AN COIMISIÚN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

30TACD2026

Between

[redacted]

Appellant

and

THE REVENUE COMMISSIONERS

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (from here on referred to as the "Commission") pursuant to and in accordance with the provisions of the Taxes Consolidation Act 1997 (from here on referred to as the "TCA 1997").

2. This appeal is brought by [redacted] (from here on referred to as the "Appellant") against a decision made by the Revenue Commissioners (from here on referred to as the "Respondent") refusing the Appellant Returned Goods Relief from Customs Duties for the importation of a vehicle into the State from the United Kingdom.

3. The amount in dispute in this appeal is €6,811.79 which is comprised of €6,421.57 in customs duty and €390.22 in interest charges.

Background

4. The Appellant is an individual who, on 11 October 2021, imported a vehicle with registration number [redacted] and Vehicle Identification Number [redacted] (from here on referred to as the "Vehicle") into the State from the United Kingdom.

5. The Vehicle was manufactured within the customs territory of the European Union (from here on referred to as the "customs territory of the Union") and was subsequently exported to the United Kingdom. The Vehicle was first registered in 2020.

6. Following the Vehicle's exportation from the customs territory of the Union to the United Kingdom, it underwent modifications such that it was converted into a camper van.

7. The Appellant purchased the Vehicle as a converted camper van from [redacted] in [redacted] in the United Kingdom on 11 September 2021 for GBP£54,995.00.

8. Prior to importing the vehicle into the State, on 4 October 2021 the Appellant appointed an Agent to act on his behalf in relation to the importation of the vehicle.

9. On 11 October 2021, the Appellant imported the Vehicle into the State.

10. The Agent whom the Appellant had appointed to act on his behalf submitted a claim for Returned Goods Relief pursuant to the provisions of Article 203 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (from here on referred to as the "Union Customs Code") to the Respondent on the basis that the Vehicle had been exported from the customs territory of the Union within 36 months of its return to the customs territory of the Union.

11. The Appellant duly paid Value Added Tax and Vehicle Registration Tax on the Vehicle which was then registered in the State.

12. On 25 September 2024, the Respondent wrote to the Appellant indicating that it was carrying out a post clearance check in relation to the Vehicle and seeking information as to compliance with Article 203 of the Union Customs Code.

13. Following correspondence between the parties, on 7 October 2024, the Respondent wrote to the Appellant and informed him that, as he had not submitted proof of preferential origin relating to the Vehicle, he was not entitled to Returned Goods Relief and that customs duty of 10% was due to on the Vehicle in the amount of €6,421.57.

14. The Appellant appealed this refusal under the two stage customs appeals process and on 23 January 2025, a Designated Appeals Officer refused the appeal.

15. On 17 February 2025, the Appellant appealed the Respondent's decision of 23 January 2025 to the Commission.

16. The Appellant has accepted that the Vehicle was not entitled to Returned Goods Relief but has submitted that he is entitled to either:

    16.1. Preferential Tariff Treatment pursuant to the provisions of Article 54 of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (from here on referred to as the "Brexit Agreement"); or

    16.2. A remission of customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code.

Legislation and Guidelines

17. The legislation relevant to the within appeal is as follows:

    Article 70 of the Union Customs Code – "*Method of customs valuation based on the transactions value"*:

    "1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary.

    2. The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of

the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

3. *The transaction value shall apply provided that all of the following conditions are fulfilled:*

   (a) *there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:*

      (i) *restrictions imposed or required by a law or by the public authorities in the Union;*

      (ii) *limitations of the geographical area in which the goods may be resold;*

      (iii) *restrictions which do not substantially affect the customs value of the goods;*

   (b) *the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;*

   (c) *no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;*

   (d) *the buyer and seller are not related or the relationship did not influence the price."*

Article 120 of the Union Customs Code – "*Equity*":

"1. In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 119 an amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

2. The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty."

Article 203 of the Union Customs Code – "*Scope and effect*":

"*CHAPTER 2: Relief from import duty*

Section 1: Returned goods

Article 203

Scope and effect

1. *Non-Union goods which, having originally been exported as Union goods from the customs territory of the Union, are returned to that territory within a period of three years and declared for release for free circulation shall, upon application by the person concerned, be granted relief from import duty.*

   The first subparagraph shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Union.

2. *The three-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.*

3. *Where, prior to their export from the customs territory of the Union, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.*

   Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duty shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

4. *Where Union goods have lost their customs status as Union goods pursuant to Article 154 and are subsequently released for free circulation, paragraphs 1, 2 and 3 shall apply.*

5. *The relief from import duty shall be granted only if goods are returned in the state in which they were exported.*

6. *The relief from import duty shall be supported by information establishing that the conditions for the relief are fulfilled.*"

Article 54 of the Brexit Agreement – "*Claim for preferential tariff treatment*":

"1. The importing Party, on importation, shall grant preferential tariff treatment to a product originating in the other Party within the meaning of this Chapter on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.

2. A claim for preferential tariff treatment shall be based on:

(a) a statement on origin that the product is originating made out by the exporter; or

(b) the importer's knowledge that the product is originating.

3. The importer making the claim for preferential tariff treatment based on a statement on origin as referred to in point (a) of paragraph 2 shall keep the statement on origin and, when required by the customs authority of the importing Party, shall provide a copy thereof to that customs authority."

Article 56 of the Brexit Agreement – "*Statement on origin*":

"1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, information on the originating status of materials used in the production of the product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.

2. A statement on origin shall be made out using one of the language versions set out in Annex 7 in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product. The exporter shall be responsible for providing sufficient detail to allow the identification of the originating product. The importing Party shall not require the importer to submit a translation of the statement on origin.

