COMMISSION REGULATION (EEC) No 1574/80

of 20 June 1980

laying down provisions for the implementation of Articles 16 and 17 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, save in special circumstances, Regulation (EEC) No 1430/79 makes repayment or remission of import or export duties conditional on submission of an application to the competent authorities; whereas the first paragraph of Article 16 of that Regulation provides that applications must be submitted to the customs office where the import or export duties were entered in the accounts, unless the competent authorities designate another office for that purpose;

Whereas the second paragraph of Article 16 of Regulation (EEC) No 1430/79 provides that applications for repayment or remission of duties must be accompanied by all the evidence in the applicant's possession so that the competent authorities may decide on the application; whereas the particulars that must be contained in such applications and the documents to be attached to them should therefore be specified;

Whereas an applicant may be unable to supply certain information or some of the requisite documents when submitting an application for repayment of remission of duties; whereas the conditions should be laid down under which such incomplete applications may nevertheless be accepted by the competent authorities provided they are dealt with by them only if completed within such time limit as they determine;

Whereas it is necessary to lay down the procedure to be followed by the competent authorities when examining applications for repayment or remission of duties, particularly where the goods giving rise to entry in the accounts of duties whose repayment or remission is requested are within the jurisdiction of a customs office other than the office responsible for taking the decision on the application;

Whereas, under Regulation (EEC) No 1430/79, repayment or remission of duties is subject in the majority of cases to re-exportation or destruction of the goods or to a use having the same economic consequences; whereas it is essential to ensure that those conditions are in fact satisfied before giving effect to the decision authorizing repayment or remission;

Whereas, in view of the unity of the customs territory of the Community, the recipient of a decision to repay or remit duties must be permitted to complete the customs formalities for exportation, destruction or any other use of the goods required as a condition of implementation of the decision in a customs office of his choice, on condition that the latter is empowered to carry out the transaction requested; whereas it is important, however, that a time limit be laid down for completing such customs formalities in order that any risk of abuse may be averted;

Whereas Article 17 of Regulation (EEC) No 1430/79 provides that where the goods are situated in a Member State other than that in which the import or export duties relating thereto were entered in the accounts, the customs office to which the application for repayment or remission of the duties is to be submitted and the conditions under which the Member States concerned are to assist each other in dealing with such an application must be specified in accordance with the procedure referred to in Article 25 (2) of that Regulation;

Whereas, for reasons of efficiency, provision should be made that the customs office to which, in cases of this nature, the application for repayment or remission of duties must be submitted, shall be that where the duties were entered in the accounts or another customs office designated for the purpose by the competent authorities of the Member State in which the office where the duties were entered in the accounts is situated; whereas the application must be examined and any favourable decision to which it gives rise must be implemented in accordance with the principles applied where the goods are situated in the same Member State as the customs office to which the application for repayment or remission has been submitted; whereas steps should however be taken to provide the administrative assistance necessary to enable the authority responsible for deciding on the application to establish that the conditions required for repayment or remission of duties have been fulfilled and that those required for implementation of the decision to repay or remit have been observed;

Whereas, in accordance with Article 10 (1) of the Treaty, products imported from a third country which, after any customs duties or charges having equivalent effect which are payable in respect thereof have been levied, benefit from a total or partial drawback of such duties or charges, cease to be in free circulation; whereas, in the

[1] OJ No L 175, 12. 7. 1979, p. 1.

interests of legal clarity, and in particular to ensure the correct implementation of Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit [1], the precise moment should be determined at which this situation obtains where repayment or remission of duties is conditional on the goods being re-exported outside the Community, destroyed or placed under some other customs procedure;

Whereas, in order to avoid any risk of fraud in this connection, that moment should be defined as that when the customs formalities required for re-exporting the goods or placing them under the prescribed customs procedure are completed;

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 Articles 16 and 17 of Regulation (EEC) No 1430/79, hereinafter referred to as the 'basic Regulation'.

2. For the purposes of this Regulation:

(a) 'duties' means import duties and export duties as defined in Article 1 (2) (a) and (b) of the basic Regulation;

(b) 'customs office' means any office responsible for implementing this Regulation, even where such office does not form part of the customs administration;

(c) 'office of entry in the accounts' means the customs office where the duties whose repayment or remission is requested were entered in the accounts;

(d) '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;

(e) 'control authority' means the customs office within whose jurisdiction the goods in respect of which repayment or remission of the duties entered in the accounts is requested are situated, and which carries out certain checks required for appraisal of the application;

(f) 'implementing authority' means the customs office which adopts the measures necessary to ensure that the decision to repay or remit the duties is correctly implemented.

