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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 1573/80

of 20 June 1980

laying down provisions for the implementation of Article 5 (2) of Council Regulation (EEC) No 1697/79 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties ⁽¹⁾, and in particular Article 10 (2) thereof,

Whereas Article 5 (2) of Regulation (EEC) No 1697/79 provides that the competent authorities may refrain from taking action for the post-clearance recovery of import duties or export duties which were not collected as a result of an error made by the competent authorities themselves which could not reasonably have been detected by the person liable to pay such duties, the latter having for his part acted in good faith and observed all the provisions laid down by the rules in force as far as his customs declaration is concerned; whereas the cases in which that provision can be applied must be determined in accordance with the implementing provisions laid down in accordance with the procedure provided for in Article 10 of the said Regulation;

Whereas, owing to the fact that the circumstances in which the competent authorities may refrain by virtue of the said Article 5 (2) from taking action for the post-clearance recovery of duties are sufficiently precise it would appear possible to allow the competent authorities to decide for themselves to refrain from taking action for the post-clearance recovery of duties totalling under 2 000 EUA, provided they are able to ascertain by their own means that the case under consideration fulfils the necessary conditions; whereas, however, in order to ensure that the practical interpretation given to Article 5 (2) is uniform, it is desirable to provide that each Member State should periodically forward to the Commission a list of cases in which Article 5 (2) has been applied;

Whereas in cases where the competent authorities of the Member States are unable to ascertain by their own means that all the conditions stipulated in Article 5 (2) of Regulation (EEC) No 1697/79 are fulfilled, and in any event where the duties which have not been collected total 2 000 EUA or more, the action to be taken by the said authorities should be subject to a decision by the Commission after consultation with a group of experts composed of representatives of all Member States;

Whereas it is necessary to lay down the procedure for the adoption of such Commission decisions;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Duty-Free Arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation determines the conditions for implementation of the provisions of Article 5 (2) of Regulation (EEC) No 1697/79, hereinafter referred to as the 'basic Regulation'.

TITLE I

Decisions taken by the competent authorities of the Member States

Article 2

Where the competent authority of the Member State in which the error was committed which resulted in insufficient duty being collected is able to ascertain by its own means that all the conditions referred to in Article 5 (2) of the basic Regulation are fulfilled, it shall decide not

⁽¹⁾ OJ No L 197, 3. 8. 1979, p. 1.

to take action for the post-clearance collection of the uncollected duties, provided that the amount of the duties involved is less than 2 000 EUA.

Article 3

1. Each Member State shall send the Commission a list of the cases in which the provisions of Article 2 have been applied, giving a short summary of each case.
2. The list referred to in paragraph 1 shall be forwarded during the first and third quarters of each year for all cases where a decision not to collect was taken during the preceding half-year.
3. The Commission shall circulate the lists to all other Member States.
4. The lists referred to in paragraph 3 shall be examined periodically by the Committee on Duty-Free Arrangements.

TITLE II

Decisions by the Commission

Article 4

Where the competent authority of the Member State in which the error was committed is not able to ascertain by its own means whether all the conditions set out in Article 5 (2) of the basic Regulation are fulfilled, or where the amount of the duties involved is equal to or greater than 2 000 EUA, it shall request the Commission to take a decision on the case, submitting to it all the necessary background information.

The Commission shall acknowledge receipt of the request immediately.

Article 5

Within 15 days following receipt of the request referred to in Article 4, the Commission shall forward a copy thereof to the other Member States.

Examination of the case submitted to the Commission shall be included on the agenda of the first subsequent meeting of the Committee on Duty-Free Arrangements.

Article 6

After consulting a group of experts composed of representatives of all Member States meeting within the framework of the Committee on Duty-Free Arrangements in order to examine the matter, the Commission shall decide whether the circumstances under consideration are such that no action should be taken for recovery of the duties concerned.

Such decision must be taken within a period of three months from the date on which the request referred to in Article 4 is received by the Commission.

Article 7

1. The Member State concerned shall be notified of the decision referred to in Article 6 at the earliest possible opportunity, and in any event within 30 days of the date of expiry of the period referred to in Article 6.

A copy of the decision shall be sent to the other Member States.

2. The competent authorities of the Member State concerned shall take the necessary steps to implement the Commission's decision.

Article 8

If the Commission fails to take a decision within the period referred to in Article 6 or fails to notify a decision to the Member State concerned within the period referred to in Article 7, the competent authorities of that Member State shall not take action to recover the duties in question.

