STATUTORY INSTRUMENTS

1976 No. 838

CUSTOMS AND EXCISE

The Import Duties (Outward Processing Relief) Regulations 1976

Made - - - -	*27th May* 1976
Laid before Parliament	*7th June* 1976
Coming into Operation	*28th June* 1976

The Secretary of State, in exercise of the powers conferred on him by section 5(6) of the European Communities Act 1972(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 Import Duties (Outward Processing Relief) Regulations 1976 and shall come into operation on 28th June 1976.

(2) In these Regulations "compensating products" means goods produced or manufactured by one or more of the following operations—

(*a*) working of goods, including fitting or assembling them or adjusting them to other goods;

(*b*) processing of goods;

(*c*) repair of goods, including restoring them to their original condition and putting them in order.

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

"authorisation" means a general or special authorisation granted by the competent authorities authorising compensating products to be relieved wholly or partly of duties payable on their importation into a member State;

"Commissioners" means the Commissioners of Customs and Excise;

"Community" means the European Economic Community;

"competent authorities" means the Commissioners in the case of goods exported from the United Kingdom or the customs authorities of another member State in the case of goods exported from that member State;

"country" includes territory, and references to a country include references to any area consisting of two or more countries;

(a) 1972 c. 68.

"intermediate products" means goods produced or manufactured after goods have undergone outward processing but not to the extent provided for in the authorisation;

"member state" includes any country within the customs territory of the Community(a);

"outside the Community" means outside the Customs territory of the Community.

(4) References in these Regulations to goods being held under inward processing arrangements are references to goods in respect of which an application has been made to the competent authorities for relief from customs duties or charges having equivalent effect in accordance with the provisions of Council Directive 69/73 (EEC)(b) (relating to inward processing) and relief has not been refused.

(5) The Interpretation Act 1889(c) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament and as if these Regulations were an Act of Parliament.

2.—(1) Subject to paragraph (2), for the purposes of these Regulations goods shall be treated as having undergone outward processing, if they have previously been temporarily exported from the United Kingdom or another member State to a country outside the Community with a view to the importation of the goods in question into the United Kingdom or another member State in the form of compensating products wholly or partly free of duties payable on the import of the compensating products, and they have undergone outside the Community one or more of the operations specified in Regulation 1(2).

(2) These Regulations shall apply only if the goods in question, when temporarily exported,

(i) satisfied the conditions in Articles 9(2) and 10(1) of the EEC Treaty without this temporary exportation having given, or giving, rise to any remission or repayment of customs duties or charges having equivalent effect or any payment of Community export refunds; or

(ii) were held under inward processing arrangements.

Authorisation of Relief

3.—(1) In the case of goods to be exported from the United Kingdom with a view to undergoing outward processing, any person established in the territory of a member State who is to have the processing carried out may make a written application for an authorisation.

(2) The application shall be made to the Commissioners before exportation and 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.

(3) Subject to paragraph (4), 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 duties, and in particular there shall be specified in the authorisation—

(*a*) the rates of yield namely the quantity of compensating products to be produced from a given quantity of the exported goods;

(a) See Regulation (EEC) 1496/68 (O.J. No. L238, 28.9.68, p. 1), 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).

(b) O.J. No. L58, 8.3.1969, p. 1. (c) 1889 c. 63.

(*b*) the arrangements for identifying the exported goods in the compensating products to be imported;

(*c*) the time limit for the importation of the compensating products.

(4) The Commissioners shall not grant the authorisation unless they are satisfied that to do so would not be likely to cause serious damage to the essential interests of processors of goods within the Community and unless they have consulted as regards that matter with the Secretary of State, except as may be agreed between the Commissioners and the Secretary of State.

Relief from Import Duty

4.—(1) Where there are imported into the United Kingdom any goods which have undergone outward processing in accordance with an authorisation granted by the competent authorities, then subject to—

(i) the provisions of these Regulations

(ii) compliance with the conditions specified in the authorisation

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

(iv) the Commissioners being satisfied that they can identify the exported goods in the compensating products,

any import duty which apart from these Regulations would be chargeable on their importation into the United Kingdom including duties chargeable by virtue of section 5(1) and (2) of the European Communities Act 1972 shall be reduced by the amount specified in Regulation 5 or, if equal to or less than that amount, shall not be charged.

(2) The Commissioners shall have power in the case of goods imported into the United Kingdom to vary any condition specified in any authorisation given by the competent authorities when such a variation is necessary to ensure that the goods shall qualify for relief under these Regulations and they are satisfied that there are special reasons why the condition should be varied.

(3) The Commissioners shall in particular have power in the case of goods exported from, or imported into, the United Kingdom

(*a*) to extend the time limit specified for the importation of the compensating products in any authorisation given by the competent authorities; and

(*b*) to allow the compensating products referred to in such an authorisation to be imported in several consignments.

(4) The Commissioners shall have power to remit or repay, in accordance with the provisions of these Regulations, the whole or part of any import duty which would be chargeable as mentioned in paragraph (1), where the goods have been temporarily exported with a view to undergoing outward processing and they are imported into the United Kingdom still in the same state as they were in when exported or in the form of intermediate products and the goods would have qualified for relief if they had been imported in the form of compensating products.

(5) Goods shall qualify for relief under this Regulation only if they are imported by the person to whom the authorisation has been granted or by another person with his written consent and on production of that consent.

5.—(1) Subject to the following provisions of this Regulation, the amount referred to in Regulation 4(1) is the amount of the import duty that would be chargeable on the importation of goods in the same state and in the same quantity as the goods were in when temporarily exported.

