

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 131 final

Brussels, 19 March 1982

Proposal for a  
COUNCIL REGULATION (EEC)  
amending Regulation (EEC) No 1430/79 on the repayment or remission  
of import or export duties

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(submitted to the Council by the Commission)

COM(82) 131 final



Explanatory Memorandum

Council Regulation (EEC) No. 1430/79 of 2 July 1979<sup>1</sup> lays down the conditions under which the competent authorities may grant the repayment or remission of import or export duties. It entered into force on 1 July 1980.

Experience since that time has shown that provision needs to be made for repayment or remission of duties in certain cases where the procedural requirements laid down by the Council in the Regulation have not been observed. Article 13 of the Regulation provides that import duties may be repaid or remitted in situations other than those covered by the other Articles of the Regulation where special circumstances are involved in which no negligence or deception may be attributed to the person concerned<sup>2</sup>. As now worded, the Article does not, however, allow repayment or remission to be granted where the procedural requirements laid down by the Council have not been fully observed.

The harmonization which has been achieved by Regulation No. 1430/79 must not, of course, be jeopardized. It would not be advisable to vest the discretion to repay or remit duties in cases of failure to observe a procedural requirement (a typical case being non-compliance with the requirement for re-exportation of the goods to be carried out under official supervision in the Member States, because in that case the discretion would probably not be exercised in the same way in all the Member States and this would give rise to differences in treatment between traders in the Community.

The only way of ensuring that the more flexible rules applicable in cases of failure to observe procedural requirements laid down by Regulation No. 1430/79 are applied in the uniform manner desired is to amend Article 13 so that the Commission deals with all such cases on an equal footing.

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<sup>1</sup> OJ No. L 175, 12.7.1979, p. 1

<sup>2</sup> The procedure to be followed in such cases is laid down in Regulation (EEC) No. 1575/80 of 20 June 1980 (OJ No. L 161, 26.6.1980, p. 13).

The second part of the proposal extends the discretion given to Member States by the second paragraph of Article 20 of Regulation No. 1430/79, regarding the repayment or remission of sums of less than 10 ECU, to any application involving such small amounts.

The proposal is based on Articles 43 and 235 of the EEC Treaty and therefore requires the opinion of Parliament. In view of the urgency and limited scope of the proposal, there would appear to be no need to seek the opinion of the Economic and Social Committee.

Proposal  
for a Council Regulation  
amending Regulation (EEC) No 1430/79  
on the repayment or remission of import or export  
duties

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Articles 43 and 235 thereof,

Having regard to the proposal from the Commission,<sup>1</sup>

Having regard to the opinion of the European Parliament,<sup>2</sup>

Whereas the experience acquired since the entry into force of Council  
Regulation (EEC) No 1430/79<sup>3</sup> has shown that there may be justification  
for granting the repayment or remission of import duties even in certain  
cases where a procedural requirement laid down by the said Regulation has  
not been observed ;

Whereas Regulation (EEC) No 1430/79 does not at present provide for the  
repayment or remission of duties in such cases; whereas the said  
Regulation should therefore be amended to include such provision ;

Whereas, to ensure that this provision is applied in a uniform manner  
throughout the Community, it should be subject to the Community procedure  
laid down in Article 13 of the Regulation ;

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<sup>1</sup> OJ

<sup>2</sup> OJ

<sup>3</sup> OJ No. L 175, 12.7.1979, p. 1

Whereas, moreover, the discretion given to the Member States by the second paragraph of Article 20 of Regulation (EEC) No 1430/79 regarding the repayment or remission of sums of less than 10 ECU should be extended to any application involving such an amount,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No. 1430/79 is hereby amended as follows :

1. The title of Section E of Title I is replaced by the following :

"E. Special Cases"

2. Article 13 is replaced by the following :

"1. Import duties may be repaid or remitted in situations other than those referred to in Sections A to D which result from special circumstances in which no negligence or deception may be attributed to the person concerned.

2. Import duties may also be repaid or remitted in cases where repayment or remission could not be granted under Sections B to D because of the failure of the person concerned to comply with procedural requirements, provided that it has been established to the satisfaction of the competent authorities that the other conditions required for repayment or remission have been met and that the circumstances are such that no negligence or deception may be attributed to the person concerned.

3. The cases in which paragraphs 1 and 2 may apply, and the detailed procedure to be followed for this purpose, shall be determined in accordance with the procedure laid down in Article 25. The repayment or remission may be made subject to special conditions."

.../...

3. The second paragraph of Article 20 is replaced by the following :  
"However, the Member States may grant applications for repayment or remission involving a smaller amount."

Article 2

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Communities. It shall apply to requests for repayment or remission of import or export duties entered in the accounts on or after the date of its entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council,

