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REPORT

drawn up on behalf of the Committee on External Economic Relations

on the proposal from the Commission of the European Communities to the Council for a regulation amending for the third time Regulation (EEC) No. 1430/79 on the repayment or remission of import or export duties (Doc. 2-1542/84 - COM(84) 737 final)

Rapporteur: Dame Shelagh ROBERTS

WG(2) 1819E

PE 97.532/fin.

By letter of 24 January 1985, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Articles 43 and 235 of the Treaty establishing the EEC, on the proposal from the Commission of the European Communities to the Council for a regulation amending for the third time Regulation (EEC) No. 1430/79 on the repayment or remission of import or export duties.

On 11 February 1985 the President of the European Parliament referred this proposal to the Committee on External Economic Relations as the committee responsible and to the Committee on Budgets for an opinion.

At its meeting of 26 April 1985 the Committee on External Economic Relations appointed Dame Shelagh Roberts rapporteur.

The committee considered the Commission's proposal and the draft report at its meeting of 21 May 1985.

At that meeting the committee decided unanimously to recommend to Parliament that it approve the Commission's proposal without amendment.

The committee then adopted unanimously the motion for a resolution as a whole.

The following took part in the vote: Dame Shelagh ROBERTS (chairman and rapporteur); Mr HINDLEY, vice-chairman; Mr COSTANZO, Mr FORD, Mr HITZIGRATH, Mr KILBY, Mr NORDMANN (deputizing for Mr DE WINTER), Mr SEELER, Mrs WIECZOREK-ZEUL, Mr ZAHORKA and Mr ZARGES.

The opinion of the Committee on Budgets is attached.

The report was tabled on 23 May 1985.

The deadline for the tabling of amendments to this report appears in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	6
Opinion of the Committee on Budgets	8

The Committee on External Economic Relations hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation amending for the third time Regulation (EEC) No. 1430/79 on the repayment or remission of import or export duties

The European Parliament,

- having regard to the proposal from the Commission to the Council¹,
 - having been consulted by the Council pursuant to Articles 43 and 235 of the Treaty establishing the EEC (Doc. 2-1542/84),
 - having regard to the report of the Committee on External Economic Relations and the opinion of the Committee on Budgets (Doc. A2-43/85),
 - having regard to the result of the vote on the Commission's proposal,
- A. whereas it is necessary to amend and supplement the provisions of Community law currently in force,
 - B. bearing in mind that this matter has been partially resolved by Council Regulation (EEC) No. 1430/79 of 2 July 1979², as amended by Council Regulation (EEC) No. 1672/82³ and by Council Regulation (EEC) No. 2176/84 of 23 July 1984⁴,
 - C. noting that in due course, this regulation will entail adjustments to Regulation (EEC) No. 1430/79 involving the insertion of an Article 4a, an Article 6a, an Article 11a and the amendment of Articles 10 and 13,
1. Approves the Commission proposal;
 2. Hopes sincerely that the transfer of Commission powers to the Member States will not affect own resources;
 3. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

¹ OJ No. C 22, 24.1.1985, p. 10

² OJ No. L 175, 12.7.1979, p. 1

³ OJ No. L 186, 30.6.1982, p. 1

⁴ OJ No. L 201, 30.7.1984, p. 1

EXPLANATORY STATEMENT

Regulation (EEC) No. 1430/79 of 2 July 1979¹, as amended by Regulation (EEC) No. 1672/82², lays down the conditions under which the competent authorities grant the repayment or remission of import or export duties. It entered into force on 1 July 1980.

In accordance with Regulation (EEC) No. 1430/79, import duties in certain cases are repaid or remitted on condition that the goods are re-exported out of the customs territory of the Community or destroyed, under the supervision of the competent authorities.

Experience has demonstrated that there is no reason why responsibility for taking a decision on such applications for repayment or remission under Article 13(2) of the Regulation cannot be given to the Member States themselves (instead of to the Commission, which alone is authorized to take such a decision), provided it is established that although the procedural requirements have not been observed, the substantive conditions laid down for the granting of repayment or remission have been met and that the circumstances are such that no deception or serious negligence may be attributed to the person concerned.

