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;

(1) OJ No L 197, 3. 8. 1979, p. 1.

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

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