Article 9

This Regulation shall enter into force on 1 July 1980.

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

Done at Brussels, 20 June 1980.

For the Commission

Étienne DAVIGNON

Member of the Commission

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties ⁽¹⁾, and in particular Article 25 (2) thereof,

Whereas, save in special circumstances, Regulation (EEC) No 1430/79 makes repayment or remission of import or export duties conditional on submission of an application to the competent authorities; whereas the first paragraph of Article 16 of that Regulation provides that applications must be submitted to the customs office where the import or export duties were entered in the accounts, unless the competent authorities designate another office for that purpose;

Whereas the second paragraph of Article 16 of Regulation (EEC) No 1430/79 provides that applications for repayment or remission of duties must be accompanied by all the evidence in the applicant's possession so that the competent authorities may decide on the application; whereas the particulars that must be contained in such applications and the documents to be attached to them should therefore be specified;

Whereas an applicant may be unable to supply certain information or some of the requisite documents when submitting an application for repayment or remission of duties; whereas the conditions should be laid down under which such incomplete applications may nevertheless be accepted by the competent authorities provided they are dealt with by them only if completed within such time limit as they determine;

Whereas it is necessary to lay down the procedure to be followed by the competent authorities when examining applications for repayment or remission of duties, particularly where the goods giving rise to entry in the accounts of duties whose repayment or remission is requested are within the jurisdiction of a customs office other than the office responsible for taking the decision on the application;

Whereas, under Regulation (EEC) No 1430/79, repayment or remission of duties is subject in the majority of cases to re-exportation or destruction of the goods or to a use having the same economic consequences; whereas it is essential to ensure that those

conditions are in fact satisfied before giving effect to the decision authorizing repayment or remission;

Whereas, in view of the unity of the customs territory of the Community, the recipient of a decision to repay or remit duties must be permitted to complete the customs formalities for exportation, destruction or any other use of the goods required as a condition of implementation of the decision in a customs office of his choice, on condition that the latter is empowered to carry out the transaction requested; whereas it is important, however, that a time limit be laid down for completing such customs formalities in order that any risk of abuse may be averted;

Whereas Article 17 of Regulation (EEC) No 1430/79 provides that where the goods are situated in a Member State other than that in which the import or export duties relating thereto were entered in the accounts, the customs office to which the application for repayment or remission of the duties is to be submitted and the conditions under which the Member States concerned are to assist each other in dealing with such an application must be specified in accordance with the procedure referred to in Article 25 (2) of that Regulation;

Whereas, for reasons of efficiency, provision should be made that the customs office to which, in cases of this nature, the application for repayment or remission of duties must be submitted, shall be that where the duties were entered in the accounts or another customs office designated for the purpose by the competent authorities of the Member State in which the office where the duties were entered in the accounts is situated; whereas the application must be examined and any favourable decision to which it gives rise must be implemented in accordance with the principles applied where the goods are situated in the same Member State as the customs office to which the application for repayment or remission has been submitted; whereas steps should however be taken to provide the administrative assistance necessary to enable the authority responsible for deciding on the application to establish that the conditions required for repayment or remission of duties have been fulfilled and that those required for implementation of the decision to repay or remit have been observed;

Whereas, in accordance with Article 10 (1) of the Treaty, products imported from a third country which, after any customs duties or charges having equivalent effect which are payable in respect thereof have been levied, benefit from a total or partial drawback of such duties or charges, cease to be in free circulation; whereas, in the

⁽¹⁾ OJ No L 175, 12. 7. 1979, p. 1.

interests of legal clarity, and in particular to ensure the correct implementation of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit ⁽¹⁾, the precise moment should be determined at which this situation obtains where repayment or remission of duties is conditional on the goods being re-exported outside the Community, destroyed or placed under some other customs procedure;

Whereas, in order to avoid any risk of fraud in this connection, that moment should be defined as that when the customs formalities required for re-exporting the goods or placing them under the prescribed customs procedure are completed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Duty-Free Arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down provisions for the implementation of Articles 16 and 17 of Regulation (EEC) No 1430/79, hereinafter referred to as the 'basic Regulation'.

