STATUTORY INSTRUMENTS

1966 No. 1481

CUSTOMS AND EXCISE

The European Free Trade Association (Drawback) Regulations 1966

Made - - - - - -	*25th November* 1966
Laid before the House of Commons	*1st December* 1966
Coming into Operation - -	*31st December* 1966

The Board of Trade, in pursuance of the powers conferred upon them by section 2 of the European Free Trade Association Act 1960(a) (hereinafter referred to as "the Act"), hereby make the following Regulations:—

1. Subject to the provisions of regulation 3 of these Regulations, the circumstances in which goods of Convention area origin may (as provided in section 2(1) of the Act) be treated as not eligible for a Convention rate of duty on importation into the United Kingdom are that drawback was claimed in connection with their exportation from the country in the Convention area in which they underwent the last operation or process of production or manufacture.

2. Subject as aforesaid, the circumstances in which the Commissioners may (as provided in section 2(2) of the Act) recover additional duty are that the goods have been imported into the United Kingdom on or after 31st December 1966 and that after their importation drawback has been allowed in connection with their exportation from the country in the Convention area in which they underwent the last operation or process of production or manufacture.

3. The provisions of regulations 1 and 2 of these Regulations shall not apply—

(*a*) to drawback claimed in relation to imported packing required for the transport or storage of the goods (not being packing in which the goods are ordinarily sold by retail) or to imported materials for the production of such packing;

(*b*) to drawback claimed in relation to materials of Convention area origin which—

(i) on and after 31st December 1966 were liable to be charged with duty on importation into a country in the Convention area at a rate applicable in that country to goods of Convention area origin, and

(ii) were used in that country in the production or manufacture of the goods, and

(iii) would have been liable to be so charged had they been imported at the time of the exportation of the goods from that country;

(*c*) to drawback claimed in relation to materials of a description included in Schedule 1 hereto;

(*d*) where drawback was claimed in connection with an exportation before 31st December 1966 of goods from one country in the Convention area to another such country (not being the United Kingdom) and the goods—

(a) 1960 c. 19.

(i) were re-exported after 31st December 1966 to the United Kingdom from the latter country, without having undergone therein any operation or process of production or manufacture, and

(ii) were, in the United Kingdom, cleared for home use or temporary duty free admission before 1st January 1969;

(*e*) where any claim for drawback has been withdrawn or disallowed and any drawback already allowed has been repaid to the authorities of the country by whom it was allowed, provided that the Commissioners are satisfied that the possibility of the goods being admitted into the United Kingdom at a Convention rate of duty was not known and could not reasonably have been known to the person who claimed the drawback;

(*f*) where goods are to be treated as consigned from a place in the Convention area, in accordance with regulation 6(1) (*b*) or (*c*) of the European Free Trade Association (Origin of Goods) Regulations 1964(a), as amended(b), (which relate to consignment from an exhibition or Customs warehouse outside the Convention area) and any drawback which has been allowed by the authorities of the country in the Convention area in which the goods underwent the last operation or process of production or manufacture has been repaid to the authorities of that country;

(*g*) where articles are imported for his personal use and not for sale by a person entering the United Kingdom, being articles carried with him or in his accompanied or unaccompanied baggage;

(*h*) where the f.o.b. export value of the goods in the country of exportation did not exceed £25;

(*i*) where goods were consigned to the United Kingdom from a place in the Convention area before 31st December 1966 and were, in the United Kingdom, cleared for home use or for temporary duty free admission before 1st March 1967.

4.—(1) For the purposes of these Regulations—

"drawback" means repayment or remission of duty under any arrangement, including temporary duty free admission, for the refund or remission of all or part of the duties applicable to imported materials used in the production or manufacture of goods, provided that the arrangement, expressly or in effect, allows such refund or remission if the goods are exported but not if they are retained for home use;

"remission" includes exemption from duties for materials brought into free ports, free zones or other places which have similar customs privileges;

"duties" means duties of customs and any other charges with equivalent effect imposed on imported materials, but does not include any amount which, in the opinion of the Commissioners, having regard to Article 6 of the Convention (which is set out in Schedule 2 hereto), represents the non-protective element in such duties or charges;

"f.o.b. export value" in relation to any goods means the amount equal to the value which would be attributed to those goods if any duty of customs were chargeable thereon by reference to their value, less the amount equal to any costs, charges and expenses incurred in relation to the goods after leaving the port or place of export in the territory from which they were consigned to the United Kingdom which have been included in the value attributed as aforesaid;

"materials" includes products, parts or components used in the production or manufacture of goods;

(a) S.I. 1964/1966 (1964 III, p. 4296).
(b) The relevant amendment is S.I. 1965/1731 (1965 III, p. 4857).

drawback shall be deemed to have been claimed if a duty which would otherwise be payable is remitted and drawback shall be deemed to have been repaid if a duty which has been remitted is paid;

packing, splitting up into lots, sorting and grading, marking and putting up into sets shall not be regarded as an operation or process of production or manufacture.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

5. These Regulations may be cited as the European Free Trade Association (Drawback) Regulations 1966 and shall come into operation on 31st December 1966.