3. A statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.

4. A statement on origin may apply to:

(a) a single shipment of one or more products imported into a Party; or

(b) *multiple shipments of identical products imported into a Party within the period specified in the statement on origin, which shall not exceed 12 months.*

5. *If, at the request of the importer, unassembled or disassembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonised System that fall within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party."*

Article 58 of the Brexit Agreement – "*Importer's knowledge*":

"1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), the importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.

2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2)."

Article 59 of the Brexit Agreement – "*Record keeping requirements"*:

"1. For a minimum of three years after the date of importation of the product, an importer making a claim for preferential tariff treatment for a product imported into the importing Party shall keep:

(a) *if the claim was based on a statement on origin, the statement on origin made out by the exporter; or*

(b) *if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements for obtaining originating status.*

2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement on origin was made out, keep a copy of the

statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.

3. *The records to be kept in accordance with this Article may be held in electronic format."*

Article 61 of the Brexit Agreement – "*Verification"*:

"

1. *The customs authority of the importing Party may conduct a verification as to whether a product is originating or whether the other requirements of this Chapter are satisfied, on the basis of risk assessment methods, which may include random selection. Such verifications may be conducted by means of a request for information from the importer who made the claim referred to in Article 54, at the time the import declaration is submitted, before the release of the products, or after the release of the products.*

2. *The information requested pursuant to paragraph 1 shall cover no more than the following elements:*

   (a) if the claim was based on a statement on origin, that statement on origin; and

   (b) information pertaining to the fulfilment of origin criteria, which is:

      (i) where the origin criterion is "wholly obtained", the applicable category (such as harvesting, mining, fishing) and the place of production;

      (ii) where the origin criterion is based on change in tariff classification, a list of all the nonoriginating materials, including their tariff classification (in 2, 4 or 6-digit format, depending on the origin criterion);

      (iii) where the origin criterion is based on a value method, the value of the final product as well as the value of all the non-originating materials used in the production of that product;

      (iv) where the origin criterion is based on weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the final product;

      (v) where the origin criterion is based on a specific production process, a description of that specific process. 3. When providing the requested information, the importer may add any other information that it considers relevant for the purpose of verification.

4. *If the claim for preferential tariff treatment is based on a statement on origin, the importer shall provide that statement on origin but may reply to the customs authority of the importing Party that the importer is not in a position to provide the information referred to in point (b) of paragraph 2.*

5. *If the claim for preferential tariff treatment is based on the importer's knowledge, after having first requested information in accordance with paragraph 1, the customs authority of the importing Party conducting the verification may request the importer to provide additional information if that customs authority considers that additional information is necessary in order to verify the originating status of the product or whether the other requirements of this Chapter are met. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate.*

6. *If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the product concerned while awaiting the results of the verification, the release of the products shall be offered to the importer subject to appropriate precautionary measures including guarantees. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained the originating status of the products concerned, or the fulfilment of the other requirements of this Chapter."*

Article 63 of the Brexit Agreement – "*Denial of preferential tariff treatment*":

"

1. *Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment, if:*

   (a) within three months after the date of a request for information pursuant to Article 61(1):

      (i) no reply has been provided by the importer;

      (ii) where the claim for preferential tariff treatment was based on a statement on origin, no statement on origin has been provided; or

      (iii) where the claim for preferential tariff treatment was based on the importer's knowledge, the information provided by the importer is inadequate to confirm that the product is originating;

(b) within three months after the date of a request for additional information pursuant to Article 61(5):

(i) no reply has been provided by the importer; or

(ii) the information provided by the importer is inadequate to confirm that the product is originating;

(c) within 10 months after the date of a request for information pursuant to Article 62(2):

(i) no reply has been provided by the customs authority of the exporting Party; or

(ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product is originating.

2. *The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements under this Chapter other than those relating to the originating status of the products.*

3. *If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1 of this Article, in cases where the customs authority of the exporting Party has provided an opinion pursuant to point (b) of Article 62(4) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion. If such notification is made, consultations shall be held at the request of either Party, within three months after the date of the notification. The period for consultation may be extended on a case-by-case basis by mutual agreement between the customs authorities of the Parties. The consultation may take place in accordance with the procedure set by the Trade Specialised Committee on Customs Cooperation and Rules of Origin.*

   Upon the expiry of the period for consultation, if the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has a sufficient justification for doing so and after having granted the importer the right to be heard. However, when the customs

authority of the exporting Party confirms the originating status of the products and provides justification for such conclusion, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 62(5) has been applied.

4. *In all cases, the settlement of differences between the importer and the customs authority of the Party of import shall be under the law of the Party of import."*

Submissions

Appellant's submissions

18. The Appellant submitted the following grounds of appeal in his Notice of Appeal:

"Grounds for Reconsideration Under Article 120

1. Reliance on Professional Advice:

- *As a private individual with no prior experience in customs or importation processes, I hired* [redacted] *in good faith, a specialist agency, to handle my case in good faith. I trusted their expertise and acted on their advice throughout the process. The incorrect RGR claim was entirely beyond my knowledge or control.*
- *This situation demonstrates the unintended consequences of professional error on individuals acting in good faith, which I believe qualifies as a "special circumstance" under Article 120.*

2. Financial Hardship:

- *The customs debt of €6,811.79 represents an enormous burden for me as an old-age pensioner, particularly given my current financial and personal circumstances:*
  - *My wife is undergoing treatment for breast cancer, requiring significant time and resources.*
  - *My daughter is in second-level education, and doing her leaving cert in June 2025 and will need to be funded for college in Sept.*
- *I humbly request that Revenue take into account the disproportionate impact this debt has on my household, as it creates undue and dipropionate hardship on a vulnerable family.*

3. Complexities of the Brexit Transition:

- *The period immediately following Brexit was marked by significant regulatory changes, which created confusion even for professional agents. While Revenue highlights public awareness campaigns, the transition to post-Brexit customs processes introduced complexities that were challenging to navigate, particularly for individuals like myself, not involved in the motor trade.*

