

Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)

PART II

**CUSTOMS-APPROVED TREATMENT OR USE**

TITLE I

**RELEASE FOR FREE CIRCULATION**

*CHAPTER 2*

*Admission of goods with favourable tariff treatment by reason of their end-use*

Section 1

**Goods other than horses for slaughter**

*Article 291*

1 The admission of goods entered for free circulation with favourable tariff treatment by reason of their end-use shall be subject to the granting of written authorization to the person importing the goods or having them imported for free circulation.

2 The said authorization shall be issued at the written request of the person concerned by the customs authorities of the Member State where the goods are declared for free circulation.

3 In the case of the goods listed in Annex 39, the request shall contain *inter alia* the following information:

- a a brief description of the plant to be used for the proposed treatment;
- b the nature of the proposed treatment;
- c the type and quantity of goods to be used;
- d where Additional Notes 4 (n) and 5 to Chapter 27 of the combined nomenclature apply, the type, quantity and tariff description of the goods obtained.

4 The person concerned shall enable the customs authorities to trace the goods to their satisfaction in the establishment or establishments of the undertaking throughout their processing.

*Article 292*

1 The customs authorities may limit the period of validity of the authorization referred to in Article 291.

2 Where an authorization is revoked the holder shall immediately pay import duties, established in accordance with Article 208 of the Code, in respect of those goods which have not already been assigned to the prescribed end-use.

### Article 293

The holder of the authorization shall be obliged:

- (a) to assign the goods to the prescribed end-use;
- (b) to keep records enabling the customs authorities to carry out any checks which they consider necessary to ensure that the goods are actually put to the prescribed end-use, and to retain such records.

### Article 294

1 All the goods shall be assigned to the prescribed end-use within one year of the date on which the declaration for free circulation was accepted by the customs authorities.

2 In the case of the goods listed in Annex 40, Part 2, the period referred to in paragraph 1 shall be five years.

3 The periods laid down in paragraphs 1 and 2 may be extended by the customs authorities if the goods have not been assigned to the prescribed end-use on account either of unforeseeable circumstances or *force majeure* or of exigencies inherent in the working or processing of the goods.

4 In the case of goods listed in Annex 39, paragraphs 1 and 3 shall apply save as otherwise provided in Additional Notes 4 (n) and 5 to Chapter 27 of the combined nomenclature.

### Article 295

1 Goods shall be considered to have been assigned to the end-use in question:

1. in the case of goods which can be used only once, when all the goods have been assigned to the prescribed end-use in accordance with the time limits laid down;
2. in the case of goods which may be put to repeated use, two years after they are first assigned to the prescribed use; the date of such first assignment shall be entered in the records referred to in Article 293 (b); however:
  - (a) materials listed in Annex 40, Part 1, used by airlines for the maintenance and repair of their aircraft either under the terms of exchange agreements or for their own needs shall be considered to have been assigned to that end-use at the time of their first assignment to the prescribed use;
  - (b) vehicle parts for assembly shall be considered to have been assigned to that end-use when the vehicles are transferred to other persons;
  - (c) goods listed in Annex 40, Part 1, intended for certain classes of aircraft for the purposes of their construction, maintenance, conversion or equipping shall be considered to have been assigned to that end-use when the aircraft is transferred to a person other than the holder of the authorization or again made available to its owner, *inter alia* following maintenance, repair or conversion;
  - (d) goods referred to in Annex 40, Part 2, intended for certain classes of vessel or for drilling or production platforms for the purposes of their construction, repair, maintenance, conversion, fitting or equipping shall be considered to have been assigned to that end-use when the vessel or drilling platform is transferred to a person other than the holder of the authorization or

again made available to its owner, *inter alia* after maintenance, repair or conversion;

- (e) goods referred to in Annex 40, Part 2, supplied directly on board for the purposes of equipping shall be considered to have been put to the end-use at the time of such supply;
- (f) civil aircraft shall be considered to have been put to the end-use when they are registered in the public records prescribed for that purpose.

2 Waste and scrap which result from the working or processing of the goods and losses due to natural wastage shall be considered as goods having been assigned to the end-use.

#### *Article 296*

1 In cases of necessity duly substantiated by the holder of the authorization, the customs authorities may allow the goods referred to in this Section to be stored with goods of the same type and quality having the same technical and physical characteristics.

Where goods are stored in this way this Section shall apply to a quantity of goods equivalent to that released for free circulation under this Section.

