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 exports 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.