4. I Tried My Best to Provide the Best Proof I Could on the 55%:

- *I used the only proxy available to me to demonstrate compliance with the 55% value added requirement: comparing the price of the vehicle before and after conversion.*
- *This proxy clearly shows that more than 55% of the vehicle's value was created in the UK, representing my best effort to prove the change in origin. As an individual, I had no access to the detailed cost breakdowns of parts, labour, and markups within the car trade. I bought the camper van already converted. I was not the customer for the conversion.*

5. Good Faith and Compliance:

- *I have complied with all tax and customs obligations to the best of my knowledge and ability. I paid VAT of €14,769.60 and the flat-rate VRT at the time of importation. I tried to take responsible action to address my customs obligations by hiring a professional agency to take care of the areas outside my experience."*

19. The Appellant submitted the following in Section 3 "*Outline of Relevant Facts*" in his Statement of Case:

"I am writing to question and request a re-examination of the determination I received regarding my appeal of the customs debt of € 6,811.79 arising from the importation of an already converted campervan in September 2021.

While I appreciate the extensive efforts made by Revenue to inform the public and professional agents about the post-Brexit changes to customs processes, including campaigns, webinars, and detailed updates on your website, (I assume my agent was alert to this), however, I have not received clarification on why the issue with my import was not identified during the original customs clearance process but was only detected years later by a special unit established to review import compliance. This delay has caused significant uncertainty and financial strain.

Additionally, I understand that a considerable number of professional importers were found to be non-compliant during this period, indicating widespread challenges in interpreting and applying the updated regulations. My case, where my agent did not adhere to the rules correctly, reflects this broader issue.

I would also like to address a key point raised in the determination about the challenges in obtaining evidence to prove origin. For an individual like myself, who bought a campervan already converted, not in the auto trade and with no contractual agreement with the conversion company, obtaining detailed cost breakdowns for origin determination is not just challenging—it is impossible.

Impossibility of Evidence Collection for Origin Determination

1. Nature of My Purchase:

- *I did not carry out the conversion myself, nor did I purchase the individual components or parts used (e.g., nuts, bolts, materials).*
- *Instead, I purchased a fully converted campervan as a finished product, with no access to the original cost of the base van, the cost of the conversion, or any markups applied by the car trade. I was not the customer for this work.*

2. Proxy for Origin Determination:

Since I could not obtain the detailed cost data required to calculate the 55% UK-origin determination, I used the only proxy available to me: the price comparison before and after the conversion.

According to my analysis:

- *The price of the base van entering the UK was £23,398.*
- *The price of the fully converted campervan leaving the UK was £54,995.*
- *This represents an increase of £31,597, or 57.5%, indicating that the conversion work carried out in the UK added significant value.*
- *I do not understand why this proxy, which clearly shows a value addition in the UK above 55%, cannot be considered under the special circumstances provisions of Article 120, as rationale for change of country of origin.*

Clarification needed

1. Identification of Import Errors:

- *Why the incorrect application of the Returned Goods Relief (RGR) in my case was not detected during the initial customs clearance process?*
- *Was there a specific reason or policy that led to the establishment of a special unit to review past imports, and how were cases selected for such reviews?*

2. Challenges Faced by Non-Trade Individuals:

- *While the determination acknowledges that proving origin can be challenging, how does Revenue account for situations where it is impossible for individuals, who are not part of the auto trade, to gather the required evidence?*
- *What alternative methods, if any, does Revenue recommend for individuals in such circumstances to demonstrate compliance?*

3. Interpretation of "Special Circumstances" under Article 120:

- *The determination indicates that relief under Article 120 was not granted because lack of knowledge of customs rules does not constitute "special circumstances. This seems very narrow, and in the round given the circumstances described in my appeal.*
- *It is not clear why the price comparison before and after conversion, which clearly shows a value addition above 55%, was not considered as part of these special circumstances?"*

20. The Appellant submitted the following in Section 4 "*Statutory Provisions*" in his Statement of Case:

"Grounds for Reconsideration Under Article 120

1. Reliance on Professional Advice:

- *As a private individual with no prior experience in customs or importation processes, I hired* [redacted] *in good faith, a specialist agency, to handle my case in good faith. I trusted their expertise and acted on their advice throughout the process. The incorrect RGR claim was entirely beyond my knowledge or control.*
- *This situation demonstrates the unintended consequences of professional error on individuals acting in good faith, which I believe qualifies as a "special circumstance" under Article 120.*

2. Financial Hardship:

- *o The customs debt of €6,811.79 represents an enormous burden for me as an old-age pensioner, particularly given my current financial and personal circumstances:*
    - *My wife is undergoing treatment for breast cancer, requiring significant time and resources.*
    - *My daughter is in second-level education, and doing her leaving cert in June 2025 and will need to be funded for college in Sept.*
- *I humbly request that Revenue take into account the disproportionate impact this debt has on my household, as it creates undue and dipropionate hardship on a vulnerable family.*

3. Complexities of the Brexit Transition:

- *The period immediately following Brexit was marked by significant regulatory changes, which created confusion even for professional agents. While Revenue highlights public awareness campaigns, the transition to post-Brexit customs processes introduced complexities that were challenging to navigate, particularly for individuals like myself, not involved in the motor trade.*

4. I Tried My Best to Provide the Best Proof I Could on the 55%:

- *I used the only proxy available to me to demonstrate compliance with the 55% value-added requirement: comparing the price of the vehicle before and after conversion.*
- *This proxy clearly shows that more than 55% of the vehicle's value was created in the UK, representing my best effort to prove the change in origin. As an individual, I had no access to the detailed cost breakdowns of parts, labour, and markups within the car trade. I bought the camper van already converted. I was not the customer for the conversion.*

5. Good Faith and Compliance:

- *I have complied with all tax and customs obligations to the best of my knowledge and ability. I paid VAT of €14,769.60 and the flat-rate VRT at the time of importation. I tried to take responsible action to address my customs obligations by hiring a professional agency to take care of the areas outside my experience.*

Conclusion

The customs debt of €6,811.79 represents an enormous financial burden for me, given my limited resources, my wife's illness, and my daughter's educational needs. I humbly ask that Revenue take all these factors into account together with the operational issues I have highlighted and reconsider this case in the round.

