STATUTORY INSTRUMENTS

1979 No. 554

CUSTOMS AND EXCISE

The Customs Duties (Standard Exchange Relief) Regulations 1979

Made - - - -	18*th May* 1979
Laid before Parliament	21*st May* 1979
Coming into Operation	11*th June* 1979

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Customs and Excise Duties (General Reliefs) Act 1979(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, operation, interpretation

1.—(1) These Regulations may be cited as the Customs Duties (Standard Exchange Relief) Regulations 1979 and shall come into operation on 11th June 1979.

(2) In these Regulations, unless the context otherwise requires—

"agricultural products" means the products listed in Annex II to the EEC Treaty, as amended(b);

"authorisation" means a general or special authorisation granted by the Commissioners authorising standard exchange relief;

"Commissioners" means the Commissioners of Customs and Excise;

"export goods" means goods exported from the United Kingdom to a destination outside the Community for repair;

"outside the Community" means outside the Customs territory of the European Economic Community(c) or, in the case of goods covered by the ECSC Treaty or the Euratom Treaty, outside the territories to which the Treaty constituting the Community in question applies(d), as the case may be, and "within the Community" shall be interpreted accordingly;

"outward processing relief authorisation" means an authorisation within the meaning of the Outward Processing Relief Regulations 1979(e);

"repair" includes restoring goods to their original condition and putting them in order.

(3) References in these Regulations to standard exchange relief are references to relief in accordance with these Regulations whereby goods may be imported into the United Kingdom wholly or partly free of customs duties as replacements (hereinafter referred to as "replacements") for export goods.

(a) 1979 c. 3.
(b) Regulation No. 7a, 18.12.59 (O.J. No. 7, 30.1.61, p. 71/61; O.J./SE 1959–1962, p. 68).
(c) *See* Regulation (EEC) 1496/68 (O.J. No. L238, 28.9.68, p. 1; O.J./SE 1968 (II), p. 436) and Annex I to the Treaty concerning United Kingdom accession to the Community as adjusted by Council Decision of 1.1.73 (O.J. No. L2, 1.1.73, p. 1).
(d) *See* Article 79 (ECSC Treaty) and 198 (Euratom Treaty).
(e) S.I. 1979/555.

(4) References in these Regulations to prior importation are references to importation of the replacements before the exportation of the export goods.

2.—(1) These Regulations shall apply only if the export goods at the time of exportation satisfied the conditions in Articles 9(2) and 10(1) of the EEC Treaty.

(2) These Regulations shall not apply if the export goods are agricultural products or products which are processed from agricultural products and are the subject of arrangements under Article 235 of the EEC Treaty.

Authorisation of Relief

3.—(1) In the case of goods to be exported from the United Kingdom with a view to standard exchange relief being granted, any person established within the Community who is to have the repair carried out may make a written application to the Commissioners for an authorisation.

(2) Where a person to whom an outward processing relief authorisation has been granted intends to import into the United Kingdom replacements for goods the subject of, and exported for repair in accordance with, that authorisation, he may make a written application to the Commissioners to have the outward processing relief authorisation wholly or partly replaced by an authorisation under these Regulations and the provisions of these Regulations shall apply accordingly.

(3) Applications under paragraph (1) above shall be made before exportation of the export goods and before any prior importation of the replacements, and applications under paragraph (2) shall be made before importation of the replacements; and applications shall be in such form, and verified in such manner, as may be required by the Commissioners, and the applicant shall furnish such information as may be so required for the purpose of the application.

(4) Subject to paragraph (5) the Commissioners after receiving any such application may specify in an authorisation such conditions as they think expedient to secure the object or prevent abuse of the relief from customs duties.

(5) The Commissioners shall not grant the authorisation if they are satisfied that to do so would lead to an unjustified advantage in regard to relief from customs duties.

Qualifications for Relief

4.—(1) Replacements shall qualify for standard exchange relief under Regulation 5 only if they fall within the same subheading of the common customs tariff of the Community, are of the same commercial quality and possess the same technical characteristics as would the export goods for which they are replacements if the export goods had undergone the repair in question.

(2) Subject to paragraph (3), where the export goods have been used before exportation, the replacements shall qualify for standard exchange relief only if they have been used before importation and are not new.

(3) The Commissioners shall have power to treat as qualifying for standard exchange relief unused or new replacements if they are satisfied that the replacements are supplied free of charge in pursuance of a guarantee or other agreement or statutory requirement to effect the repair or because of a manufacturing defect in the export goods and that the replacements are imported

within twelve months of the date when the export goods first satisfied the conditions in Articles 9(2) and 10(1) of the EEC Treaty or such longer period as the Commissioners in any particular case may allow.

Relief from Customs Duty

5.—(1) Where replacements are imported into, and the export goods are exported from, the United Kingdom in accordance with an authorisation granted by the Commissioners, and the goods qualify for relief under this Regulation, then subject to—

(i) the provisions of these Regulations

(ii) compliance with the conditions specified in the authorisation and

(iii) the production of the authorisation to the proper officer of Customs and Excise,

any customs duty which apart from these Regulations would be chargeable on the importation of the replacements into the United Kingdom shall be reduced by the amount specified in Regulation 6 or, if equal to or less than that amount, shall not be charged.

