# COMMISSION REGULATION (EEC) No 3709/92

## of 21 December 1992

## Commission Regulation (EEC) No 2228/91 laying down provisions for the implementation of Council 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 Commission Regulation (EEC) No 2228/91 (2), as last amended by Commission Regulation (EEC) No 1196/92 (3), laid down provisions of the implementation of Regulation (EEC) No 1999/85;

Whereas the establishement of the internal market on 1 January 1993 will lead to the abolition of controls at intra-Community frontiers; whereas in order to give effect to such abolition it should be made possible to apply for authorization covering processing operations in several Member States and to issue authorizations valid in more than one Member State; whereas it is also necessary to specify which customs authority will accept such applications and issue such authorizations;

Whereas it is desirable to stipulate that in order to facilitate checks on the proper application of the provisions governing the arrangements, the customs authority may require stock records to be kept;

Whereas it is desirable to reduce the administrative cost of the arrangements for the civil aviation industry and to that end to refrain from requiring notification of inward processing authorizations issued to operators in that sector;

Whereas, following the entry into force on 1 January 1988 of the Combined Nomenclature, raw cane sugar and raw beet sugar are classified under separate codes; whereas such classification has some bearing on the granting of inward processing arrangements under the equivalent compensation system;

Whereas, in the light of the introduction, from 1 January 1993, of new supply arrangements for Community refineries of raw sugar available within the Community or imported from third countries, exception should be made to allow the equivalent compensation system between raw cane sugar and raw beet sugar;

Whereas requests for authorization to use this system have been submitted to the competent authorities in a number of Member States; whereas such exception, allowing for the equivalent compensation system, should also be applied to requests presented from 1 January 1992 on;

Whereas the measures provided for by this Regulation are in conformity with the opinion of the Community for Customs Procedures with Economic Impact,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 2228/91 is hereby amended as follows:

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

'1. Without prejudice to paragraph 4 and Article 25, applications for authorization shall be made in writing and shall conform to the model set out in Annex II. They shall contain at least the particulars indicated in that Annex. Applications must be signed and dated and shall be presented to the customs authority designated by the Member State where the processing operation is to be carried out.

1 a. Where it is expected that successive processing operations will be carried out by on behalf of the applicant in different Member States, application for a single authorization may be made.

In that case, the application, which shall include particulars of the sequence of operations and the exact places where they will be carried out, shall be presented to the customs authority of the Member State where the first such operation will be carried out.'

2. The following paragraph 4 shall be added to Article 4:

'For the purposes of Article 17 of the basic Regulation and to ensure correct application of the provisions governing the arrangements, the customs authority may require the holder to keep stock records, hereinafter referred to as "inward processing records",

(1) OJ No L 188, 20. 7. 1985, p. 1.
(2) OJ No L 210, 31. 7. 1991, p. 1.
(3) OJ No L 124, 9. 5. 1992, p. 24.

which indicate the quantities of import goods entered for the arrangements and of compensating products obtained, and all particulars needed for the monitoring of the operations and the correct calculation of any import duties which may be payable.

The inward processing records shall be made available to the supervising customs authorities to enable them to carry out the checks necessary for the proper implementation of the arrangements. Where the processing operations are being carried out in two or more establishments, the inward processing records shall at all times show the information pertaining to the implementation of the arrangements in each establishment.

Where the records kept by the applicant for commercial purposes allow supervision of the arrangements they shall be recognized by the customs authority as valid inward processing records within the meaning of the first subparagraph.'

3. Article 14 (1) is hereby replaced by the following:

'1. Without prejudice to Article 25, authorizations shall be issued by the customs authority to which the application was presented under Article 3 (1); they shall be made out in writing and shall conform to the model set out in Annex II. They shall contain at least the particulars indicated in that Annex. Authorizations must be signed and dated.

1 a. Where Article 3 (1) (a) applies, the authorization may not be made out without the agreement of the customs authorities designated by the Member States in which the places indicated in the application are located. The following procedure shall apply to:

(a) the customs authority to which the application was presented, after satisfying itself that the economic conditions can be considered fulfilled in respect of the planned operation, shall communicate the application and the draft authorization to the customs authorities of the other Member States concerned; the said draft shall include, at least, the rate of yield, the approved methodes of identification, the customs office referred to at point 12 of the model authorization in Annex II, any simplified procedures used for entry for the arrangements, transfer or discharge and the rules to be observed *inter alia* as regards notification to the supervising office.

(b) The customs authorities having received notification, shall transmit any objections as soon as possible, and in any case within two months of the date of communication of the application and draft authorization.

(c) The customs authority referred to in subparagraph (a), after taking the necessary steps to ensure payment of the customs debt which may arise in respect of the import goods, may issue the authorization if it has received no information concerning the existence of objections to the draft authorization within the period referred to in subparagraph (b).

(d) The Member State issuing the authorization shall send a copy thereof to all the Member States referred to above.

Authorizations issued in this way shall be valid only in the Member States referred to above.

The Member States shall communicate, to the Commission, the names and addresses of the customs authorities designated to receive the application and the draft authorization mentioned in subparagraph (a). The Commission shall inform the other Member States accordingly.'

4. The first subparagraph of Article 62 (3) is replaced by the following:

'3. The request for consideration of a case under the terms of the fifth 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 fifth 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.'

5. Article 72 (3) (a) is replaced by the following:

'(a) in respect of each authorization where the value of the import goods per operator and per calendar year exceeds the limits set in Article 6, the particulars indicated in Annex VIII; such particulars need not be transmitted where the inward processing application has been issued on the basis of one or more of the economic conditions referred to by the following codes: 6106, 6107, 6202, 6301, 6302, 6303, 7004 and 7005.

However, in respect of the products referred to in the second subparagraph of Article 28 (1), particulars must be supplied for every authorization granted, irrespective of the value of the products and irrespective of the code used to identify the economic conditions.'

6. Annex IV is amended accordingly to Annex I of this Regulation.

*Article 2*

This Regulation shall enter into force on 1 January 1993.

However, the provisions of Article 1 point 6 shall apply also to requests presented form 1 January 1992 on.

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

Done at Brussels, 21 December 1992.

*For the Commission*
Christiane SCRIVENER
*Member of the Commission*

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*ANNEX*

The following text shall be added to Annex IV.

'3. **Sugar**

Recourse to equivalent compensation is permitted between raw cane sugar of CN code 1701 11 90 and raw beet sugar of CN code 1701 12 90.'