2. For the purposes of this Regulation:

- (a) 'duties' means import duties and export duties as defined in Article 1 (2) (a) and (b) of the basic Regulation;
- (b) 'customs office' means any office responsible for implementing this Regulation, even where such office does not form part of the customs administration;
- (c) 'office of entry in the accounts' means the customs office where the duties whose repayment or remission is requested were entered in the accounts;
- (d) 'decision-making authority' means the authority competent to decide on an application for repayment or remission of duties in the Member State where the duties to which the said application relates were entered in the accounts;
- (e) 'control authority' means the customs office within whose jurisdiction the goods in respect of which repayment or remission of the duties entered in the accounts is requested are situated, and which carries out certain checks required for appraisal of the application;
- (f) 'implementing authority' means the customs office which adopts the measures necessary to ensure that the decision to repay or remit the duties is correctly implemented.

3. The functions of the office of entry in the accounts, decision-making authority, control authority and implementing authority may be carried out either wholly or in part by the same customs office.

TITLE I

Provisions concerning applications for repayment or remission of duties

Article 2

1. Without prejudice to Article 4 (1), applications for repayment or remission of duties shall be submitted in writing and, save where one or more of the particulars is deemed unnecessary by the decision-making authority for the purposes of taking a decision on the application, shall contain the following information:

- (a) the applicant's name and address;
- (b) the office of entry in the accounts;
- (c) particulars of the document used for the purpose of entering in the accounts the duties in respect of which repayment or remission is requested;
- (d) a description of the goods (quantity, nature, value);
- (e) the exact location of the goods;
- (f) where the goods are within the jurisdiction of a customs office other than the office of entry in the accounts, the name and address of that customs office (control authority);
- (g) the amount of the duties whose repayment or remission is requested;
- (h) the specific grounds for repayment or remission;
- (i) except in cases covered by Article 2 of the basic Regulation, particulars of the use to which the applicant wishes to put the goods in question or of their intended destination, with reference to the possibilities permitted in particular cases by the basic Regulation (re-exportation outside the Community, entry under another customs regime, destruction or delivery to a charity);
- (j) where the applicant seeks application of Article 10 (1) (g) of the basic Regulation, the name and address of the charity to which the goods are to be delivered;
- (k) where the applicant is not himself the person who has paid or is liable for the duties in respect of which repayment or remission is requested, the capacity in which he has made the application;
- (l) where the application refers to Article 7 or 12 of the basic Regulation, the quantity, nature and value of the material that it is intended should remain in the Community.

⁽¹⁾ OJ No L 38, 9. 2. 1977, p. 1.

The application shall also state, where appropriate, that the applicant requests application of the second subparagraph of Article 6 (2) or the second subparagraph of Article 11 (3) of the basic Regulation.

2. Member States may provide that the information referred to in paragraph 1 (g) may be dispensed with.

3. Member States may stipulate that applications for repayment or remission of duties be made on a particular form.

They may also establish a simplified procedure for making applications for remission or repayment in cases referred to in Article 10 (1) (a) of the basic Regulation.

Article 3

1. Applications for repayment or remission of duties shall be accompanied by all the documents necessary to enable the decision-making authority to decide on the application.

2. Without prejudice to any specific provisions adopted in this connection under the common agricultural policy, where an application relates to goods in respect of which an import or export licence or advance fixing certificate has been produced upon the lodging of the relevant customs declaration, such application must also be accompanied by a voucher issued by the authorities responsible for issuing such licence or certificate certifying that the necessary steps have been taken to cancel the effects of the said licence or certificate, in so far as this is necessary.

Such vouchers shall not be required however:

- where the authority to whom 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 4

1. The customs office to which an application for repayment or remission of duties is submitted may accept an application not containing all the information deemed necessary under Article 2 or not supported by all the documents which may be required under Article 3. However, except in the case provided for in the second subparagraph of Article 2 (3), an application may not be accepted unless it contains at least the information specified in points (a), (b), (c), (h) and (k) of Article 2 (1).

2. Where paragraph 1 is applied, the competent authorities shall fix a time limit for the submission of any missing particulars and/or documents, which, where necessary, may expire after the time limit for submission of the application laid down in the basic Regulation for the particular case in question.

3. Where the time limit laid down by the competent authorities pursuant to paragraph 2 is not observed, the application shall be deemed to have been withdrawn.

The applicant shall be informed of this immediately.

Article 5

Until such time as a decision has been taken on the application, 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 Article 2 (1) (e) unless the applicant has notified in advance the customs office to which the application was submitted; it shall be for the latter to inform the decision-making authority thereof, if it has not itself been designated as this authority.

