COMMISSION DECISION

of 20 June 1984

establishing that the apparatus described as 'Browne — Nocturnale Penile Tumescence Monitor, model 9900 with Playback Printer, model 9800' may not be imported free of Common Customs Tariff duties

(84/348/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to 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), as last amended by Regulation (EEC) No 608/82 (2),

Having regard to Commission Regulation (EEC) No 2784/79 of 12 December 1979 laying down provisions for the implementation of Regulation (EEC) No 1798/75 (3), and in particular Article 7 thereof,

Whereas, by letter dated 13 December 1983, the United Kingdom has requested the Commission to invoke the procedure provided for in Article 7 of Regulation (EEC) No 2784/79 in order to determine whether or not the apparatus described as 'Browne — Nocturnale Penile Tumescence Monitor, model 9900 with Playback Printer, model 9800', ordered on 15 August 1983 and intended to be used to research into the causes of impotence in patients with chronic renal failure, and in particular to record penile activity during sleep, should be considered as a scientific apparatus and, where the reply is in the affirmative, whether apparatus of equivalent scientific value is currently being manufactured in the Community;

Whereas, in accordance with the provisions of Article 7 (5) of Regulation (EEC) No 2784/79, a group of experts composed of representatives of all the Member States met on 11 April 1984 within the framework of the Committee on Duty-Free Arrangements to examine the matter;

Whereas this examination showed that the apparatus in question is a recorder; whereas it does not have the requisite objective characteristics making it specifically suited to scientific research; whereas, in particular, the fact that it is a recorder intended for a new and not widespread procedure cannot confer upon it this character; whereas, moreover, apparatus of the same kind are principally used for non-scientific activities, and in particular in the medical field for clinical use; whereas its use in the case in question could not alone confer upon it the character of a scientific apparatus; whereas it therefore cannot be regarded as a scientific apparatus; whereas the duty-free admission of the apparatus in question is therefore not justified,

HAS ADOPTED THIS DECISION:

Article 1

The apparatus described as 'Browne — Nocturnale Penile Tumescence Monitor, model 9900 with Playback Printer, model 9800', which is the subject of an application by the United Kingdom of 13 December 1983, may not be imported free of Common Customs Tariff duties.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 20 June 1984.

For the Commission

Karl-Heinz NARJES

Member of the Commission

(1) OJ No L 184, 15. 7. 1975, p. 1.
(2) OJ No L 74, 18. 3. 1982, p. 4.
(3) OJ No L 318, 13. 12. 1979, p. 32.