COMMISSION REGULATION (EEC) No 731/90

of 26 March 1990

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 1325/89 (3) lays down provisions for the implementation of Regulation (EEC) No 1999/85 on inward processing relief arrangements;

Whereas certain conditions which must at present be complied with in order to obtain an inward processing authorization and for use of the arrangements constitute a significant hindrance to the promotion of exports by Community undertakings from the customs territory of the Community; whereas experience has shown that the management of the arrangements could be simplified in the case of processing undertakings where most of their main compensating products are intended for export out of the customs territory of the Community as well as for those undertakings which have a continuous flow of production intended both for the Community and for third country markets; whereas the reduction or elimination of administrative complications is bound to have a positive effect on the cost of products exported to third country markets, thus increasing the competitiveness of Community undertakings these markets; whereas it is appropriate therefore to lay down new provisions consolidating or repealing certain existing implementing provisions;

Whereas the new provisions must favour only those compensating products exported from the customs territory of the Community, and must not result in an unjustified financial advantage due to a postponement of the date on which a customs debt arises; whereas this last objective may be achieved by introducing a system of compensatory interest; whereas, however, such interest should in some cases not be provided for;

Whereas the interest rates will be set by the Commission on the basis of the average representative short-term interest rates for each Member State in a given six-month period of the preceding year; whereas the rates set will be valid for six months and will be published in the L series of the *Official Journal of the European Communities* at least a month before they come into force;

Whereas it should be specified that where several processing operations have been carried out under the drawback system, the repayment claim must be presented to the customs authority of the Member State where the first processing operation was authorized and where the entry of release for free circulation was accepted; whereas it is, however, appropriate to provide for a procedure making it possible to obtain repayment or remission from the customs authority of the Member State where the compensating products are dealt with in one of the procedures referred to in Article 27 of Regulation (EEC) No 1999/85;

Whereas it is necessary to provide for a suitable exchange of information between the customs authorities of the Member States in order to facilitate repayment or remission of import duties in cases where the compensating products have been placed under a procedure allowing for repayment or remission after undergoing subsequent processing under a new authorization; whereas it is also necessary to specify that the document used in this exchange must be attached to the repayment claim;

Whereas the list of secondary compensating products on which duty may be levied in accordance with their specific characteristics should be extended;

Whereas this 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. Article 8 (1) is replaced by the following:

'1. An authorization for use of the suspension system may be granted only on condition that there is an actual intention to export the main compensating products from the customs territory of the Community.'

(1) OJ No L 188, 20. 7. 1985, p. 1.
(2) OJ No L 351, 12. 12. 1986, p. 1.
(3) OJ No L 133, 17. 5. 1989, p. 6.

2. Article 8 (2) is hereby deleted.

3. Article 46 (1) is replaced by the following:

'1. The conditions for the release for free circulation of goods in the unaltered state or compensating products shall be deemed to be fulfilled where the person concerned declares that he is unable to enter those products or goods for a customs procedure under which import duties would not be payable.'

4. Article 50 (1) is replaced by the following:

'1. The release for free circulation of import goods in the form either of goods in the unaltered state or of compensating products other than secondary compensating products referred to in Annex VII shall be subject to the application by the customs authority of any specific commercial policy measures in force for the import goods at the time when the entry for release for free circulation was accepted.'

5. The following section 3 is added to Chapter X:

'Section 3

Compensatory interest

Article 60a

1. Where a customs debt is incurred in respect of compensating products or goods in the unaltered state compensatory interest shall be paid on the import duty applicable.

2. Paragraph 1 shall not apply:

— where a customs debt governed by Article 9 (1) of Regulation (EEC) No 2144/87 is incurred,

— where Article 21 (2) of the basic Regulation is applied,

— where the secondary compensating products referred to in Annex VII are released for free circulation, provided they are in proportion to exported quantities of main compensating products,

— where the holder of the authorization furnishes proof that particular circumstances not arising from any negligence or action on his part make it impossible or economically impossible to carry out the export operation under the conditions he had anticipated and duly substantiated when applying for the authorization.