Article 6

Where an application for repayment or remission of duty relates to a case where supplementary information must be obtained or where the goods must be examined in order to ensure that the conditions to qualify for repayment or remission laid down in the basic Regulation are satisfied, the decision-making authority shall adopt the measures necessary to that end, if necessary by submitting to the control authority an application specifying the nature of the information to be obtained or of the examinations to be carried out.

The control authority shall give effect at the earliest opportunity to the request by the decision-making authority and submit to it the information obtained and the results of the examinations carried out.

Article 7

1. When the decision-making authority possesses all the necessary information, it shall give its decision on the application at the earliest opportunity and notify the applicant in writing of that decision.

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

Depending on the circumstances, all or part of the following information 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 duty and a reference to the corresponding article of the basic Regulation;
- (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 basic Regulation (re-exportation outside the Community, entry under another customs regime, destruction or delivery to a charity);

- (d) where appropriate, a statement to the effect that the goods may be placed in a customs warehouse or free zone in accordance with Article 21 (1) of the basic Regulation;
- (e) the date by which the formalities to which repayment or remission of the duties is subject must be completed, which may not be later than two months from the date of notification of the decision to the recipient;
- (f) a statement indicating that repayment or remission of the duties is conditional upon receipt by the decision-making authority of a declaration from the implementing authority certifying that the formalities on which repayment or remission is conditional have been completed;
- (g) particulars of any conditions to which the goods remain subject pending implementation of the decision;
- (h) a notice informing the recipient that he must deliver the original decision to the implementing authority, to be selected by him, when presenting the goods.

Article 8

1. The implementing authority shall take steps to ensure:

- where appropriate, that the requirements referred to in Article 7 (2) (g) are met,
- that the goods are in all cases actually used in the manner or sent to the destination specified in the decision concerning repayment or remission of duties.

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

3. Where the decision granting repayment or remission of duties specifies a use to which the goods are to be put or a destination to which they are to be sent which can only be established in a Member State other than that in which the implementing authority is located, proof of compliance therewith shall be furnished by providing a Control Copy T No 5 issued and used in accordance with Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure ⁽¹⁾, and with the provisions of this Article.

In the Control Copy T No 5, the section entitled 'Additional information' shall be completed as follows:

- (a) Box 101 shall contain the Common Customs Tariff heading No or subheading of the goods dispatched;

- (b) Box 103 shall indicate the quantity or net mass of the goods in words;
- (c) Box 104 shall be completed either by deleting the word 'other' in the second indent or by deleting the words 'leaving the geographical territory of the Community' in the first indent and adding one of the following as a second indent:
 - delivery free of charge to the following charity,
 - destruction under customs supervision,
 - entry under the following customs regime . . . and the words '(Regulation (EEC) No 1574/80)';
- (d) Box 106 shall contain a reference to the decision granting repayment or remission of duties.

4. The competent customs office which establishes or takes responsibility for causing it to be established that the goods have in fact been used for the purpose specified or have arrived at the prescribed destination shall complete the box entitled 'Control as to use and/or destination' by adding to the indent 'left the geographical territory of the Community on . . .' the date on which the goods were exported, or by adding to the indent 'have been dealt with as indicated overleaf . . .' the relevant date.

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

Article 9

Where the decision-making authority has approved an application for repayment or remission of duties, it shall repay or remit such duty only after receiving the certificate referred to in Article 8 (5).

Failure to observe the time limit laid down in the decision for completion of the formalities to which repayment or remission of duty is subject shall result in loss of entitlement to repayment or remission save where the recipient of the decision furnishes evidence that he was prevented from observing the time limit as a result of unavoidable accident or *force majeure*.

TITLE II

Provisions concerning cooperation between the competent authorities of Member States

Article 10

The provisions of this Title shall apply where goods in respect of which an application for repayment or

⁽¹⁾ OJ No L 38, 9. 2. 1977, p. 20.

remission of duties is submitted are situated in a Member State other than that in which the said duties were entered in the accounts.

CHAPTER I

Repayment or remission of import duties

Article 11

Applications for repayment or remission of import duties shall be submitted to the office of entry in the accounts, or to another office designated for that purpose by the competent authorities of the Member State in which the office of entry in the accounts is situated. Where such office has not also been designated as the decision-making authority it shall, after accepting the application, and in accordance, where appropriate, with Article 4 (1), forward it immediately to the said authority.

Article 12

In the cases referred to in the first paragraph of Article 6, the decision-making authority shall submit to the control authority two copies of its request in writing, in conformity with the specimen form in Annex I. The request shall be accompanied by originals or copies of the application for repayment or remission and of all documents necessary to enable the control authority to obtain the information or carry out the examinations requested.