(2) For the purposes of paragraph (1) above, the amount of the import duty that would be chargeable shall be calculated on the basis of the value and at the rate, if any, applicable at the date of first entry of the imported goods after temporary exportation.

(3) For the purposes of this Regulation where the temporarily exported goods could, if imported into the United Kingdom, have been classified in a particular tariff subheading by virtue of a specified end use, then the amount of the import duty that would be chargeable shall be calculated at the rate applicable to goods of that subheading, in so far as the temporarily exported goods were so used in the country where the outward processing took place.

(4) Where the imported goods qualify for any preferential rate of import duty, the amount of the import 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.

Miscellaneous

6. Where goods held under inward processing arrangements at the time of exportation undergo outward processing and are on or after importation into the United Kingdom entered for home use within the meaning of section 28 of the Customs and Excise Act 1952**(a)** or Regulation 8 of the Warehousing Regulations 1975**(b)** then, unless the Commissioners are satisfied that any relief from customs duties or charges having equivalent effect under those inward processing arrangements has been forgone, the goods shall not qualify for relief from import duty under these Regulations.

7.—(1) Subject to paragraph (2) below, if goods after being temporarily exported from the United Kingdom or another member State have undergone outward processing, in accordance with an authorisation granted by the competent authorities, consisting only of 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, and no charge is made in respect of such repair, no import duty shall be charged on the goods on their importation into the United Kingdom 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 goods were imported into the United Kingdom or another member State and entered for home use before undergoing outward processing 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.

8. So long as import duty is chargeable on compensating products imported from other member States these Regulations shall have effect subject to the transitional provisions contained in Schedule 1 hereto.

(a) 1952 c. 44. **(b)** S.I. 1975/1789 (1975 III, p. 6764).

9. Part II of the Import Duties Act 1958 **(a)** shall be amended as specified in Schedule 2 hereto.

10. Section 8 of the Import Duties Act 1958 is hereby repealed:

Provided that where there are imported into the United Kingdom on or after 28th June 1976 and before 1st July 1977 any goods which

(*a*) have been exported from the United Kingdom before 28th June 1976, or

(*b*) have been exported from the United Kingdom on or after that date and have undergone outside the United Kingdom a process consisting only of repair or restoration to good condition which the Commissioners are satisfied became necessary as a result of circumstances which both arose outside the United Kingdom and were unforeseen when the goods were exported from the United Kingdom,

then in relation to those goods this repeal shall not affect the operation of section 8 or of any Order made under subsection (5) thereof and in force immediately before 28th June 1976.

Michael Meacher,
Parliamentary Under-Secretary of State,
Department of Trade

27th May 1976.

Regulation 8

SCHEDULE 1

Transitional Provisions

1. After Regulation 2(1) there shall be inserted—

"(1A) Subject to paragraph (2), for the purposes of these Regulations goods shall also be treated as having undergone outward processing, if they have previously been temporarily exported from the United Kingdom, Denmark or the Republic of Ireland to another member State with a view to the importation of the goods in question into the United Kingdom in the form of compensating products, wholly or partly free of import duties, and they have undergone outside the United Kingdom one or more of the operations specified in Regulation 1(2)."

2. Regulations 4(1) and 5(1) shall have effect as if the amount of duty deductible referred to in Regulation 4(1) in respect of goods which have been temporarily exported from a member State other than the United Kingdom with a view to undergoing outward processing were reduced by a sum equal to the amount of import duty, if any, which would be chargeable on the importation of the temporarily exported goods, if they had been imported directly into the United Kingdom from the member State in question.

(a) 1958 c. 6.

Regulation 9

SCHEDULE 2

AMENDMENTS TO PART II OF THE IMPORT DUTIES ACT 1958

In section 5(4) as amended by paragraph 1 of Schedule 4 to the European Communities Act 1972 after the words "this section" and in section 10 after the words "this Act" wherever they occur, there shall be inserted the words "or section 5(6) of the European Communities Act 1972".

EXPLANATORY NOTE

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

These Regulations, which come into operation on 28th June 1976, provide for relief from import duty otherwise chargeable on importation into the United Kingdom of compensating products (as defined in Regulation 1) produced or manufactured overseas by outward processing (as defined in Regulation 2) of goods temporarily exported from the United Kingdom or any other member State of the Community. They implement in respect of import duties EEC Directive 76/119 and Articles 22 and 23 of EEC Directive 69/73.

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 undergoing outward processing and sets out the conditions to be specified in the authorisation. It also requires the Commissioners to have regard to the interests of Community processors before deciding whether to grant an authorisation, in consultation with the Secretary of State for Trade, except as may be agreed between the Commissioners and the Secretary of State.

Regulation 4 provides for relief to be granted from import duty otherwise chargeable on importation of the compensating products into the United Kingdom, subject to compliance with the conditions specified in the authorisation. It also empowers the Commissioners to relax those conditions in certain circumstances.

Regulation 5 specifies how the amount of relief is to be calculated.

Regulation 6 provides that where the temporarily exported goods had qualified for inward processing relief in the member State from which they were exported, that relief must be forgone if the compensating products are to qualify for outward processing relief on entry for home use.

Regulation 7 provides that where the outward processing consists only of repair free of charge under a guarantee or similar arrangement, import duty on the repaired goods imported into the UK is waived, provided that on their first import into the Community the defective state of goods was not taken into account in assessing the duty then charged.

Regulation 8 and Schedule 1 make certain transitional provisions which have effect only for so long as import duty is chargeable on compensating products imported from other member States.

Regulations 9 and 10 provide for consequential amendments to sections 5 and 10 of the Import Duties Act 1958 and for repeal of section 8. The latter repeal does not affect certain goods imported into the UK on or after the operative date of these Regulations and before 1st July 1977.

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