

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)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 IV

CUSTOMS DEBT

TITLE IV

REPAYMENT OR REMISSION OF IMPORT OR EXPORT DUTIES

CHAPTER 2

Implementing provisions relating to Articles 236 to 239 of the Code

Section 1

Application

Article 878

1 Application for repayment or remission of import or export duties, hereinafter referred to as 'application for repayment or remission', shall be made by the person who paid or is liable to pay those duties, or the persons who have taken over his rights and obligations.

Application for repayment or remission may also be made by the representative of the person or persons referred in the first subparagraph.

2 Without prejudice to Article 882, application for repayment or remission shall be made, in one original and one copy, on a form conforming to the specimen and provisions in Annex 111.

However, application for repayment or remission may also be made, at the request of the person or persons referred to in paragraph 1, on plain paper, provided it contains the information appearing in the said Annex.

Article 879

1 Applications for repayment or remission, accompanied by the documents referred to in Article 6 (1) of the Code, must be lodged with the customs office of entry in the accounts, unless the customs authorities designate another office for this purpose; the said office shall transmit it immediately after acceptance to the decision-making customs authority if it is not itself designated as such.

2 The customs office referred to in paragraph 1 shall enter the date of receipt on the original and the copy of the application. It shall return the copy to the applicant.

Where the second subparagraph of Article 878(2) is applied, the said customs office shall acknowledge receipt in writing to the applicant.

Article 880

Without prejudice to any specific provisions adopted in this connection under the common agricultural policy, an application relating to goods in respect of which an import or export licence or advance fixing certificate was produced when the relevant customs declaration was lodged must also be accompanied by certification issued by the authorities responsible for issuing such licence or certificate attesting that the necessary steps have been taken to cancel the effects of the said licence or certificate.

Such certification shall not be required, however:

- where the customs authority to which the application is submitted itself issued the licence or certificate in question,
- where the ground relied upon in support of the application is a substantive error that has no effect on the attribution of the licence or certificate in question.

Article 881

1 The customs office referred to in Article 879 may accept an application not containing all the information provided for on the form referred to in Article 878 (2). However, the application must contain at least the information to be entered in boxes 1 to 3 and 7.

2 Where paragraph 1 is applied, the said customs office shall set a time limit for the supply of any missing particulars and/or documents.

3 Where the time limit set by the customs office pursuant to paragraph 2 is not observed, the application shall be considered to have been withdrawn.

The applicant shall be informed of this immediately.

Article 882

1 For returned goods on which export duties were levied at the time of their export from the customs territory of the Community, repayment or remission of these duties shall be subject to the presentation to the customs authorities of a request accompanied by:

- a the document issued as evidence of payment, where the amounts concerned have already been collected;
- b the original, or the copy certified by the customs office of reimportation, of the declaration for free circulation relating to the returned goods.

This document shall bear one of the following endorsements made by the customs office of reimportation:

- Mercancías de retorno en aplicación de la letra b) del apartado 2 del artículo 185 del Código
- Returvarer i henhold til kodeksens artikel 185, stk. 2, litra b)
- Rückwaren gemäß Artikel 185 Absatz 2 Buchstabe b) des Zollkodex
- Εμπορεύματα επανεισαγόμενα κατ' εφαρμογή του άρθρου 185 παράγραφος 2 στοιχείο β) του κώδικα
- Goods admitted as returned goods under Article 185 (2) (b) of the Code
- Marchandises en retour en application de l'article 185 paragraphe 2 point b) du code
- Merci in reintroduzione in applicazione dell'articolo 185, paragrafo 2, lettera b) del codice
- Goederen die met toepassing van artikel 185, lid 2, onder b), van het Wetboek kunnen worden toegelaten als terugkerende goederen

- Mercadorias de retorno por aplicação da alínea b) do n^o 2 do artigo 185^o do código;
- c) the copy of the export declaration returned to the exporter at the time of completion of the export formalities for the goods, or a copy thereof certified by the customs office of exportation.

Where the decision-making customs authority is already in possession of the particulars contained in one or more of the declarations referred to at (a), (b) or (c) above, the declaration or declarations concerned need not be produced.