Article 13

1. The control authority shall, within two weeks of the date of receipt of the request, obtain the information or carry out the examinations requested by the decision-making authority. It shall enter any results obtained in the portion of the original copy of the document referred to in Article 12 reserved for that purpose and shall return the said form to the decision-making authority together with all the documents forwarded to it.

2. Where the control authority is unable to obtain the information or carry out the examinations requested within the two-week period referred to in paragraph 1, it shall acknowledge receipt of the request submitted to it within that period by returning to the decision-making authority a duly annotated copy of the document referred to in Article 12.

Article 14

The implementing authority shall send the certificate referred to in Article 8 (5) to the decision-making authority on a form conforming to the specimen in Annex II.

Article 15

Where the destruction of the goods as authorized by the decision-making authority produces waste or scrap liable to import duty and not covered by a declaration of exportation outside the Community or of transfer to a customs warehouse or free zone, the implementing authority shall see that such duty is collected.

Where, however, destruction has been authorized in advance in accordance with the second subparagraph of Article 6 (2) or the second subparagraph of Article 11 (3) of the basic Regulation, the implementing authority may require that a security be given for such duty until the decision-making authority takes a final decision on the application. Such duty shall be levied only if the decision-making authority decides in favour of the application.

CHAPTER II

Repayment or remission of export duties

Article 16

Articles 11, 12, 13 and 14 of this Regulation shall apply *mutatis mutandis* to the repayment or remission of export duties.

TITLE III

Final provisions

Article 17

1. Where repayment or remission of import duties is conditional on the goods being re-exported outside the Community, placed in a customs warehouse or free zone or entered for any customs regime other than free circulation, the goods shall, for the purposes of Article 1 (2) of Council Regulation (EEC) No 222/77, be regarded as no longer satisfying the conditions laid down in Article 10 (1) of the Treaty from the time when the relevant customs formalities have been completed.

2. Paragraph 1 shall apply *mutatis mutandis*, from the moment of destruction, to dutiable waste and scrap

produced by the destruction of goods whose destruction is a precondition for the repayment or remission of import duty.

Article 18

This Regulation shall enter into force on 1 July 1980.

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

Done at Brussels, 20 June 1980.

For the Commission

Étienne DAVIGNON

Member of the Commission

ANNEX I

REPAYMENT OR REMISSION OF DUTIES – REQUEST FOR EXAMINATION

(application of Article 12 of Commission Regulation (EEC) No 1574/80)

(recto)

[illegible]

(1) Complete only where applicable.

REPLY OF CONTROL AUTHORITY ⁽¹⁾

ACKNOWLEDGEMENT OF RECEIPT ⁽¹⁾

(verso)

Information obtained

Result of examinations carried out

12. Place and date

13. Signature and official stamp

⁽¹⁾ Delete as appropriate.
The control authority shall give an acknowledgement of receipt only if it is unable to give effect to the request within two weeks of the date of receipt thereof. Acknowledgement of receipt shall be made on a copy of this document.

CERTIFICATE FOR REPAYMENT OR REMISSION OF DUTY

(application of Article 14 of Commission Regulation (EEC) No 1574/80)

(recto)

1. Name and full address of implementing authority

2. Reference to decision granting repayment or remission

3. Name and full address of person to whom decision is addressed

4. Full description of goods

5. Quantity or net mass

6. This is to certify that in accordance with the decision referred to in Box 2, the goods described above were, on (date)

☐

exported from the Community

☐

destroyed under customs supervision

☐

placed in a customs warehouse

☐

placed in a free zone

☐

delivered free of charge to the charity named in the decision

☐

entered under the customs procedure specified in the decision

Customs document reference, if any

On the date hereunder the goods fulfilled the conditions laid down for repayment or remission of duty ⁽¹⁾

.....
(Place)

.....
(Date)

Signature and stamp of implementing authority

⁽¹⁾ Where the implementing authority finds that the goods no longer satisfy those conditions it shall delete this sentence and record its findings overleaf under the heading 'Observations'.