3. The request for consideration of a case under the terms of the fourth indent of paragraph 2 shall be submitted to the customs authority indicated by the Member State which issued the inward processing authorization. It shall be admissible only if accompanied by all the supporting documents needed for a full examination of the case put forward. Where a customs authority receives a request relating to compensatory interest on a sum of ECU 3 000 or less per bill of discharge and observes that the documents supporting the request indicate a situation of the kind provided for in the fourth indent of paragraph 2, it shall not apply paragraph 1. In this case the supporting documents shall be held for three years by the customs authority.

In all other cases, where it intends to grant the request, it shall forward the said request to the Commission with the file containing the material needed for a full examination of the case. Clearance from the customs authority for entry for free circulation of compensating products or goods in the unaltered state shall be subject to the furnishing of a security, the level of which shall be determined in accordance with paragraph 4.

The Commission shall notify the Member State concerned immediately it receives the file. The Member State which forwarded the request shall not apply paragraph 1 if within two months of the date of notification of receipt the Commission has failed to inform it of any objections.

The Commission shall notify the Member States of requests received and the action taken on them.

4. (a) The annual interest rates shall be set by the Commission on the basis of the arithmetical average of representative short-term rates for each Member State in a given six-month period in the previous year.

They shall apply to all customs debts incurred in the course of a six-month period.

The rate applied shall be that for the Member State where the inward processing operations, or the first such operation, took place.

Rates shall be published in the L series of the *Official Journal of the European Communities* at least one month before they become applicable.

(b) Interest shall be applied per calendar month for the period running from the first day of the month following the month in which the import goods in respect of which the arrangements are discharged were entered for those arrangements to the last day of the month in which the customs debt is incurred. Such period shall not be less than a month.

(c) The amount of interest shall be calculated on the basis of the import duties, the interest rate referred to in (a) above and the period referred to in (b) above.'

6. Article 65 is replaced by the following:

'Article 65

Repayment or remission of import duties on specified goods may be claimed only by the holder of the authorization, or by a single holder where Article 39 is applied.'

7. In Article 66, the following paragraphs 1a and 1b are inserted:

'1a. Subject to paragraph 1b, claims for the repayment of import duties may be submitted only to the customs authority of the Member State where the entry for release for free circulation referred to in Article 21 (1) was accepted.

1b. In specific cases, following a written request from the persons concerned, where two or more Member States involved in processing operations are prepared to allow claims for repayment to be submitted to the customs authority of a Member State other than the one specified in paragraph 1a, they shall first communicate the requests to the Commission, together with a draft of the procedures planned to ensure that the claim referred to in Article 67 is correctly made out. The Commission shall inform the other Member States accordingly. The procedures notified to the Commission may be applied unless the Commission notifies the Member States concerned, within two months of the date of receipt of the draft, of any objections to such application.'

8. Point (k) of Article 67 (1) is replaced by the following:

'(k) the amount of import duties to be repaid or remitted, as well as any compensating interest collected, taking into account, *inter alia,* the import duties on other compensating products.'

9. In Article 67, the following paragraph 2a is inserted:

'2a. Where Article 75 (1) applies, the claim shall be accompanied by the originals of INF 7 sheet(s), duly endorsed.'

10. Article 73 is replaced by the following text:

'Article 73

1. Where release for free circulation of the compensating products or the goods in the unaltered state is requested in a Member State other than the one where use of the arrangements was authorized or where the customs authority has to establish the amount of the security referred to in Article 16 of the basic Regulation, the information sheet, hereinafter referred to as the "INF 1 sheet" shall be used. It shall comprise an original and one copy on a form conforming to the model and provisions set out in Annex X.

2. For the purpose of calculating the import duties, and the compensatory interest,

— to be indicated on the INF 1 sheet in respect of the products to which the sheet relates, or

— to be collected on other products in respect of which a customs debt has been or will be incurred,

the products to which the sheet relates shall be deemed to have been released for free circulation on the date on which the customs authority endorsed box 2 of the INF 1 sheet.

Except where Article 74 (5) applies, the compensatory interest shall be indicated under heading 9 (b) of the information sheet.'