2 By way of derogation from paragraph 1, the customs authorities may allow goods listed in Annex 39 released for free circulation in accordance with this Section to be stored in a mixture with other goods listed in that Annex or with crude petroleum oils falling within CN code 2709 00 00.

3 Mixed storage of goods referred to in paragraph 2 which are not of the same type and quality and do not have the same technical and physical characteristics may be allowed only where the whole mixture is to undergo one of the treatments referred to in Additional Notes 4 and 5 to Chapter 27 of the combined nomenclature.

#### *Article 297*

1 Where goods are transferred within the Community, the transferee must hold an authorization issued in accordance with Article 291.

2 By way of derogation from Article 294, all the goods must have been assigned to the prescribed end-use within a year of the date of transfer; however, this period may be extended as provided for in Article 294 (3).

#### *Article 298*

1 Where goods covered by Article 297 are consigned from one Member State to another the T5 control copy provided for in Articles 471 to 495 shall be used subject to the procedure laid down in paragraphs 2 to 8.

2 The consignor shall complete the T5 control copy in sextuplicate (one original and five copies). The copies shall be numbered in an appropriate manner.

The T5 control copy shall include:

- in box A ('Office of departure'), the competent customs office in the Member State of departure,
- in box 2, the name or trading name and full address of the consignor,
- in box 8, the name or trading name and full address of the consignee,

- in the box ‘Important note’ (below box 14 ‘Declarant/Representative’), a third indent shall be inserted, between the two present indents reading in ‘the case of goods forwarded under “end use” control, the consignor indicated below’,
- in boxes 31 and 33, respectively, the description of the goods as at the time of consignment, including the number of items, and the relevant combined nomenclature code,
- in box 38, the net mass of the goods,
- in box 103, the net quantity of the goods in words,
- in box 104, a tick in the box ‘Other (specify)’, and in block capitals one of the following:
  - DESTINO ESPECIAL: MERCANCÍAS QUE DEBEN PONERSE A DISPOSICIÓN DEL CESIONARIO [REGLAMENTO (CEE) No 2454/93, ARTÍCULO 298],
  - SÆRLIGT ANVENDELSESFORMÅL: SKAL STILLES TIL RÅDIGHED FOR ERHVERVEREN (FORORDNING (EØF) Nr. 2454/93, ARTIKEL 298),
  - BESONDERE VERWENDUNG: WAREN SIND DEM ÜBERNEHMER ZUR VERFÜGUNG ZU STELLEN (ARTIKEL 298 DER VERORDNUNG (EWG) Nr. 2454/93),
  - ΕΙΔΙΚΟΣ ΠΡΟΟΡΙΣΜΟΣ: ΕΜΠΟΠΕΥΜΑΤΑ ΠΟΥ ΠΡΕΠΕΙ ΝΑ ΤΕΘΟΥΝ ΣΤΗ ΔΙΑΘΕΣΗ ΤΟΥ ΕΚΔΟΧΕΑ [ΚΑΝΟΝΙΣΜΟΣ (ΕΟΚ) αριθ. 2454/93, ΑΡΘΡΟ 298],
  - END-USE: GOODS TO BE PLACED AT THE DISPOSAL OF THE TRANSFEREE (REGULATION (EEC) No 2454/93, ARTICLE 298),
  - DESTINATION PARTICULIÈRE: MARCHANDISES À METTRE À LA DISPOSITION DU CESSIONNAIRE [RÈGLEMENT (CEE) N° 2454/93, ARTICLE 298],
  - DESTINAZIONE PARTICOLARE: MERCI DA METTERE A DISPOSIZIONE DEL CESSIONARIO [REGOLAMENTO (CEE) N. 2454/93, ARTICOLO 298],
  - BIJZONDERE BESTEMMING: GOEDEREN TER BESCHIKKING TE STELLEN VAN DE CESSIONARIS (VERORDENING (EEG) Nr. 2454/93, ARTIKEL 298),
  - DESTINO ESPECIAL: MERCADORIAS A PÔR À DISPOSICÃO DO CESSIONÁRIO [REGULAMENTO (CEE) N° 2454/93, ARTIGO 298°];
- in box 106,
  - (a) in cases where the goods have undergone any working or processing after being put into free circulation, the description of the goods as at the time of their release for free circulation and the appropriate CN code;
  - (b) the registered number and date of the declaration for release for free circulation and the name and address of the customs office where the declaration was made.
- in box E, on the back of the form, (‘For use by Member State of departure’):
  - the competent customs office of the Member State of destination,
  - the date of dispatch of the goods.