2 The request referred to in paragraph 1 must be lodged with the customs office referred to in Article 879 within 12 months of the date of acceptance of the export declaration.

Section 2

Procedure for granting repayment or remission

Article 883

The decision-making customs authority may authorize completion of the customs formalities to which any repayment or remission may be subject before it has ruled on the application for repayment or remission. Such authorization shall be entirely without prejudice to its decision on the application.

Article 884

Without prejudice to Article 883 and until a decision has been taken on the application for repayment or remission, the goods in respect of which repayment or remission of duties has been requested may not be transferred to a location other than that specified in the said application unless the applicant notifies in advance the customs office referred to in Article 879, which shall in turn inform the decision-making customs authority.

Article 885

1 Where an application for repayment or remission relates to a case where supplementary information must be obtained or where the goods must be examined in order to ensure that the conditions for repayment or remission laid down in the Code and in this Title are satisfied, the decision-making customs authority shall adopt the measures necessary to that end, if necessary by requesting the assistance of the supervising customs office, specifying the nature of the information to be obtained or of the checks to be carried out.

The supervising customs office shall comply promptly with this request and shall forward the information obtained and the results of the checks carried out to the decision-making customs authority.

2 Where the application relates to goods which are situated in a Member State other than that in which the import or export duties were entered in the accounts, the provisions of Chapter 4 of this Title shall apply.

Article 886

1 When the decision-making customs authority possesses all the necessary particulars, it shall give its decision in writing on the application for repayment or remission in accordance with Article 6 (2) and (3) of the Code.

2 Where the application is approved, the decision shall include all the particulars necessary for its implementation.

Depending on the circumstances, some or all of the following particulars shall appear in the decision:

- a the information necessary for identifying the goods to which it applies;
- b the grounds for repayment or remission of the import or export duties and a reference to the corresponding article of the Code and, where appropriate, the corresponding article of this Title;
- c the use to which the goods may be put or the destination to which they may be sent, depending on the possibilities available in the particular case under the Code and where appropriate on the basis of a specific authorization by the decision-making customs authority;
- d the time limit for completion of the formalities to which repayment or remission of the import or export duties is subject;
- e a statement indicating that the import or export duties will not be repaid or remitted until the implementing customs office has informed the decision-making customs authority that the formalities to which repayment or remission is subject have been completed;
- f particulars of any requirements to which the goods remain subject pending implementation of the decision;
- g a notice informing the recipient that he must give the original of the decision to the implementing customs office of his choice when presenting the goods.

Article 887

1 The implementing customs office shall take steps to ensure:

- where appropriate, that the requirements referred to in Article 886 (2) (f) are met,
- that in all cases the goods are actually used in the manner or sent to the destination specified in the decision to repay or remit import or export duties.

2 Where the decision specifies that the goods may be placed in a customs warehouse, a free zone or a free warehouse, and the recipient avails himself of this opportunity, the necessary formalities must be carried out with the implementing customs office.

3 Where the decision to repay or remit duties specifies a use to which the goods are to be put or a destination to which they are to be sent which can be established only in a Member State other than that in which the implementing customs office is located, proof of compliance shall be furnished by production of a control copy T 5 issued and used in accordance with the provisions of Articles 471 to 495, and of this Article.

The control copy T 5 must contain the following:

- a box 33 shall contain the combined nomenclature code of the goods;
- b box 103 shall indicate in words the net quantity of the goods;
- c box 104 shall contain, as appropriate, either the words 'exit from the customs territory of the Community', or one of the following under the heading 'other':
 - Delivery free of charge to the following charity ...,
 - Destruction under customs supervision,
 - Entry for the following customs procedure ...,
 - Placing in a free zone or free warehouse;
- d box 106 shall contain reference particulars of the decision granting repayment or remission of duties;
- e box 107 shall contain the words 'Articles 877 to 912 of Regulation (EEC) No 2454/93'.

4 The supervising customs office which establishes or on whose responsibility it is established that the goods have actually been used for the purpose specified or have arrived at the prescribed destination shall complete the box entitled 'Control of use and/or destination' of the control document by entering a cross against 'have received the use and/or destination declared overleaf' and giving the relevant date.

