WAREHOUSE

1. The form on which the certificate of the customs status of goods entered in a free zone or free warehouse is made out shall be printed on white paper without mechanical pulp, dressed for writing purposes and weighing between 40 and 65 grams per square metre.

2. The form shall measures 210 mm by 297 mm.

3. The Member States shall be responsible for printing the form. Each form shall bear a serial number distinguishing it from all others.

4. The form shall be printed in one of the official languages of the Community designated by the customs authority of the Member State in which the certificate is issued. The boxes shall be filled in in one of the official languages of the Community designated by the customs authority of the Member State in which the certificate is issued.

5. The form must not contain erasures or insertions. Any changes must be made by crossing out the incorrect particulars and adding, where appropriate, the correct particulars. Any such changes must be endorsed by the person making out the certificate and by the customs authority.

6. The articles referred to in the certificate must be listed in single spacing and each article must be preceded by a serial number. A horizontal line must be drawn immediately under the last article. Unused spaces must be crossed through in such a way as to prevent any subsequent addition.

7. The original and one copy of the form duly completed shall be lodged with the customs office when the goods enter the free zone or free warehouse or when the customs declaration is lodged, as appropriate.

   The customs office shall endorse the form and keep the copy of the certificate.

8. Where the operator makes out the certificate pursuant to Article 23 (2), box 5 may be:

   — stamped by the customs office and signed by an official of that office in advance, or

   — stamped by the operator with a special metal stamp accepted by the customs authorities.

   The operator shall keep the copy of the certificate with his stock accounts.