3. The functions of the office of entry in the accounts, decision-making authority, control authority and implementing authority may be carried out either wholly or in part by the same customs office.

TITLE I

Provisions concerning applications for repayment or remission of duties

Article 2

1. Without prejudice to Article 4 (1), applications for repayment or remission of duties shall be submitted in writing and, save where one or more of the particulars is deemed unnecessary by the decision-making authority for the purposes of taking a decision on the application, shall contain the following information:

(a) the applicant's name and address;

(b) the office of entry in the accounts;

(c) particulars of the document used for the purpose of entering in the accounts the duties in respect of which repayment or remission is requested;

(d) a description of the goods (quantity, nature, value);

(e) the exact location of the goods;

(f) where the goods are within the jurisdiction of a customs office other than the office of entry in the accounts, the name and address of that customs office (control authority);

(g) the amount of the duties whose repayment or remission is requested;

(h) the specific grounds for repayment or remission;

(i) except in cases covered by Article 2 of the basic Regulation, particulars of the use to which the applicant wishes to put the goods in question or of their intended destination, with reference to the possibilities permitted in particular cases by the basic Regulation (re-exportation outside the Community, entry under another customs regime, destruction or delivery to a charity);

(j) where the applicant seeks application of Article 10 (1) (g) of the basic Regulation, the name and address of the charity to which the goods are to be delivered;

(k) where the applicant is not himself the person who has paid or is liable for the duties in respect of which repayment or remission is requested, the capacity in which he has made the application;

(l) where the application refers to Article 7 or 12 of the basic Regulation, the quantity, nature and value of the material that it is intended should remain in the Community.

[1] OJ No L 38, 9. 2. 1977, p. 1.

The application shall also state, where appropriate, that the applicant requests application of the second subparagraph of Article 6 (2) or the second subparagraph of Article 11 (3) of the basic Regulation.

2. Member States may provide that the information referred to in paragraph 1 (g) may be dispensed with.

3. Member States may stipulate that applications for repayment or remission of duties be made on a particular form.

They may also establish a simplified procedure for making applications for remission or repayment in cases referred to in Article 10 (1) (a) of the basic Regulation.

Article 3

1. Applications for repayment or remission of duties shall be accompanied by all the documents necessary to enable the decision-making authority to decide on the application.

2. Without prejudice to any specific provisions adopted in this connection under the common agricultural policy, where an application relates to goods in respect of which an import or export licence or advance fixing certificate has been produced upon the lodging of the relevant customs declaration, such application must also be accompanied by a voucher issued by the authorities responsible for issuing such licence or certificate certifying that the necessary steps have been taken to cancel the effects of the said licence or certificate, in so far as this is necessary.

Such vouchers shall not be required however:

— where the authority to whom the application is submitted itself issued the licence or certificate in question,

— where the ground relied upon in support of the application is a substantive error that has no effect on the attribution of the licence or certificate in question.

Article 4

1. The customs office to which an application for repayment or remission of duties is submitted may accept an application not containing all the information deemed necessary under Article 2 or not supported by all the documents which may be required under Article 3. However, except in the case provided for in the second subparagraph of Article 2 (3), an application may not be accepted unless it contains at least the information specified in points (a), (b), (c), (h) and (k) of Article 2 (1).

2. Where paragraph 1 is applied, the competent authorities shall fix a time limit for the submission of any missing particulars and/or documents, which, where necessary, may expire after the time limit for submission of the application laid down in the basic Regulation for the particular case in question.

3. Where the time limit laid down by the competent authorities pursuant to paragraph 2 is not observed, the application shall be deemed to have been withdrawn.

The applicant shall be informed of this immediately.

Article 5

Until such time as a decision has been taken on the application, goods in respect of which repayment or remission of duties has been requested may not be transferred to a location other than that specified in Article 2 (1) (e) unless the applicant has notified in advance the customs office to which the application was submitted; it shall be for the latter to inform the decision-making authority thereof, if it has not itself been designated as this authority.

Article 6

Where an application for repayment or remission of duty relates to a case where supplementary information must be obtained or where the goods must be examined in order to ensure that the conditions to qualify for repayment or remission laid down in the basic Regulation are satisfied, the decision-making authority shall adopt the measures necessary to that end, if necessary by submitting to the control authority an application specifying the nature of the information to be obtained or of the examinations to be carried out.

The control authority shall give effect at the earliest opportunity to the request by the decision-making authority and submit to it the information obtained and the results of the examinations carried out.