11. Article 74 (1) is replaced by the following:

'1. Where the release for free circulation of all or part of the compensating goods or goods in the unaltered state referred to in Article 71 is requested, the customs authority responsible for authorizing such release, using the INF 1 sheet endorsed by it, shall ask the customs authority which authorized use of the inward processing arrangements to indicate:

— the amount of import duties to be levied under Article 20 (1) or Article 27 (3) of the basic Regulation,

— the amount of compensatory interest to be levied under Article 60a,

— the quantity, CN code and origin of the imported goods used in the manufacture of the compensating products released for free circulation.

The said amount of import duties shall also reflect any difference between:

— the amount of import duties determined by the application of Article 20 of the basic Regulation or the amount of import duties refunded or remitted, and

— the amount of import duties already recorded or to be refunded or remitted.

The original of the INF 1 sheet shall be transmitted to the customs authority which authorized use of the inward processing arrangements, and the copy shall be kept by the customs authority which endorsed box 2 of the sheet.'

12. Paragraphs 4 and 5 of Article 74 are replaced by the following and paragraph 6 becomes paragraph 8 :

'4. Where the compensating products obtained from processing operations under the drawback system are transferred to another Member State under cover of a T1 document or one of the documents referred to in Article 7 of Regulation (EEC) No 222/77 which may constitute supporting documents for a request for repayment, and are the subject of a new inward processing application, the customs authority of the other Member State responsible for issuing the new authorization, either with the suspension system or with the drawback system, shall use the INF 1 sheet to determine the amount of any import duties to be levied or the amount of the customs debt liable to be incurred.

5. Where the INF 1 sheet is used to establish the amount of the security referred to in Article 16 of the basic Regulation, one of the following indications must be entered in box 2 of the INF 1 sheet :

— Garantia
— Sikkerhedsstillelse
— Sicherheit
— Εγγύηση
— Security
— Garantie
— Cauzione
— Zekerheidsstelling
— Garantia.

5a. The INF 1 sheet containing one of the indications listed in paragraph 5 may be used only for the purposes of Article 16 of the basic Regulation.

5b. Should release for free circulation be requested where an INF 1 sheet has been made out under paragraph 5, a new INF 1 sheet shall be endorsed in accordance with paragraphs 1 to 4.'

13. Article 75 is replaced by the following :

'Article 75

1. Where the compensating products obtained from processing operations under the drawback system are transferred, without a repayment claim being submitted, to a Member State other than the one where release for free circulation took place and are placed there, either in the unaltered state or after further processing, under one of the customs procedures permitting repayment or remission under Article 27 (1) of the basic Regulation, the customs authority in the Member State where the products were placed under one of the procedures shall where necessary, at the request of the person concerned, issue the information sheet referred to in paragraph 2.

The said authority shall give the original to the person concerned and keep the copy.

2. The information sheet known as the INF 7 sheet shall comprise an original and one copy on a form conforming to the model in Annex XIII.

The sheet shall be presented at the same time as the customs declaration used to confer the required destination.'

14. The Annex here to is added as Annex XIII.

15. Annex VII is hereby amended as follows :

(a) The following order numbers are added :

Order No	Tariff heading and description of the compensating products		Processing operations from which they result
1	2		3
'20 (a)	ex 0511 99 10 ex 0511 99 90	Waste from the procedures in column 3	Slaughtering chickens
43 (a)	ex 1522 00 91 ex 1522 00 99	Wax containing oil foots and dregs Scum oil and oil containing fuller's earth	Refining, deacidifying, bleaching of fatty vegetable oils
79 (a)	ex 3801 10 00	Graphite dust	Manufacturing graphite electrodes for electric smelting furnaces
94 (a)	ex 4104 39 10	Bovine leather cuttings	Any working or processing
114 (a)	ex 7019	Waste of continuous glass fibre yarn	Weaving
114 (b)	ex 7019	Woven fabrics of glass fibre with evident faults	Weaving of glass fibre yarn'

(b) The following order numbers are placed by this text:

Order No	Tariff heading and description of the compensating products		Processing operations from which they result
1	2		3
'138	ex Chapter 84 ex Chapter 85 ex 8708 ex Chapter 90	Redundant parts; parts damaged or rendered useless in the course of processing	Manufacture of machinery and mechanical appliances, vehicles, electrical equipment, measuring, checking and precision instruments and their modification or conversion to comply with other technical standards
139	Chapters 84, 85, 86, 88 and 90	Components and spare parts of machines, appartatus, rolling stock, aircraft and other devices	Repair or overhaul (setting and cleaning by electrical or mechanical methods) and reconditioning (replacement of working parts) of machines, apparatus, rolling stock, aircraft and other devices'

Article 2

This Regulation shall enter into force on 1 July 1990.