3 The consignor shall retain the first copy in the records provided for in Article 293 (b) and, before despatching the goods, transmit the second and third copies to the competent customs office in the manner described by the office. He shall send the fourth and fifth copies

and the original with the goods to the consignee. The competent customs office shall retain in its records the second copy and shall forward the third copy to the competent customs office of the Member State for the consignee.

4 On receiving the goods, the consignee shall enter them in the records provided for in Article 293 (b), to which he shall attach the original; the fourth copy shall be sent without delay to the competent customs office of the Member State of destination in the manner prescribed by that Member State with an indication of the date of arrival. The consignee shall immediately notify customs of any excess, shortfall, substitution or other irregularity. In addition, he shall forward the fifth copy to the consignor.

5 The consignor's obligations under this Chapter shall pass to the consignee on the date referred to in paragraph 4. Until then, these obligations shall be incumbent on the consignor.

6 Goods consigned under the procedure laid down in this Article shall be presented neither at the office of departure nor the office of destination.

7 The provisions of this Article shall apply equally to goods which in the course of transport between two points within the Community cross the territory of an EFTA country and are reconsigned from that country.

8 The customs authorities of the Member State of departure and the Member State of destination shall carry out periodic checks at the premises of the consignor and the consignee respectively. The consignor and consignee shall cooperate in this and provide any information requested.

#### *Article 299*

1 By way of derogation from Article 298, Control Copy T5 need not be used for the transport of materials for the maintenance or repair of aircraft either under the terms of exchange agreements or for airlines' own needs, by airlines engaged in international traffic.

In this case the goods shall be carried under an air waybill or equivalent document in accordance with the conditions laid down in Article 298 (6).

2 The air waybill or equivalent document shall contain at least the following particulars:

- a the name of the consigning airline;
- b the name of the airport of departure;
- c the name of the receiving airline;
- d the name of the airport of destination;
- e the description of the materials;
- f the number of articles.

The particulars referred to in the preceding subparagraph may, alternatively, be given in coded form or by reference to an attached document.

3 The air waybill or equivalent document must bear on its face one of the following indications in block capitals:

- DESTINO ESPECIAL,
- SÆRLIGT ANVENDELSIFORMÅL,
- BESONDERE VERWENDUNG,
- ΕΙΔΙΚΟΣ ΠΡΟΟΠΙΣΜΟΣ,
- END-USE,
- DESTINATION PARTICULIÈRE,

- DESTINAZIONE PARTICOLARE,
- BIJZONDERE BESTEMMING,
- DESTINO ESPECIAL.

4 In each Member State each airline consigning or receiving the materials referred to in paragraph 1 shall make available to the competent customs authorities for the purposes of control the records provided for in Article 293 (b).

5 The consigning airline shall retain a copy of the air waybill or equivalent document as part of its records and shall, in the manner prescribed by the customs authorities of the Member State of departure, make a further copy available to the competent customs office.

The receiving airline shall retain a copy of the air waybill or equivalent document as part of its records and shall, in the manner prescribed by the customs authorities of the Member State of destination, present a further copy to the competent customs office.

6 The intact materials and the copies of the air waybill or equivalent document shall be delivered to the receiving airline in the places specified by the customs authorities in the airline's Member State of residence. The materials shall in addition be entered in the records specified in Article 293 (b).

The delivery of the materials and the copies of the air waybill or equivalent document and the entry referred to in the preceding subparagraph shall take place within five days of the date of departure of the aircraft carrying the materials.

7 The obligations arising under this Article shall pass from the consigning airline to the receiving airline at the time when the intact materials and copies of the air waybill or equivalent document are delivered to the latter.

#### *Article 300*

All transfers within a Member State shall be notified to the customs authorities. The form of the notification, the period of time in which it must be made and any other requirements shall be determined by the said authorities. The notification shall state clearly the date of the transfer of the goods.

With effect from this date the transferee shall assume the obligations arising under this Section in respect of the transferred goods.

#### *Article 301*

1 At the request of the holder of an authorization issued in accordance with Article 291, the customs authorities shall approve, on conditions which they shall determine, the places, hereinafter called 'land-based operational bases', in which the goods listed in Annex 40, Part 2, Section B, may be stored or subjected to operations of any kind.