Thank you for your time and understanding. Please let me know if any additional information or documentation is required to assist in your review."

21. The Appellant submitted the following in Section 5 "*Case Law*" in his Statement of Case:

"Introduction

This submission supports the appeal lodged by [redacted] *in respect of a customs debt of €6,811.79, following the importation of a campervan in September 2021. The appellant seeks remission of this duty under Article 120 of the Union Customs Code (UCC), on the grounds of special circumstances, good faith reliance on professional advice, and significant personal hardship.*

2. Legal Basis for Appeal

Under Article 120 UCC, remission or repayment of customs duties is permitted where:

Special circumstances exist that are out of the debtor's control.

Enforcement of the debt would be contrary to equity.

The applicant acted in good faith.

There was no element of fraud or deception.

This appeal also references the implementation provisions in Commission Delegated Regulation (EU) 2015/2446, and relevant case law.

3. Key Grounds for Appeal

A. Professional Agent Error

The customs error resulted from a misapplication of the Returned Goods Relief (RGR) by [redacted]*, a professional agency hired by* [redacted]*. He acted in good faith and had no reasonable way of knowing the relief was being misapplied.*

Precedent: TAC Determination 07TACD2021 upheld remission where a professional agent filed incorrect declarations on behalf of a good-faith importer.

B. Impossibility of Evidence Provision

The campervan was purchased as a finished, second-hand product from a UK dealer. The appellant was not party to the original conversion and thus could not access detailed cost breakdowns. Instead, he relied on a price differential analysis showing a 57.5% value increase due to UK-based conversion work.

Precedent: TAC Determination 23TACD2020 accepted alternative evidence when full documentation could not be obtained due to third-party limitations.

C. Financial Hardship and Equitable Consideration

I an old-age pensioner. His wife is undergoing breast cancer treatment, and his daughter is due to begin third-level education. Enforcing this customs duty would result in disproportionate hardship.

Precedent: TAC Determination 104TACD2022 confirmed that significant financial and personal hardship qualifies under "contrary to equity".

D. Post-Brexit Complexity

The importation occurred during the immediate post-Brexit period, which saw widespread confusion among both individuals and professionals regarding new customs rules.

Precedent: TAC Determination 45TACD2022 recognized post-Brexit regulatory confusion as a contributing factor in remission cases.

E. No Fraud or Misrepresentation

I complied fully with his VAT and VRT obligations and provided all documentation and assistance requested by Revenue. There is no evidence of fraud or any intent to mislead. I followed the advise of my agent.

EU Law Support: CJEU Case C-48/98 Söhl & Söhlke confirms remission is appropriate where the importer acted in good faith and relied on misleading professional advice.

4. Summary of Supporting Evidence

Price comparison between base van (£23,398) and converted campervan (£54,995).

VAT payment of €14,769.60 and VRT evidence.

Invoice for part of conversion work (£19,899).

Photos and engineering reports confirming substantial modification.

Correspondence with professional agent [redacted].

Evidence of wife's illness and family financial strain.

5. Conclusion

[redacted] *respectfully requests that the Tax Appeals Commission:*

Recognise the special circumstances arising from professional error, economic hardship, and regulatory confusion.

Accept his good faith reliance on professional advice.

Acknowledge the impossibility of obtaining full conversion cost documentation.

Grant remission of the customs debt under Article 120 UCC.

This case aligns strongly with both Irish TAC precedents and the underlying EU legal principles governing customs equity. Upholding this appeal would affirm a just, reasonable, and proportionate outcome."

22. At the oral hearing, the Appellant submitted that he accepts that the application for Returned Goods Relief by his Agent was in error and that the Vehicle was not entitled to Returned Goods Relief as it had undergone a material change whilst outside the customs territory of the Union by virtue of its conversion from a commercial van to a camper van.

23. The Appellant submitted that the Vehicle was, however, entitled to Preferential Tariff Treatment pursuant to the provisions of Article 54 of the Brexit Agreement on the basis that in excess of 55% of the value of the Vehicle as it was imported into the State was comprised of components which had their origin outside of the customs territory of the Union.

24. At the oral hearing, the Appellant submitted a calculation which he contends establishes that in excess of 55% of the Vehicle as it was imported into the State was comprised of components which had their origin outside of the customs territory of the Union as follows:

$$\text{Conversion \%} = \frac{54.9 - 23.4}{54.9} \times 100 = \frac{31.5}{54.9} \times 100 = \frac{35}{61} \times 100 \approx 57.38\%.$$

25. In the conversion the following figures apply:

    25.1. Sales price of the Vehicle = 54.9 (GBP£54,900)

    25.2. Sales value of the Vehicle when imported into the United Kingdom = 23.4 (GBP£23,400)

26. The Appellant submitted that the difference between the sales price of the converted Vehicle and the sales price of the Vehicle when it was imported into the United Kingdom that, being GBP£31,500, represents 57.38% of its total value which he submitted is the value added to the Vehicle in the United Kingdom as a result of the conversion which was carried out.

27. This, he submitted, establishes on the balance of probabilities that in excess of 55% of the value of the Vehicle when it was imported into the State in October 2021 was comprised of components which had their origin outside of the customs territory of the Union.

28. The Appellant also submitted other calculations which attempted to carry out a similar calculation using estimated ex-works prices and excluding estimated profit margins.