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

Done at Brussels, 26 March 1990.

For the Commission

Christiane SCRIVENER

Member of the Commission

ANNEX

EUROPEAN COMMUNITY

'ANNEX XIII

1 Holder of inward processing authorization Person to be contacted	**INF 7** INFORMATION SHEET No A / 000000 **ORIGINAL** **INWARD PROCESSING**
2 Declarant	3 Customs office of issue
4 Inward processing authorization ref.	Notes
5 Number and date of previous authorization and issuing Member State	

6 COMPENSATING PRODUCTS	
7 Description	8 Net quantity (1)
9 Treatment for customs purposes, document ref.	

10 GOODS ENTERED FOR THE INWARD PROCESSING ARRANGEMENTS	
11 Description	12 Net quantity (1)
11 Description	12 Net quantity (1)
11 Description	12 Net quantity (1)

STAMP OF ISSUING CUSTOMS OFFICE Information certified correct Place and date: Signature and stamp	13 Place and date: Declarant's signature

(1) Kilogrammes, litres, number of pieces

INF 7 sheet contd

REQUEST FOR SUBSEQUENT VERIFICATION

Your are requested to verify the authenticity of this information sheet and check the accuracy of the information it contains

Place and date Signature and stamp	Full name and address of requesting department

RESULT OF VERIFICATION

We have checked this information sheet and and verified that (1) :

☐ it was stampel by the customs office indicated and the particulars given are accurate

☐ it calls for the following remarks

Place and date Signature and stamp	Full name and address of requesting department

REMARKS

(1) Place a cross [X] in the appropriate box

EUROPEAN COMMUNITY

1 Holder of inward processing authorization Person to be contacted	**INF 7** INFORMATION SHEET No A / 000000 **COPY** **INWARD PROCESSING**
2 Declarant	3 Customs office of issue
4 Inward processing authorization ref.	Notes
5 Number and date of previous authorization and issuing Member State	

6 COMPENSATING PRODUCTS

7 Description	8 Net quantity (1)
9 Treatment for customs purposes, document ref.	

10 GOODS ENTERED FOR THE INWARD PROCESSING ARRANGEMENTS

11 Description	12 Net quantity (1)
11 Description	12 Net quantity (1)
11 Description	12 Net quantity (1)

STAMP OF ISSUING CUSTOMS OFFICE Information certified correct Place and date : Signature and stamp	13 Place and date : Declarant's signature

(1) Kilogrammes, litres, number of pieces

INF 7 sheet contd

REQUEST FOR SUBSEQUENT VERIFICATION

Your are requested to verify the authenticity of this information sheet and check the accuracy of the information it contains

Place and date Signature and stamp	Full name and address of requesting department

RESULT OF VERIFICATION

We have checked this information sheet and and verified that (1) :

☐ it was stampel by the customs office indicated and the particulars given are accurate

☐ it calls for the following remarks

Place and date Signature and stamp	Full name and address of requesting department

REMARKS

(1) Place a cross [X] in the appropriate box

PROVISIONS REGARDING INFORMATION SHEET INF 7

1. The form on which the INF 7 information sheet is to be drawn up shall be printed on white paper free of mechanical pulp, dressed for writing purposes and shall weigh between 40 and 65 g/m².

2. The size of the form shall be 210 × 297 mm.

3. Member States shall be responsible for having the form printed. The form shall bear a serial number, by which it can be identified.

4. The form shall be printed in one of the official languages of the European Communities designated by the competent authorities of the Member State issuing the sheet. The boxes shall be filled in in one of the official languages of the European Communities designated by the relevant customs authority of the Member State issuing the sheet. The relevant authorities of the Member State which is to supply the information or make use of it may request that the information contained in the form submitted to them be translated into the official language, or one of the official languages, of that Member State.'