(2) Replacements shall qualify for relief under this Regulation only if—

(i) in the case of prior importation, the export goods are exported not later than two months after entry of the replacements for home use;

(ii) in all other cases, they are imported not later than six months after the date of acceptance of the export entry for the export goods.

Provided that the Commissioners shall have power to extend these time limits up to a total of four and twelve months respectively on written application to them made by the person to whom the authorisation has been granted in such form and manner as they may require.

(3) Replacements shall qualify for relief under this Regulation only if they are imported by or on behalf of the person to whom the authorisation has been granted.

(4) The Commissioners shall have power

(*a*) to allow the replacements referred to in any authorisation to be imported in several consignments; and

(*b*) where circumstances so warrant to allow all or any of the goods included in any authorisation which have been exported from the United Kingdom with a view to standard exchange relief being granted to be imported into the United Kingdom still in the same state as they were in when exported.

6.—(1) Subject to the following provisions of this Regulation, the amount referred to in Regulation 5(1) is the amount of the customs duty that would be chargeable on the importation of the export goods if they were imported in the same state and in the same quantity as they were in when exported.

(2) For the purposes of paragraph (1) above, the amount of the customs duty that would be chargeable shall be calculated on the basis of the value and at the rate, if any, applicable

(i) in the case of prior importation, at the date of the acceptance of the export entry for the export goods;

(ii) in all other cases, at the date of entry of the replacements.

(3) Where the replacements qualify for any preferential rate of customs duty, the amount of the customs duty that would be chargeable for the purpose of paragraph (1) above shall be calculated as if the goods in question qualified for corresponding preferential tariff treatment.

7. Where goods which have been exported from the United Kingdom with a view to standard exchange relief being granted are with the permission of the Commissioners imported into the United Kingdom still in the same state as they were in when exported the Commissioners shall grant relief from the whole or part of any customs duty that would be chargeable on the goods as though the goods were returned goods in accordance with the provisions of Council Regulation (EEC) No. 754/76**(a)** and its implementing Regulations.

8.—(1) Subject to paragraph (2) below, if it is shown to the satisfaction of the Commissioners that replacements for goods exported from the United Kingdom to a destination outside the Community solely for repair in pursuance of a guarantee or other agreement or legal requirement to effect the repair or in order to rectify manufacturing faults in the goods are imported into the United Kingdom, and no charge is made in respect of such replacements, no customs duty shall be charged on the replacements on their importation subject to compliance with the conditions specified in the authorisation and the production of the authorisation to the proper officer of Customs and Excise.

(2) Paragraph (1) above shall not apply if the export goods were imported into the United Kingdom and entered for home use before being exported from the United Kingdom and duty was charged on the goods on their importation and if, in assessing their value for the purpose of that duty, the defective state of the goods was taken into account.

Cecil Parkinson,
Minister of State,
Department of Trade.

18th May 1979.

(a) O.J. L89, 2.4.76, p. 1.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which come into operation on 11th June 1979, provide for relief from customs duty on goods imported into the United Kingdom as replacements for goods exported from the United Kingdom outside the Community for repair. This relief is known as standard exchange relief and is defined in Regulation 1. They provide for relief from duty which is not available under the Outward Processing Relief Regulations 1979 because it is an essential condition of obtaining relief under those Regulations that the exported goods can be identified in the re-imported goods.

They implement in UK law the appropriate parts of Council Directive 78/1018/EEC (O.J. No. L349, 13.12.78, p. 33) and of Directive 76/119/EEC (O.J. No. L24, 30.1.76, p. 58) in so far as they are applied by Directive 78/1018/EEC.

Regulation 2 provides that the Regulations shall apply only where the export goods were in free circulation in the Community and shall not apply if they are agricultural products or products resulting from the processing of agricultural products.

Regulation 3 provides for application for authorisation of relief to be made to the Commissioners of Customs and Excise in the case of goods to be exported from the United Kingdom with a view to standard exchange relief being granted and provides that conditions may be specified in the authorisation.

Regulation 4 provides that replacements will only qualify for relief if they are of the same nature and quality as the export goods would have been if repaired. The replacements may only be unused or new goods if the export goods were unused or new or they are supplied free of charge under a guarantee or similar arrangement and satisfy certain other conditions.

Regulation 5 provides for relief to be granted from customs duty on the replacements imported into the United Kingdom, subject to compliance with the conditions specified in the authorisation.

Regulation 6 specifies how the amount of relief is to be calculated.

Regulation 7 provides that where with the permission of the Commissioners the export goods are imported into the United Kingdom still in the same state as they were in when exported, the customs treatment applicable to the goods shall be determined on the same basis as for returned goods in accordance with the provisions of Council Regulation (EEC) No. 754/76.

Regulation 8 provides that, where it is shown that replacements for goods exported solely for repair free of charge under a guarantee or similar arrangement are imported into the United Kingdom, customs duty on the replacements is waived, provided that on their first importation into the United Kingdom the defective state of the goods was not taken into account in assessing the duty then charged.

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