29. In the alternative, the Appellant submitted that he is entitled to a remission of customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code on the basis that:

    29.1. He relied on the professional advice of an expert Agent in relation to the importation of the Vehicle which said advice was incorrect;

    29.2. It has been impossible for him to submit precise information as to the origin of the Vehicle's post conversion components due to lack of access to that information from the original manufacturer of the Vehicle and from the entity which carried out the conversion of the Vehicle to a camper van;

    29.3. His current personal economic circumstances whereby he is retired, his wife is suffering from breast cancer and his daughter is attending third level education;

    29.4. The importation of the Vehicle occurred during a time when there was confusion in relation to the rules relating to importation from the United Kingdom during the Brexit transition period;

    29.5. The case of C-48/98 Söhl & Söhlke confirms remission is appropriate where the importer acted in good faith and relied on misleading professional advice.

Respondent's submissions

30. At the oral hearing the Respondent accepted the Appellant's position that the application for Returned Goods Relief by his Agent was in error and that the Vehicle was not entitled to Returned Goods Relief as it had undergone a material change whilst outside the

customs territory of the Union by virtue of its conversion from a commercial van to a camper van.

31. In addition, the Respondent accepted that the Appellant had at all times acted properly and had, at no time, attempted to evade paying customs duty on the Vehicle.

32. The Respondent submitted that the Vehicle is not entitled Preferential Tariff Treatment pursuant to the provisions of Article 54 of the Brexit Agreement on the basis that the Appellant has not submitted a Statement on Origin of the Vehicle and he has not submitted information on his knowledge of the breakdown of the origin of the component parts of the Vehicle. Therefore, the Respondent submitted, the Appellant has not discharged the burden of proof in this regard.

33. The Respondent also submitted that the Appellant is not entitled to remission from customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code on the basis that the Appellant does not fall within the provisions of Article 120(2) of the Union Customs Code.

Material Facts

Uncontested Material Facts

34. The following material facts are not at issue in this appeal and the Commissioner accepts same as material facts:

    34.1. The Appellant is an individual who, on 11 October 2021, imported a vehicle with registration number [redacted] and Vehicle Identification Number [redacted] into the State from the United Kingdom.

    34.2. The Vehicle was manufactured within the customs territory of the Union and was subsequently exported to the United Kingdom.

    34.3. The Vehicle was first registered in 2020.

    34.4. Following the Vehicle's exportation from the customs territory of the Union to the United Kingdom, it underwent modifications such that it was converted from being a commercial van into a camper van.

    34.5. The Appellant purchased the Vehicle as a converted camper van from [redacted] in [redacted] in the United Kingdom on 11 September 2021 for GBP£54,995.00.

34.6. Prior to importing the vehicle into the State, on 4 October 2021 the Appellant appointed an Agent to act on his behalf in relation to the importation of the vehicle.

34.7. On 11 October 2021, the Appellant imported the Vehicle into the State.

34.8. The Agent whom the Appellant had appointed to act on his behalf submitted a claim for Returned Goods Relief pursuant to the provisions of Article 203 of the Union Customs Code to the Respondent on the basis that the Vehicle had been exported from the customs territory of the Union within 36 months of its return to the customs territory of the Union.

34.9. The Appellant duly paid Value Added Tax and Vehicle Registration Tax on the Vehicle which was then registered in the State.

34.10. On 25 September 2024, the Respondent wrote to the Appellant indicating that it was carrying out a post clearance check in relation to the Vehicle and seeking information as to compliance with Article 203 of the Union Customs Code.

34.11. Following correspondence between the parties, on 7 October 2024, the Respondent wrote to the Appellant and informed him that, as he had not submitted proof of preferential origin relating to the Vehicle, he was not entitled to Returned Goods Relief and that customs duty of 10% was due on the Vehicle in the amount of €6,421.57.

34.12. The Appellant appealed this refusal under the two stage customs appeals process and on 23 January 2025, a Designated Appeals Officer refused the appeal.

34.13. On 17 February 2025, the Appellant appealed the Respondent's decision of 23 January 2025 to the Commission.

34.14. The Appellant has accepted that the Vehicle was not entitled to Returned Goods Relief but has submitted that he is entitled to either:

34.14.1. Preferential Tariff Treatment pursuant to the provisions of Article 54 of the Brexit Agreement; or

34.14.2. A remission of customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code.

Contested Material Facts

35. The following material fact is at issue in this appeal:

35.1. The origin of the Vehicle.

36. It is long established that, in appeals against assessments to tax, the burden of proof rests on the taxpayer. Gilligan J. in *TJ v Criminal Assets Bureau* [2008] IEHC 168 at paragraph 50 stated that:

> *"The whole basis of the Irish taxation system is developed on the premise of self assessment. In this case, as in any case, the applicant is entitled to professional advice, which he has availed of, and he is the person who is best placed to prepare a computation required for self-assessment on the basis of any income and/or gains that arose within the relevant tax period. In effect, the applicant is seeking discovery of all relevant information available to the respondents against a background where he has, by way of self-assessment, set out what he knows or ought to know, is the income and gains made by him in the relevant period. It is quite clear that the whole basis of self assessment would be undermined if, having made a return which was not accepted by the respondents, the applicant was entitled to access all the relevant information that was available to the respondents. The issue, in any event, is governed by legislation and there is no constitutional challenge to that legislation. The respondents are only required to make an assessment on the person concerned in such sum as according to the best of the Inspector's judgment ought to be charged on that person. The applicant in this case has the right of an appeal to the Appeal Commissioners and the right to a further appeal to the Circuit Court and the right to a further appeal on a point of law to the High Court and from there to the Supreme Court. Any reasonable approach dictates that if the applicant, on appeal to the Appeal Commissioners or to the Circuit Court, can demonstrate some form of prejudice, then an adjournment in accordance with fair procedures would have to be granted, and if not granted, the applicant would have an entitlement to bring judicial review proceedings. There are adequate safeguards in position to protect the applicant in the event that he is in some way prejudiced, but in any event it has to be borne in mind that since an assessment can only relate to the applicant's own income and gain, any materially relevant matter would have to be or have been in the knowledge and in the power procurement and control of the applicant."*

37. Charleton J. confirmed that the burden of proof rests on Appellants in *Menolly Homes v Appeal Commissioners* [2010] IEHC 49 when he stated at paragraph 22:

> "*The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioner as to whether the taxpayer has shown that the relevant tax is not payable*."