2 Without prejudice to Article 298, no formalities other than the appropriate entry in the records provided for in Article 293 (b) shall apply to the movement of goods referred to in paragraph 1:

- a from the land-based operational bases to the platforms, whether they are within or outside territorial waters, and vice versa;
- b where applicable, from the land-based operational bases to the point of shipment of the goods to the platforms and from the point at which goods from the platforms are unloaded to the land-based operational bases;

- c from the point of shipment to the platforms, whether they are within or outside territorial waters, in cases where goods are shipped for delivery to the platforms without going via the land-based operational bases, and vice versa;
- d between platforms, whether they are within or outside territorial waters.

#### *Article 302*

1 The customs authorities shall not approve the use of the goods otherwise than as provided for by the favourable tariff treatment referred to in Article 291 unless the holder of the authorization can establish to their satisfaction that it has been impossible for reasons relating to his circumstances or to the goods themselves for the goods to be put to the prescribed end-use.

2 By way of derogation from paragraph 1, in the case of the products listed in Annex 40, Parts 1 and 2, the customs authorities shall approve use of the goods otherwise than as provided for under the favourable tariff treatment if they consider this justified on economic grounds.

3 The approval referred to in the preceding paragraphs shall be conditional on the holder of the authorization paying the amount of import duties established in accordance with Article 208 of the Code.

#### *Article 303*

1 The customs authorities shall not approve the export of the goods from the customs territory of the Community or the destruction of the goods under customs supervision unless the holder of the authorization can establish to their satisfaction that it has been impossible for reasons relating to his circumstances or to the goods themselves for the goods to be put to the prescribed end-use.

Where export of the goods from the customs territory of the Community is approved, the goods shall be considered as non-Community goods from the time of acceptance of the export declaration.

Where agricultural products are concerned, box 44 of the Single Administrative Document shall carry one of the following indications in block capitals:

- DESTINO ESPECIAL: MERCANCIAS PREVISTAS PARA LA EXPORTACIÓN [REGLAMENTO (CEE) N<sup>o</sup> 2454/93, ARTÍCULO 303]: APLICACIÓN DE LOS MONTANTES COMPENSATORIOS MONETARIOS Y RESTITUCIONES AGRARIAS EXCLUIDA,
- SÆRLIGT ANVENDELSESFØRMÅL: VARER BESTEMT TIL UDFØRSEL I (FORORDNING (EØF) Nr. 2454/93, ARTIKEL 303): ANVENDELSE AF MONETÆRE UDLIGNINGSBELØB OG LANDBRUGSRESTITUTIONER ER UDELUKKET,
- BESONDERE VERWENDUNG: ZUR AUSFUHR VORGESEHENE WAREN (ARTIKEL 303 DER VERORDNUNG (EWG) Nr. 2454/93): ANWENDUNG DER WÄHRUNGS-AUSGLEICHSBETRÄGE UND LANDWIRTSCHAFTLICHEN AUSFUHRERSTATTUNGEN AUSGESCHLOSSEN,
- ΕΙΔΙΚΟΣ ΠΡΟΟΡΙΣΜΟΣ: ΕΜΠΟΡΕΥΜΑΤΑ ΠΟΥ ΠΡΟΟΡΙΖΟΝΤΑΙ ΓΙΑ ΕΞΑΓΩΓΗ [ΚΑΝΟΝΙΣΜΟΣ (ΕΟΚ) αριθ. 2454/93, ΑΡΘΡΟ 303]: ΑΠΟΚΛΕΙΕΤΑΙ Η ΕΦΑΡΜΟΓΗ ΤΩΝ ΝΟΜΙΣΜΑΤΙΚΩΝ ΕΙΣΩΤΙΚΩΝ ΠΟΣΩΝ ΚΑΙ ΤΩΝ ΓΕΩΡΓΙΚΩΝ ΕΠΙΣΤΡΟΦΩΝ,
- END-USE: GOODS DESTINED FOR EXPORTATION (REGULATION (EEC) No 2454/93, ARTICLE 303). MONETARY COMPENSATORY AMOUNTS AND AGRICULTURAL REFUNDS NOT APPLICABLE,