Article 7

1. When the decision-making authority possesses all the necessary information, it shall give its decision on the application at the earliest opportunity and notify the applicant in writing of that decision.

2. Where the application is approved, the decision shall include all the particulars necessary for its implementation.

Depending on the circumstances, all or part of the following information shall appear in the decision:

(a) the information necessary for identifying the goods to which it applies;

(b) the grounds for repayment or remission of the duty and a reference to the corresponding article of the basic Regulation;

(c) the use to which the goods may be put or the destination to which they may be sent depending on the possibilities available in the particular case under the basic Regulation (re-exportation outside the Community, entry under another customs regime, destruction or delivery to a charity);

(d) where appropriate, a statement to the effect that the goods may be placed in a customs warehouse or free zone in accordance with Article 21 (1) of the basic Regulation;

(e) the date by which the formalities to which repayment or remission of the duties is subject must be completed, which may not be later than two months from the date of notification of the decision to the recipient;

(f) a statement indicating that repayment or remission of the duties is conditional upon receipt by the decision-making authority of a declaration from the implementing authority certifying that the formalities on which repayment or remission is conditional have been completed;

(g) particulars of any conditions to which the goods remain subject pending implementation of the decision;

(h) a notice informing the recipient that he must deliver the original decision to the implementing authority, to be selected by him, when presenting the goods.

Article 8

1. The implementing authority shall take steps to ensure:

— where appropriate, that the requirements referred to in Article 7 (2) (g) are met,

— that the goods are in all cases actually used in the manner or sent to the destination specified in the decision concerning repayment or remission of duties.

2. Where the decision specifies that the goods may be placed in a customs warehouse or a free zone, and the recipient avails himself of this opportunity, the necessary formalities must be completed with the implementing authority.

3. Where the decision granting repayment or remission of duties specifies a use to which the goods are to be put or a destination to which they are to be sent which can only be established in a Member State other than that in which the implementing authority is located, proof of compliance therewith shall be furnished by providing a Control Copy T No 5 issued and used in accordance with Commission Regulation (EEC) No 223/77 of 22 December 1976 on provisions for the implementation of the Community transit procedure and for certain simplifications of that procedure (1), and with the provisions of this Article.

In the Control Copy T No 5, the section entitled 'Additional information' shall be completed as follows:

(a) Box 101 shall contain the Common Customs Tariff heading No or subheading of the goods dispatched;

(b) Box 103 shall indicate the quantity or net mass of the goods in words;

(c) Box 104 shall be completed either by deleting the word 'other' in the second indent or by deleting the words 'leaving the geographical territory of the Community' in the first indent and adding one of the following as a second indent:

— delivery free of charge to the following charity . . . . .,

— destruction under customs supervision,

— entry under the following customs regime . . . and the words '(Regulation (EEC) No 1574/80)';

(d) Box 106 shall contain a reference to the decision granting repayment or remission of duties.

4. The competent customs office which establishes or takes responsibility for causing it to be established that the goods have in fact been used for the purpose specified or have arrived at the prescribed destination shall complete the box entitled 'Control as to use and/or destination' by adding to the indent 'left the geographical territory of the Community on . . .' the date on which the goods were exported, or by adding to the indent 'have been dealt with as indicated overleaf . . .' the relevant date.

5. When the implementing authority has satisfied itself that the conditions referred to in paragraph 1 are fulfilled, it shall send a certificate to that effect to the decision-making authority.

Article 9

Where the decision-making authority has approved an application for repayment or remission of duties, it shall repay or remit such duty only after receiving the certificate referred to in Article 8 (5).

Failure to observe the time limit laid down in the decision for completion of the formalities to which repayment or remission of duty is subject shall result in loss of entitlement to repayment or remission save where the recipient of the decision furnishes evidence that he was prevented from observing the time limit as a result of unavoidable accident or *force majeure*.

TITLE II

Provisions concerning cooperation between the competent authorities of Member States

Article 10

The provisions of this Title shall apply where goods in respect of which an application for repayment or

(1) OJ No L 38, 9. 2. 1977, p. 20.

remission of duties is submitted are situated in a Member State other than that in which the said duties were entered in the accounts.

CHAPTER I

Repayment or remission of import duties

Article 11

Applications for repayment or remission of import duties shall be submitted to the office of entry in the accounts, or to another office designated for that purpose by the competent authorities of the Member State in which the office of entry in the accounts is situated. Where such office has not also been designated as the decision-making authority it shall, after accepting the application, and in accordance, where appropriate, with Article 4 (1), forward it immediately to the said authority.