The most effective way of encouraging the persons concerned to comply with the procedural requirements of Regulation (EEC) No. 1430/79 is to repay or remit import duties to less than the full amount applied for whenever goods are re-exported or destroyed without the competent authorities having been able to supervise the operation. An appropriate proportion to deduct would be 10% of the duties in question, up to a maximum of 1,000 ECU.

Regulation (EEC) No. 1430/79 needs to be adapted accordingly by adding an Article 4a, an Article 6a and an Article 11a and by amending Article 13. A time limit must also be set for the submission of an application for the repayment or remission of import duties under Article 13.

Experience acquired since the entry into force of Regulation (EEC) No. 1430/79 has shown that a further case must be added to Article 10, which lists the cases in which import duties are to be repaid or remitted, where they relate to goods in a special situation, the added case being that of goods which, having been released for free circulation, are found by the competent authorities not to have complied with the rules in force concerning their use or marketing at the time of their release and which therefore cannot be used for the purpose intended by the consignee.

¹ OJ No. L 175, 12.7.1979, p. 1

² OJ No. L 186, 30.6.1982, p. 1

The proposal for a regulation also provides for the Community procedure for adopting the measures implementing Regulation (EEC) No. 1430/79 to be extended to the whole of the Regulation and makes it clear that the rules are to apply without prejudice to Article 16 of Council Regulation (EEC) No. 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community¹. This is because although Regulation (EEC) No. 1430/79 provides for repayment of an anti-dumping duty which erroneously has been collected on goods which were not liable to duty, it is only on the basis of Article 16 of Regulation (EEC) No. 2176/84 that an importer may request the annulment or the reduction of an anti-dumping duty which has been collected on his goods in conformity with the rules in force.

¹ OJ No. L 201, 30.7.1984, p. 1

OPINION OF THE COMMITTEE ON BUDGETS

Letter from the chairman of the committee to Dame Shelagh ROBERTS, chairman of the Committee on External Economic Relations

Strasbourg, 17 April 1985

Subject: Proposal for a regulation amending for the third time Regulation No. 1430/79 on the repayment or remission of import or export duties (Doc. 1542/84 - COM(84) 737 final)

Dear Dame Shelagh,

The Committee on Budgets considered the above proposal at its meeting of 28 March 1985.

The Commission of the European Communities proposes that a new category be added to the list of 'goods in special situations' justifying the repayment or remission of duties, that of goods which, after having been released for free circulation, are found by the competent authorities not to have complied, at the time of their release, with the rules in force concerning their use or marketing and which therefore cannot be used for the purpose intended by the consignee. The Committee on Budgets has noted that this proposal will have only a minor effect on own resources revenue.

Article 13 of Regulation No. 1430/79 gives the Commission of the European Communities the power to decide on applications for the repayment or remission of duties in cases where the persons concerned have failed to comply with all the procedural requirements for repayment or remission. The Commission of the European Communities proposes to transfer these powers to the Member States in cases which are clearly defined in this proposal for a regulation. The Committee on Budgets has no objections to this proposal. It would, however, ask you to ensure that the conditions relating to this transfer of powers do not affect the Community nature of own resources.

Likewise with a view to the efficient collection of own resources, the Committee on Budgets approved the extension of the power to apply the procedure laid down in Article 25 concerning implementing provisions to the whole of the regulation. It recalled in this connection its reservations as to the powers of the management committees which cannot be more than advisory.

Yours sincerely,

(sgd) Jean-Pierre COT

Present: Mr COT, chairman; Sir James Scott-Hopkins, vice-chairman; Mr ARNDT, Mrs BOSERUP, Sir Fred CATHERWOOD, Mrs FUILLET, Mr GATTI (deputizing for Mrs BARBARELLA), Mrs HOFF, Mr LANGES, Mr LOUWES, Mr NORMANTON, Mr PASTY, Mr SCHON and Mr VAN DER WAAL