OBSERVATIONS

(*verso*)

COMMISSION REGULATION (EEC) No 1575/80

of 20 June 1980

laying down provisions for the implementation of Article 13 of Council Regulation (EEC) No 1430/79 on the repayment or remission of import or export duties

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties ⁽¹⁾, and in particular Article 25 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1430/79 provides that import duties may be repaid or remitted in situations resulting from special circumstances in which no negligence or deception may be attributed to the person concerned; whereas the cases in which that provision may apply and the detailed procedural arrangements to be followed for that purpose must be defined in accordance with the procedure laid down in Article 25 of the said Regulation;

Whereas Article 14 of Regulation (EEC) No 1430/79 provides that Article 13 shall apply *mutatis mutandis* to the repayment or remission of export duties;

Whereas to enable the Commission to decide under the most favourable conditions whether the circumstances adduced by the applicant are such as to justify repayment or remission of duties it is desirable that it should be able to consult a group of experts composed of representatives of all Member States; whereas it is nevertheless desirable to provide that only applications considered by the Member States' competent authorities to be backed with sufficient evidence to merit consideration should be submitted to the Commission;

Whereas it is necessary to stipulate the time limit within which an applicant must submit to the competent authority his application for the repayment or remission of duties on grounds of the existence of a situation resulting from special circumstances in which no negligence or deception may be attributed to him, and to determine the detailed procedural arrangements under which the said application should be forwarded to and examined by the Commission;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Committee on Duty-Free Arrangements,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down provisions for the implementation of Article 13 of Regulation (EEC)

No 1430/79, hereinafter referred to as the 'basic Regulation'.

2. For the purpose of this Regulation:

- (a) 'duties' means both import and export duties as defined in Article 1 (2) (a) and (b) of the basic Regulation;
- (b) 'customs office' means any office responsible for applying this Regulation, even where such office does not form part of the customs administration;
- (c) 'decision-making authority' means the authority competent to decide on an application for repayment or remission of duties in the Member State where the duties to which the said application relates were entered in the accounts.

TITLE I

Repayment or remission of import duties

Article 2

For the purposes of implementing Article 13 of the basic Regulation, the application for repayment or remission of import duties shall be lodged with the customs office concerned within 12 months of the date on which the said duties were entered in the accounts by the authority responsible for their recovery.

However, in exceptional, duly justified, cases the competent authority may authorize an extension of this period.

Article 3

1. Should it be found upon examination that the application referred to in Article 2 is not supported by sufficient evidence to warrant further consideration, the decision-making authority shall reject it and shall inform the applicant of its decision.

However, should it be found that the said application is supported by sufficient evidence to warrant consideration, the case shall be submitted to the Commission for a decision in accordance with the procedure laid down in Articles 4 to 7 of this Regulation. The relevant documents to be submitted to the Commission shall contain all the information required to enable a comprehensive examination of the case to be carried out.

Immediately it has received the application and the accompanying documents the Commission shall inform the Member State concerned accordingly.

⁽¹⁾ OJ No L 175, 12. 7. 1979, p. 1.

2. Without awaiting completion of the procedure laid down in Articles 4 to 7, the decision-making authority may at the applicant's request authorize completion of the customs formalities relating to the re-exportation or destruction of the goods before the Commission has given a ruling on the application in question. Such authorization shall be entirely without prejudice to the final decision on the application.

Article 4

Within 15 days following the receipt of the application referred to in Article 3 (1) the Commission shall forward a copy thereof to the Member States.

Examination of the case submitted to the Commission shall be included on the agenda of the first subsequent meeting of the Committee on Duty-Free Arrangements.

Article 5

After consulting a group of experts composed of representatives of all Member States meeting within the framework of the Committee on Duty-Free Arrangements to examine the case in question, the Commission shall decide whether or not the situation under consideration justifies repayment or remission.

This decision shall be taken within three months of the date on which the application referred to in Article 3 (1) is received by the Commission.

Article 6

1. The Member State concerned shall be notified of the decision referred to in Article 5 as soon as possible and in any event within 30 days of the expiry of the period specified in Article 5.

A copy of the decision shall be sent to the other Member States.

2. The decision-making authority shall decide whether to grant or reject the application on the basis of

the Commission's decision as notified in accordance with paragraph 1.

Article 7

If the Commission fails to take a decision within the period referred to in Article 5 or fails to notify a decision to the Member State in question within the period referred to in Article 6, the decision-making authority shall grant the application.

Article 8

Where, upon examination of a case submitted by a Member State, it appears that a decision of general application should be adopted, the Commission shall submit to the Committee on Duty-Free Arrangements a draft of the measures to be taken in accordance with the procedure defined in Article 9 (2) and (3) of Council Regulation (EEC) No 1798/75 of 10 July 1975 on the importation free of Common Customs Tariff duties of educational, scientific and cultural materials ⁽¹⁾.