- DESTINATION PARTICULIÈRE: MARCHANDISES PRÉVUES POUR L'EXPORTATION [RÈGLEMENT (CEE) N<sup>o</sup> 2454/93, ARTICLE 303]: APPLICATION DES MONTANTS COMPENSATOIRES MONÉTAIRES ET RESTITUTIONS AGRICOLES EXCLUE,
- DESTINAZIONE PARTICOLARE: MERCI PREVISTE PER L'ESPORTAZIONE [REGOLAMENTO (CEE) N. 2454/93, ARTICOLO 303]: APPLICAZIONE DEI MONTANTI COMPENSATORI MONETARI E RESTITUZIONI AGRICOLE ESCLUSA,
- BIJZONDERE BESTEMMING: VOOR UITVOER BESTEMDE GOEDEREN (VERORDENING (EEG) Nr. 2454/93, ARTIKEL 303): TOEKENNING VAN MONETAIRE COMPENSERENDE BEDRAGEN EN LANDBOUWRESTITUTIES UITGESLOTEN,
- DESTINO ESPECIAL: MERCADORIAS PREVISTAS PARA A EXPORTAÇÃO [REGULAMENTO (CEE) N<sup>o</sup> 2454/93, ARTIGO 303<sup>o</sup>]: APLICAÇÃO DOS MONTANTES COMPENSATÓRIOS MONETÁRIOS E RESTITUIÇÕES AGRÍCOLAS EXCLUÍDA.

2 By way of derogation from paragraph 1, in the case of the goods listed in Annex 40, Parts 1 and 2, the customs authorities shall approve export of the goods from the customs territory of the Community where this is justified on economic grounds.

3 Paragraph 1 shall not apply to goods stored in a mixture as referred to in Article 296 (3) unless the whole mixture is exported or destroyed.

#### *Article 304*

1 Where the import duty applicable under the end-use arrangements to goods for a specific end-use is not lower than that which would otherwise be applicable to the goods, the said goods shall be classified in the CN code referring to the end-use and this Section shall not apply.

2 This Section shall not apply to the goods listed in Annex 41.

### Section 2

#### **Horses for slaughter**

#### *Article 305*

1 The release for free circulation of horses intended for slaughter falling within CN code 0101 19 10 shall be subject to the following conditions:

- a provision of a security covering the customs debt liable to be incurred, in accordance with Article 208 of the Code; and
- b identification of each horse, at the time of release for free circulation to the satisfaction of the customs office, by a clearly legible mark resulting from the removal of hair, by means of scissors or otherwise, from the left shoulder, comprising the mark X to indicate that the horse is intended for slaughter and a number to enable the horse to be identified from the time of release for free circulation to the time of slaughter.

2 The details of the marking shall be shown in the declaration for release of the horses for free circulation. A copy of the declaration shall accompany the horses and shall reach the authority referred to in Article 308 (1).

3 The declarant's obligations are those referred to in Article 293.



#### *Article 306*

1 After being released for free circulation, horses shall be taken direct, by means of transport duly sealed by the customs office (without prejudice to any national provisions concerning the breaking and replacement of seals in cases of emergency), to a slaughterhouse recognized by the customs authorities, to be slaughtered.

2 On arrival at the slaughterhouse, the vehicle shall be unsealed and the horses unloaded in the presence of the competent authority.

3 Paragraphs 1 and 2 shall not apply when the customs office where release was granted is in the slaughterhouse, if the horses are immediately taken into the charge of the authority referred to in Article 308 (1).

Moreover, when the customs office where release was granted is in the immediate vicinity of the slaughterhouse, the customs authorities, instead of using seals, may take appropriate supervisory measures to ensure that the horses are transferred directly to the slaughterhouse and are taken into the charge of the authority referred to in Article 308 (1).

#### *Article 307*

If a horse cannot be identified on arrival at the slaughterhouse, or if Article 306 has not been complied with, the competent authority shall immediately inform the competent customs office, which shall take the necessary measures.

#### *Article 308*

1 Proof that the horses have been slaughtered shall be supplied in the form either of a certificate issued by the authority empowered to do so or of an endorsement added by that authority to the copy of the declaration referred to in Article 305 (2), establishing that the slaughtered animals are those referred to in the declaration for free circulation.

2 Within 30 days of the date of acceptance of the declaration for free circulation, proof of slaughter must reach the customs office where the said declaration was presented, either directly from the authority referred to in paragraph 1 or via the declarant, in accordance with the decision of the Member State concerned.