38. This has most recently been confirmed by the Court of Appeal by McDonald J. in *JSS & Ors v A Tax Appeal Commissioner and the Criminal Assets Bureau* [2025] IECA 96 when he stated at paragraph 34 that:

> *"Both s. 949AK(1) of the 1997 Act and s. 50(6) of the 1970 Statute proceed on the basis that the assessment will stand unless it is established that the assessment is wrong. As outlined above, there is a long line of case law on both sides of the Irish Sea which has taken the consistent view that, under the provisions of these sections (and their respective predecessor provisions), the taxpayer bears the burden of demonstrating that a tax assessment is wrong..."*

39. The standard of proof in tax appeals is the civil standard of the balance of probabilities.

The origin of the Vehicle.

40. It is the Appellant's position that in excess of 55% of the value of the Vehicle as it was imported into the State was comprised of components which had their origin outside of the customs territory of the Union.

41. The Commissioner has already found as material facts, and it is not contested between the parties, that when the Vehicle was exported from the customs territory of the Union it was a commercial van and that it underwent a conversion to a camper van in the United Kingdom prior to its re-importation into the customs territory of the Union.

42. In support of this position the Appellant has submitted a calculation which attempts to establish the origin of the components of the Vehicle by reference to the sales price of the Vehicle at the time it was exported from the customs territory of the Union and at the time its re-importation into the customs territory of the Union.

43. The Appellant has not submitted any documentary evidence as to the origin of the Vehicle prior to its exportation from the customs territory of the Union.

44. At the oral hearing, the Commissioner asked the Appellant whether he had contacted the original manufacturer of the Vehicle seeking information as to the origin of the Vehicle components and he stated that he had not.

45. The Appellant has not submitted any documentary evidence as to the origin of the component parts used in the conversion of the Vehicle whilst in the United Kingdom.

46. The Appellant did submit a document to the Commissioner from [redacted] which set out a partial list of components used in the conversion of the Vehicle, however this document did not set out the origin of the components.

47. The Commissioner asked the Appellant whether he had contacted [redacted] to seek a listing of the components used in the conversion and their origin and he stated that he had called the company who refused to engage with him as he had not contracted the company to carry out the works. The Commissioner then asked the Appellant whether he had any documentary evidence of the contact with the company and he stated that he had none.

48. Article 56 of the Brexit Agreement is entitled "*Statement on Origin*" and states:

> *"1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, information on the originating status of materials used in the production of the product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.*
>
> *2. A statement on origin shall be made out using one of the language versions set out in Annex 7 in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product. The exporter shall be responsible for providing sufficient detail to allow the identification of the originating product. The importing Party shall not require the importer to submit a translation of the statement on origin.*
>
> *3. A statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.*
>
> *4. A statement on origin may apply to:*
>
> *(a) a single shipment of one or more products imported into a Party; or*
>
> *(b) multiple shipments of identical products imported into a Party within the period specified in the statement on origin, which shall not exceed 12 months.*
>
> 5. *If, at the request of the importer, unassembled or disassembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonised System that fall within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party."*

49. The Appellant has not submitted a Statement on Origin in relation to the Vehicle in support of his claim.

50. Article 58 of the Brexit Agreement is entitled "*Importer's knowledge*" and states:

> *"1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), the importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.*
>
> *2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2)."*

51. The calculation submitted by the Appellant which purports to establish the origin of the Vehicle is based on the sales prices of the Vehicle on exportation from the customs territory of the Union to the United Kingdom and on importation from the United Kingdom into the customs territory of the Union.

52. By the Appellant's own submissions, the calculation is based on sales prices and is not based on "*information demonstrating that the product is originating and satisfies the requirements provided for in*" the Brexit Agreement, nor is it based on a Statement on Origin.

53. As a result, the Commissioner must find as a material fact that the Appellant has not discharged the burden of proof to establish the origin of the Vehicle to satisfy the provisions of the Brexit Agreement.

Findings of Material Fact

54. For the avoidance of doubt, the Commissioner makes the following findings of material fact in this appeal:

    54.1. The Appellant is an individual who, on 11 October 2021, imported a vehicle with registration number [redacted] and Vehicle Identification Number [redacted] into the State from the United Kingdom.

54.2. The Vehicle was manufactured within the customs territory of the Union and was subsequently exported to the United Kingdom.

54.3. The Vehicle was first registered in 2020.

54.4. Following the Vehicle's exportation from the customs territory of the Union to the United Kingdom, it underwent modifications such that it was converted into a camper van.

54.5. The Appellant purchased the Vehicle as a converted camper van from [redacted] in [redacted] in the United Kingdom on 11 September 2021 for GBP£54,995.00.

54.6. Prior to importing the vehicle into the State, on 4 October 2021 the Appellant appointed an Agent to act on his behalf in relation to the importation of the Vehicle.

54.7. On 11 October 2021, the Appellant imported the Vehicle into the State.

54.8. The Agent whom the Appellant had appointed to act on his behalf submitted a claim for Returned Goods Relief pursuant to the provisions of Article 203 of the Union Customs Code to the Respondent on the basis that the Vehicle had been exported from the customs territory of the Union within 36 months of its return to the customs territory of the Union.