TITLE II

Repayment or remission of export duties

Article 9

The provisions of this Regulation shall apply *mutatis mutandis* where application is made for the repayment or remission of export duties on grounds of the existence of special circumstances analogous to those referred to in Article 13 of the basic Regulation.

TITLE III

Final provisions

Article 10

This Regulation shall enter into force on 1 July 1980.

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

Done at Brussels, 20 June 1980.

For the Commission

Étienne DAVIGNON

Member of the Commission

⁽¹⁾ OJ No L 184, 15. 7. 1975, p. 1.

COMMISSION REGULATION (EEC) No 1576/80

of 20 June 1980

amending Regulation (EEC) No 193/75 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals⁽¹⁾, as last amended by Council Regulation (EEC) No 1547/79⁽²⁾, and in particular Articles 12 (2), 15 (5) and 16 (6) thereof, and the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Whereas Article 22 of Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties⁽³⁾ laid down that goods which are put into free circulation under an import licence or advance fixing certificate shall not be eligible for the system of repayment or remission of import duties unless it is established that the necessary steps have been taken by the competent authorities to cancel the effects of putting those goods into free circulation as regards the licence or certificate;

Whereas Article 3 (2) of Commission Regulation (EEC) No 1574/80⁽⁴⁾ laid down generally certain detailed rules for the application of Article 22 of Regulation (EEC) No 1430/79 and, in particular, that an attestation must be furnished by the authorities responsible for issuing licences or certificates;

Whereas it is necessary to lay down, in Commission Regulation (EEC) No 193/75⁽⁵⁾, as last amended by Regulation (EEC) No 2971/79⁽⁶⁾, all the detailed rules necessary for the application of Article 22 of Regulation (EEC) No 1430/79; whereas it is possible, in some cases, to satisfy the provisions laid down in Regulation (EEC) No 1430/79 without having recourse to the attestation referred to in Article 3 (2) of Regulation (EEC) No 1574/80;

Whereas the present deadline for the lodging of applications for licences or certificates may, during the

period known as summer time, present problems as regards the management of products subject to a licence or certificate; whereas it is necessary to make earlier the deadline for the lodging of licences or certificates;

Whereas it is necessary, in certain cases, to ensure that products in respect of which an export licence or advance fixing certificate has been issued reach a particular destination and to specify that the security shall not be released until proof that the products have arrived at that destination has been furnished; whereas the rules governing the release of securities must be supplemented in order to take account of that situation; whereas the provisions of Regulation (EEC) No 2730/79⁽⁷⁾ concerning the detailed rules according to which such proof is furnished should be taken into consideration;

Whereas, where a Member State uses the import licence to manage a Community tariff quota which has led to the quantities being divided up among the Member States, it is necessary to provide specific measures to take account of the special nature of such a licence;

Whereas the measures provided for in this Regulation are in accordance with the opinions of all the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 193/75 is hereby amended as follows:

1. The following Article 4c is inserted:

'Article 4c

1. No export licence or certificate shall be required on completion of customs re-export formalities for products in respect of which the exporter provides proof that a repayment or remission of import duties has been granted in accordance with the provisions of Regulation (EEC) No 1430/79.

⁽¹⁾ OJ No L 281, 1. 11. 1975, p. 1.

⁽²⁾ OJ No L 188, 26. 7. 1979, p. 1.

⁽³⁾ OJ No L 175, 12. 7. 1979, p. 1.

⁽⁴⁾ See page 3 of this Official Journal.

⁽⁵⁾ OJ No L 25, 31. 1. 1975, p. 10.

⁽⁶⁾ OJ No L 336, 29. 12. 1979, p. 34.

⁽⁷⁾ OJ No L 317, 12. 12. 1979, p. 1.

Where products are subject on export to the submission of an export licence and the appropriate authorities authorize the completion of customs re-export formalities before taking a decision on the application for repayment or remission of import duties, an export licence must be submitted. Advance fixing of the export refund or levy is not permitted.

2. (a) For the purposes of Article 22 of Regulation (EEC) No 1430/79, confirmation that the measures have been taken to make it possible if necessary to cancel the effects of putting the goods into free circulation shall be provided by the authority which issued the licence or certificate, subject to the provisions of (d) hereinafter.

The importer shall state to the authority which issued the licence or certificate:

- the name and address of the decision-making authority referred to in Article 1 (2) of Regulation (EEC) No 1574/80, to which the confirmation should be sent,
- the quantity and nature of the products in question, the date of import and the number of the licence or certificate concerned.