George Darling,
Minister of State,
Board of Trade.

25th November 1966.

SCHEDULE 1

Note:

In this Schedule, where a heading of the Customs Tariff 1959 is preceded by the letters "ex", this signifies that only some of the materials covered by that heading are referred to.

Heading of the Customs Tariff 1959	Description of Materials
ex 04.02	Milk (other than buttermilk, whey, kephir, yoghourt and similar fermented milk) preserved, concentrated or sweetened.
ex 11.01	Cereal flours (other than oat flour).
ex 15.07	Fixed vegetable oils, fluid or solid, crude, refined or purified, except oils extracted from olive residues by means of chemicals.
17.01	Beet sugar and cane sugar, solid.
ex 17.02	Glucose.
ex 17.05	Flavoured or coloured glucose.

SCHEDULE 2

Article 6 of the Convention Establishing the European Free Trade Association

1. Member States shall not

(*a*) apply directly or indirectly to imported goods any fiscal charges in excess of those applied directly or indirectly to like domestic goods, nor otherwise apply such charges so as to afford effective protection to like domestic goods, or

(*b*) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to afford effective protection to the domestic production of goods of a different kind which are substitutable for the imported goods, which enter into direct competition with them and which do not bear directly or indirectly, in the country of importation, fiscal charges of equivalent incidence,

and shall give effect to these obligations in the manner laid down in paragraphs 2 and 3 of this Article.

(a) 1889 c. 63.

2. Member States shall not introduce new fiscal charges which are inconsistent with paragraph 1 of this Article, and shall not vary an existing fiscal charge in such a way as to increase, above the level in force on the date by reference to which the basic duty is determined in accordance with paragraph 3 of Article 3, any effective protective element in the fiscal charge, that is to say, the extent to which that charge is inconsistent with paragraph 1 of this Article.

3. (*a*) In the case of any internal tax or other internal charge, Member States shall eliminate any effective protective element on or before 1st January, 1962.

(*b*) In the case of any revenue duty, Member States shall either

(i) progressively eliminate any effective protective element in the duty by successive reductions corresponding to those prescribed for import duties in Article 3, or

(ii) eliminate any effective protective element in the duty on or before 1st January, 1965.

(*c*) Each Member State shall, on or before 1st July, 1960, notify to the Council any duty to which it will apply the provisions of sub-paragraph (*b*) (ii) of this paragraph.

4. Each Member State shall notify to the Council all fiscal charges applied by it where the rates of charge, or the conditions governing the imposition or collection of the charge, are not identical in relation to the imported goods and to the like domestic goods, as soon as the Member State applying the charge considers that the charge is, or has been made, consistent with sub-paragraph (*a*) of paragraph 1 of this Article. Each Member State shall, at the request of any other Member State, supply information about the application of paragraphs 1, 2 and 3 of this Article.

5. Each Member State shall notify to the Council the revenue duties to which it intends to apply the provisions of this Article.

6. For the purposes of this Article:

(*a*) "fiscal charges" means revenue duties, internal taxes and other internal charges on goods;

(*b*) "revenue duties" means customs duties and other similar charges applied primarily for the purpose of raising revenue;

(*c*) "imported goods" means goods which are accepted as being eligible for Area tariff treatment in accordance with the provisions of Article 4.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

Section 2 of the European Free Trade Association Act 1960 provides, that in such circumstances as may be prescribed by Regulations made by the Board of Trade, goods of Convention area origin may be treated as not eligible for a Convention rate of duty on importation into the United Kingdom if drawback or equivalent relief was allowable in connection with their exportation from another EFTA country. These Regulations prescribe that, subject to the exceptions referred to in regulation 3, goods may be treated as not eligible for a Convention rate of duty on importation into the United Kingdom if drawback or equivalent relief was claimed in connection with their exportation from the EFTA country in which they underwent the last operation or process of production or manufacture. Regulation 2 specifies the circumstances in which the Commissioners may recover duty on goods if they have benefited from a Convention rate of duty on importation into the United Kingdom and drawback is subsequently allowed in another EFTA country in relation to materials used in the production of the goods.