54.9. The Appellant duly paid Value Added Tax and Vehicle Registration Tax on the Vehicle which was then registered in the State.

54.10. On 25 September 2024, the Respondent wrote to the Appellant indicating that it was carrying out a post clearance check in relation to the vehicle and seeking information as to compliance with Article 203 of the Union Customs Code.

54.11. Following correspondence between the parties, on 7 October 2024, the Respondent wrote to the Appellant and informed him that, as he had not submitted proof of preferential origin relating to the Vehicle, he was not entitled to Returned Goods Relief and that customs duty of 10% was due on the Vehicle in the amount of €6,421.57.

54.12. The Appellant appealed this refusal under the two stage customs appeals process and on 23 January 2025, a Designated Appeals Officer refused the appeal.

54.13. On 17 February 2025, the Appellant appealed the Respondent's decision of 23 January 2025 to the Commission.

54.14. The Appellant has accepted that the Vehicle was not entitled to Returned Goods Relief but has submitted that he is entitled to either:

54.14.1. Preferential tariff treatment pursuant to the provisions of Article 54 of the Brexit Agreement; or

54.14.2. A remission of customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code.

54.15. The Appellant has not discharged the burden of proof to establish the origin of the Vehicle.

Analysis

55. The Appellant has accepted that he is not entitled to an exemption from customs duties under the Returned Goods Relief provided for under Article 203 of the Unions Customs Code.

56. In the alternative, the Appellant has submitted that he is entitled to:

56.1. Preferential Tariff Treatment pursuant to the provisions of Article 54 of the Brexit Agreement; or

56.2. A remission of customs duty on the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code.

57. In circumstances where the Appellant is seeking to avail of an exemption from tax, the principle enunciated by the Supreme Court in *Revenue Commissioners -v- Doorley* [1933] IR 750 (from here on referred to as "*Doorley*") must be considered. The Commissioner has had regard to the dictum of Kennedy C. J. at p. 766, wherein he stated that:

> "*The Court is not, by greater indulgence in delimiting the area of exemptions, to enlarge their operation beyond what the statute, clearly and without doubt and in express terms, except for some good reason, from the burden of a tax thereby imposed generally on that description of subject-matter. As the imposition of, so the exemption from, the tax must be brought within the letter of the taxing Act as interpreted by the established canons of construction so far as applicable."*

58. The Appellant is no longer seeking Returned Goods Relief pursuant to Article 203 of the Unions Customs Code.

59. For completeness, the Commissioner has found as a material fact that the Vehicle did not return to the customs territory of the Union in the state in which it was exported. As

a result, the Vehicle does not, and cannot, comply with the provisions of Article 203(5) of the Union Customs Code which provides that:

"*The relief from import duty shall be granted only if goods are returned in the state in which they were exported.*"

60. Therefore, the Commissioner could not grant Returned Goods Relief in relation to the return of the Vehicle to the customs territory of the Union even if the Appellant had pursued this claim.

61. The Appellant has, however, submitted that the Vehicle is entitled to Preferential Tariff Treatment under the provisions of the Brexit Agreement.

62. Article 54 of the Brexit Agreement is entitled "*Claim for preferential tariff treatment*" and states that:

> *"1. The importing Party, on importation, shall grant preferential tariff treatment to a product originating in the other Party within the meaning of this Chapter on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.*
>
> *2. A claim for preferential tariff treatment shall be based on:*
>
> *(a) a statement on origin that the product is originating made out by the exporter; or*
>
> *(b) the importer's knowledge that the product is originating.*
>
> *3. The importer making the claim for preferential tariff treatment based on a statement on origin as referred to in point (a) of paragraph 2 shall keep the statement on origin and, when required by the customs authority of the importing Party, shall provide a copy thereof to that customs authority."*

63. Article 56 of the Brexit Agreement is entitled "*Statement on origin*" and provides that:

> *"1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, information on the originating status of materials used in the production of the product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.*

2. *A statement on origin shall be made out using one of the language versions set out in Annex 7 in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product. The exporter shall be responsible for providing sufficient detail to allow the identification of the originating product. The importing Party shall not require the importer to submit a translation of the statement on origin.*

3. *A statement on origin shall be valid for 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.*

4. *A statement on origin may apply to:*

   (a) *a single shipment of one or more products imported into a Party; or*

   (b) *multiple shipments of identical products imported into a Party within the period specified in the statement on origin, which shall not exceed 12 months.*

5. *If, at the request of the importer, unassembled or disassembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonised System that fall within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party."*

64. Article 58 of the Brexit Agreement is entitled "*Importer's knowledge*" and provides that:

"1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), the importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.

2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2)."

65. Article 59 of the Brexit Agreement is entitled "*Record keeping requirements*" and provides that:

> *"1. For a minimum of three years after the date of importation of the product, an importer making a claim for preferential tariff treatment for a product imported into the importing Party shall keep:*
>
> *(a) if the claim was based on a statement on origin, the statement on origin made out by the exporter; or*
>
> *(b) if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements for obtaining originating status.*
>
> *2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement on origin was made out, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.*
>
> *3. The records to be kept in accordance with this Article may be held in electronic format."*

66. The Commissioner has already found as a material fact that the Appellant has not discharged the burden of proof to establish the origin of the Vehicle. The reasons for that finding of material fact set out why the Appellant does not come within the provisions of Articles 56, 58 and 59 of the Brexit Agreement in that he has not submitted a Statement on Origin (Article 56) relating to the Vehicle, he has not established that he has complied with the "*importer's knowledge*" requirement (Article 58) relating to the Vehicle and he has not retained records in relation to importer's knowledge (Article 59) relating to the Vehicle.