If the licence or certificate has not already been submitted to the issuing authority, the importer must submit the licence or certificate to that authority.

Before sending the confirmation referred to in the first subparagraph, the authority which issued the licence or certificate must ensure that:

- the security in respect of the quantities in question has not been released and will not be released, or
- if the security has been released, it is re-lodged for the quantities in question.

However the security is not required to be re-lodged for quantities in excess of the quantity at which the obligation to import is considered to have been met.

The licence or certificate shall be returned to the party concerned.

- (b) If repayment or remission of import duties is refused, the decision-making authority shall so inform the authority which issued the licence or certificate. The security relating to the quantity in question shall be released.

- (c) If repayment or remission of the duties is granted, the entry on the licence or certificate for the quantity in question shall be cancelled, even if the licence or certificate is no longer valid. The licence or certificate shall be returned immediately by the interested party to the issuing agency when it is no longer valid. The security relating to the quantity in question shall be forfeit, subject to the rules applicable to the case in question.

- (d) The provisions referred to in (a) and (b) shall not apply where:

- for reasons of *force majeure* the products have to be re-exported, destroyed or placed in a customs warehouse or free zone,
- the products are in the situation referred to in the second indent of Article 10 (1) (g) of Regulation (EEC) No 1430/79,
- the licence or certificate on which the quantity imported has been entered has not yet been returned to the party concerned when the application for repayment or remission of duty is lodged.

- (e) The provisions referred to in the first sentence of (c):

- shall not apply in the case referred to in the second indent of (d),
- shall apply only on request by the party concerned in the case referred to in the first indent of (d).'

2. The third subparagraph of Article 5 (4) is replaced by the following:

'Where the total amount of the security in respect of any licence or certificate would be five ECU or less, or where the licence has been made out for an intervention agency, no security shall be required.'

3. Article 6 (3) is replaced by the following:

'3. The time limits specified in this Regulation correspond to Greenwich Mean Time plus two hours, so that 13.00 hours and 14.30 hours as referred to in this Regulation correspond respectively to 11.00 hours GMT and 12.30 hours GMT.'

4. The second subparagraph of Article 18 (4) (b) is replaced:

(a) in the German version, by the following:

‘Der zurückzuzahlende Betrag beläuft sich auf 80 % des Kautionsbetrags, der nach den Bestimmungen des Buchstaben a) einbehalten und um denjenigen Betrag verringert wird, der nach Absatz 2 einzubehalten ist.’

(b) in the Dutch version, by the following:

‘Het terug te betalen bedrag is gelijk aan 80 % van de overeenkomstig het bepaalde sub a) verbeurde waarborg, deze laatste verminderd met het bedrag dat overeenkomstig lid 2 verbeurd moet blijven.’

5. The following paragraph 5 is added to Article 18:

‘5. Where it is provided that the security shall be released only upon production of proof that the product has reached a specified destination, such proof shall be furnished in accordance with the provisions of Article 20 of Regulation (EEC) No 2730/79.

For the purpose of Article 18 (4), the proof referred to in the preceding subparagraph shall also be furnished within six months following the expiry of the licence or certificate. However, where the documents required under Article 20 of Regulation (EEC) No 2730/79 cannot be submitted within the prescribed period although the exporter has acted with all due diligence to obtain them within such period, he may be granted an extension of time for the submission of these documents.’

6. The following Article 19a is inserted:

‘Article 19a

1. Where a Member State uses the import licence applicable to a product in order to administer a Community tariff quota which has been divided up among the Member States:

- the licence shall be valid only in the issuing Member State,
- any quantities imported which, on account of the tolerance, exceed the quantity stated on the import licence shall not be eligible for the preferential system granted under the Community tariff quota, and
- the period of validity of the licence may not exceed the period for which the quota applies.

2. Section 20 of the licence shall be suitably endorsed to ensure application of the provisions of paragraph 1, first and second indents.

3. Where the product in question may not be imported outside the quota, or where import licences for the product in question are issued only subject to special conditions, the import licence referred to in paragraph 1 shall not include a tolerance in excess of the quantity stated on the import licence.’

Article 2

This Regulation shall enter into force on 1 July 1980.

However:

- Article 1 (3) shall apply with effect from 1 August 1980,
- Article 1 (4) shall apply with effect from 6 September 1979.

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

Done at Brussels, 20 June 1980.

For the Commission

Finn GUNDELACH

Vice-President