Article 12

In the cases referred to in the first paragraph of Article 6, the decision-making authority shall submit to the control authority two copies of its request in writing, in conformity with the specimen form in Annex I. The request shall be accompanied by originals or copies of the application for repayment or remission and of all documents necessary to enable the control authority to obtain the information or carry out the examinations requested.

Article 13

1. The control authority shall, within two weeks of the date of receipt of the request, obtain the information or carry out the examinations requested by the decision-making authority. It shall enter any results obtained in the portion of the original copy of the document referred to in Article 12 reserved for that purpose and shall return the said form to the decision-making authority together with all the documents forwarded to it.

2. Where the control authority is unable to obtain the information or carry out the examinations requested within the two-week period referred to in paragraph 1, it shall acknowledge receipt of the request submitted to it within that period by returning to the decision-making authority a duly annotated copy of the document referred to in Article 12.

Article 14

The implementing authority shall send the certificate referred to in Article 8 (5) to the decision-making authority on a form conforming to the specimen in Annex II.

Article 15

Where the destruction of the goods as authorized by the decision-making authority produces waste or scrap liable to import duty and not covered by a declaration of exportation outside the Community or of transfer to a customs warehouse or free zone, the implementing authority shall see that such duty is collected.

Where, however, destruction has been authorized in advance in accordance with the second subparagraph of Article 6 (2) or the second subparagraph of Article 11 (3) of the basic Regulation, the implementing authority may require that a security be given for such duty until the decision-making authority takes a final decision on the application. Such duty shall be levied only if the decision-making authority decides in favour of the application.

CHAPTER II

Repayment or remission of export duties

Article 16

Articles 11, 12, 13 and 14 of this Regulation shall apply *mutatis mutandis* to the repayment or remission of export duties.

TITLE III

Final provisions

Article 17

1. Where repayment or remission of import duties is conditional on the goods being re-exported outside the Community, placed in a customs warehouse or free zone or entered for any customs regime other than free circulation, the goods shall, for the purposes of Article 1 (2) of Council Regulation (EEC) No 222/77, be regarded as no longer satisfying the conditions laid down in Article 10 (1) of the Treaty from the time when the relevant customs formalities have been completed.

2. Paragraph 1 shall apply *mutatis mutandis,* from the moment of destruction, to dutiable waste and scrap

produced by the destruction of goods whose destruction is a precondition for the repayment or remission of import duty.

Article 18

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

ANNEX I

REPAYMENT OR REMISSION OF DUTIES – REQUEST FOR EXAMINATION

(application of Article 12 of Commission Regulation (EEC) No 1574/80)

(recto)

1. Name and full address of decision-making authority	4. Name and full address of person from whom the information requested may be obtained or who may assist the control authority
2. File reference of decision-making authority	5. Exact location of goods (1)
3. Name and full address of control authority	

6. Purpose of request:

— that the following information be obtained

— that the following examinations be carried out

7. Place and date	
8. Signature and official stamp	9. List of documents attached

(1) Complete only where applicable.

REPLY OF CONTROL AUTHORITY (1)

ACKNOWLEDGEMENT OF RECEIPT (1)

(verso)

Information obtained

Result of examinations carried out

12. Place and date	13. Signature and official stamp

(1) Delete as appropriate.
The control authority shall give an acknowledgement of receipt only if it is unable to give effect to the request within two weeks of the date of receipt thereof. Acknowledgement of receipt shall be made on a copy of this document.

ANNEX II

CERTIFICATE FOR REPAYMENT OR REMISSION OF DUTY

(application of Article 14 of Commission Regulation (EEC) No 1574/80)

(recto)

1. Name and full address of implementing authority

2. Reference to decision granting repayment or remission

3. Name and full address of person to whom decision is addressed

4. Full description of goods	5. Quantity or net mass

6. This is to certify that in accordance with the decision referred to in Box 2, the goods described above were, on ..... (date)

☐ exported from the Community

☐ placed in a customs warehouse

☐ delivered free of charge to the charity named in the decision

☐ destroyed under customs supervision

☐ placed in a free zone

☐ entered under the customs procedure specified in the decision

Customs document reference, if any .....

On the date hereunder the goods fulfilled the conditions laid down for repayment or remission of duty (1)

..... (Place)

..... (Date)

Signature and stamp of implementing authority

(1) Where the implementing authority finds that the goods no longer satisfy those conditions it shall delete this sentence and record its findings overleaf under the heading 'Observations'.

OBSERVATIONS

(verso)