67. The Commissioner has regard to the finding in *Doorley* and notes that she must not enlarge the operation of Preferential Tariff Treatment beyond the terms of what, in this appeal, the Brexit Agreement clearly and without doubt and in express terms sets out.

68. Article 63 of the Brexit Agreement is entitled "*Denial of preferential tariff treatment"* and provides:

> "*1.Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment, if:*

(a) within three months after the date of a request for information pursuant to Article 61(1):

(i) no reply has been provided by the importer;

(ii) where the claim for preferential tariff treatment was based on a statement on origin, no statement on origin has been provided; or

(iii) where the claim for preferential tariff treatment was based on the importer's knowledge, the information provided by the importer is inadequate to confirm that the product is originating;

(b) within three months after the date of a request for additional information pursuant to Article 61(5):

(i) no reply has been provided by the importer; or

(ii) the information provided by the importer is inadequate to confirm that the product is originating;

(c) within 10 months after the date of a request for information pursuant to Article 62(2):

(i) no reply has been provided by the customs authority of the exporting Party; or

(ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product is originating.

2. *The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements under this Chapter other than those relating to the originating status of the products.*

3. *If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1 of this Article, in cases where the customs authority of the exporting Party has provided an opinion pursuant to point (b) of Article 62(4) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion. If such notification is made,*

consultations shall be held at the request of either Party, within three months after the date of the notification. The period for consultation may be extended on a case-by-case basis by mutual agreement between the customs authorities of the Parties. The consultation may take place in accordance with the procedure set by the Trade Specialised Committee on Customs Cooperation and Rules of Origin.

Upon the expiry of the period for consultation, if the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has a sufficient justification for doing so and after having granted the importer the right to be heard. However, when the customs authority of the exporting Party confirms the originating status of the products and provides justification for such conclusion, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 62(5) has been applied.

4. *In all cases, the settlement of differences between the importer and the customs authority of the Party of import shall be under the law of the Party of import."*

69. As the Appellant has not established the origin of the Vehicle and as he has not submitted documentary evidence as to importer's knowledge of the Vehicle, the Commissioner must determine that Appellant's claim for Preferential Tariff Treatment does not comply with the provisions of the Brexit Agreement and, therefore, must fail.

70. The Commissioner has also considered whether the Appellant is entitled to remission of customs duties relating to the Vehicle pursuant to the provisions of Article 120 of the Union Customs Code.

71. Section 3 of the Union Customs Code is entitled "*Repayment and remission*" and Article 120 falls within that section.

72. Article 120 of the Union Customs Code is entitled "*Equity"* and provides for repayment or remission of customs duties:

"1. In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 119 an amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

2. The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty."

73. The Commissioner has regard to the finding in *Doorley* and notes that she must not enlarge the operation of Section 3 of the Union Customs Code beyond the terms of what it clearly and without doubt and in express terms sets out.

74. Article 120(1) of the Union Customs Code provides that remission of import duty may be granted "*in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor*".

75. There is no dispute, and the Commissioner accepts, that the Appellant was not engaged in any deception in the importation of the Vehicle. He engaged the services of a professional Agent and took the advice which he received.

76. However, Article 120(2) of the Union Customs Code sets that out that the special circumstances referred to in Article 120(1):

> "*… shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty.*"

77. The Appellant is not an operator engaged in the business of importing vehicles from the United Kingdom / outside the customs territory of the Union. The Appellant, for the purposes of this appeal, is not a business, he is an individual who imported one vehicle into the State from the United Kingdom in October 2021.

78. The Appellant has not attempted to compare himself to operators who are engaged in the business of importing vehicles from the United Kingdom / outside the customs territory of the customs Union. The grounds on which he claims he is entitled to a remission of customs duties pursuant to the provisions of Article 120 of the Union Customs Code are that:

78.1. He relied on the professional advice of an expert Agent in relation to the importation of the Vehicle which said advice was incorrect;

78.2. It has been impossible for him to submit precise information as to the origin of the Vehicle's post conversion components due to lack of access to that information from the original manufacturer of the Vehicle and from the entity which carried out the conversion of the Vehicle to a camper van;

78.3. His current personal economic circumstances whereby he is retired, his wife is suffering from breast cancer and his daughter is attending third level education;

78.4. The importation of the Vehicle occurred during a time when there was confusion in relation to the rules relating to importation from the United Kingdom during the Brexit transition period;

78.5. The case of C-48/98 *Söhl & Söhlke* confirms remission is appropriate where the importer acted in good faith and relied on misleading professional advice.

79. None of the grounds submitted by the Appellant change the fact that he does not come within the special circumstances for the remission of customs duties as set out in Article 120(2) of the Union Customs Code.

80. As a result, the Commissioner does not consider it appropriate to deal with those grounds on an individual basis save and except to observe that in its judgment in C-48/98 *Söhl & Söhlke*, the ECJ as it was then, stated at paragraph 52:

> *"Secondly, the repayment or remission of import and export duties, which may be made only under certain conditions and in cases specifically provided for, constitutes an exception to the normal import and export procedure and, consequently, the provisions which provide for such repayment or remission are to be interpreted strictly. Since a lack of 'obvious negligence' is an essential condition of being able to claim repayment or remission of import or export duties, it follows that that term must be interpreted in such a way that the number of cases of repayment or remission remains limited."*

Determination

81. For the reasons set out above, the Commissioner determines that the Appellant in this appeal has not succeeded in showing that he was entitled to:

81.1. Returned Goods Relief pursuant to Article 203 of the Unions Customs Code;

81.2. Preferential Tariff Treatment pursuant to Article 54 of the Brexit Agreement; or

81.3. Remission of customs duties pursuant to Article 120 of the Union Customs Code.

82. This appeal is determined in accordance with Part 40A of the TCA 1997 and, in particular, section 949AL thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

Notification

83. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

84. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

Clare O'Driscoll
Appeal Commissioner
27 January 2026