5 When the implementing customs office has satisfied itself that the conditions set out in paragraph 1 are fulfilled, it shall send a certificate to that effect to the decision-making customs authority.

Article 888

A decision-making customs authority having approved an application for repayment or remission of duties shall repay or remit such duty only after receiving the certificate referred to in Article 887 (5).

Article 889

1 Where the request for repayment or remission is based on the existence, at the time when the declaration of release for free circulation was accepted, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other preferential tariff arrangements, repayment or remission shall be granted only on condition that, at the time of lodging the application for repayment or remission accompanied by the necessary documents:

- in the case of a tariff quota, its volume has not been exhausted,
- in other cases, the rate of duty normally due has not been re-established.

If the conditions laid down in the preceding paragraph are not fulfilled, repayment or remission shall nevertheless be granted where the failure to apply the reduced or zero rate of duty to the goods was the result of an error on the part of the customs authorities themselves and the declaration for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.

2 Each Member State shall send the Commission a list of the cases in which the provisions of the second subparagraph of paragraph 1 have been applied, giving a short summary of each case.

Article 870 (2), (3) and (4) shall apply.

Article 890

Where a certificate of origin, movement certificate, internal Community transit document or other appropriate document is produced in support of an application for repayment or remission, indicating that the imported goods were eligible, at the time of acceptance of the declaration for free circulation, for Community treatment or preferential tariff treatment, the decision-making customs authority shall grant such application only where it is duly established:

- that the document thus produced refers specifically to the goods in question and that all the conditions relating to acceptance of the said document are fulfilled,
- that all the other conditions for the granting of the preferential tariff treatment are fulfilled.

Repayment or remission shall take place upon presentation of the goods. Where the goods cannot be presented to the implementing customs office, the latter shall grant repayment or remission only where it has information indicating unequivocally that the certificate or document produced post-clearance applies to the said goods.

Article 891

Repayment or remission of duty shall not be granted where certificates for the advance fixing of levies are presented in support of the application.

Article 892

Import duties shall not be repaid or remitted under Article 238 of the Code where:

- the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, under which the goods were entered for a customs procedure involving the obligation to pay import duties,
- the goods are sold by the importer after it has been ascertained that they are defective or do not comply with the terms of the contract.

Article 893

1 Without prejudice to Article 900 (1) (c), the decision-making customs authority shall set a deadline, no later than two months from the date of notification of the decision to repay or remit import duties or export duties, for completion of the customs formalities to which the repayment or remission of duties is subject.

2 Failure to observe the deadline referred to in paragraph 1 shall result in loss of entitlement to repayment or remission except where the person concerned by the decision proves that he was prevented from meeting this deadline by unforeseeable circumstances or force majeure.

Article 894

Where destruction of the goods authorized by the decision-making customs authority produces waste or scrap, such waste or scrap shall be regarded as non-Community goods once a decision has been taken accepting the application for repayment or remission.

Article 895

Where the authorization referred to in the second subparagraph of Article 238 (2) (b) of the Code is granted, the customs authorities shall take all necessary steps to ensure that goods placed in a customs warehouse, free zone or free warehouse may subsequently be recognized as non-Community goods.

Article 896

1 Goods which, under the common agricultural policy, are entered for a customs procedure involving the obligation to pay import duties under an import licence or advance fixing certificate shall benefit from Articles 237, 238 and 239 of the Code only where the customs office referred to in Article 879 is satisfied that the necessary steps have been taken by the competent authorities to cancel the effects with regard to the certificate under which the importation took place.

2 Paragraph 1 shall also apply in the case of re-exportation, placing in a customs warehouse, free zone or free warehouse, or destruction of the goods.

Article 897

Where it is not the complete article that is exported, re-exported or destroyed or assigned to another authorized customs treatment or use, but one or more parts or components of that article, the amount to be repaid or remitted shall be the difference between the amount of import duties on the complete article and the amount of import duties which

would have been chargeable on the remainder of the article if the latter had been entered in the unaltered state for a customs procedure involving the obligation to pay such duties on the date on which the complete article was so entered.

Article 898

The amount referred to in Article 240 of the Code is hereby set at ECU 10.