TC03503

Appeal number: TC/2012/03659

CUSTOMS DUTY– Temporary Admission Procedure – Whether imported vehicles were re-exported/released into free circulation – If not whether appellant "debtor" under the Customs Code – Appeal allowed in part

FIRST-TIER TRIBUNAL
TAX CHAMBER

ARAB CARGO COMPANY LIMITED **Appellant**

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE JOHN BROOKS
MRS SHAHWAR SADEQUE

Sitting in public at 45 Bedford Square, London WC1 on 20 March 2014

Thomas Chackco, counsel, instructed by the Appellant

Christopher Staker, counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

Introduction

1. Under the Temporary Admission Procedure goods may be imported from outside the European Union ("EU") into a Member State without any liability to import duties or VAT provided that they are intended for re-export without having undergone any change, except for normal depreciation due to the use made of them, and are either re-exported or released into free circulation in the Member State into which they were imported after payment of the relevant duties and import VAT within 24 months of their import. However, if the goods are not re-exported or released into free circulation within the time limit the person who is required to fulfil the obligations arising from the use of the procedure shall incur a customs debt.

2. In the United Kingdom ("UK"), where a customs debt has been incurred in relation to goods imported under the Temporary Admission Procedure, HM Revenue and Customs ("HMRC") issue the debtor with a "Post Clearance Demand Note", referred to as a "C18", setting out the amount of duties payable.

3. This appeal concerns the issue, by HMRC, of C18s in respect of three vehicles imported into the UK by the Arab Cargo Company Limited (the "Company") on behalf of members of the Qatari Royal Family. The Company says two of these vehicles, a Mercedes and a Land Rover Range Rover, were exported within the required time limits and the other, a Smart Car, was released into free circulation in the UK after payment of the relevant duties. HMRC contend that this is not supported by the information provided to them by the Company on the C88 importation forms, which form the basis for the C18 Post Clearance Demand Notes, or subsequently.

4. Mr Thomas Chackco appeared on behalf of the Company. HMRC were represented by Mr Christopher Staker. We are grateful to both for the assistance given by the content and manner of their submissions.

Law

5. The following Articles of the Customs Code, Council Regulation (EEC) No 2913/92, are relevant to this appeal:

> **Article 4**
>
> For the purposes of this Code, the following definitions shall apply:
>
> …
>
> (16) 'Customs procedure' means:
>
> (a) – (c) …
>
> (d) inward processing;
>
> (e) …
>
> (f) temporary admission;
>
> (g) – (h) …

Article 5

1. Under the conditions set out in Article 64 (2) and subject to the provisions adopted within the framework of Article 243 (2) (b), any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities laid down by customs rules.

2. Such representation may be:

- direct, in which case the representative shall act in the name of and on behalf of another person, or

- indirect, in which case the representatives shall act in his own name but on behalf of another person.

A Member State may restrict the right to make customs declarations:

- by direct representation, or

- by indirect representation,

so that the representative must be a customs agent carrying on his business in that country's territory.

3. Save in the cases referred to in Article 64 (2) (b) and (3), a representative must be established within the Community.

4. A representative must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and be empowered to act as a representative.

A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.

5. The customs authorities may require any person stating that he is acting in the name of or on behalf of another person to produce evidence of his powers to act as a representative.

Article 137

The temporary importation procedure shall allow the use in the customs territory of the Community, with total or partial relief from import duties and without their being subject to commercial policy measures, of non-Community goods intended for re-export without having undergone any change except normal depreciation due to the use made of them.

Article 138

Authorization for temporary importation shall be granted at the request of the person who uses the goods or arranges for them to be used.

Article 140

1. The customs authorities shall determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. Such period must be long enough for the objective of authorized use to be achieved.

2. Without prejudice to the special periods laid down in accordance with Article 141, the maximum period during which goods may remain under the temporary importation procedure shall be 24 months. The customs authorities may, however, determine shorter periods with the agreement of the person concerned.

3. However, where exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned and within reasonable limits, extend the periods referred to in paragraphs 1 and 2 in order to permit the authorized use.

Article 204

1. A customs debt on importation shall be incurred through:

(a) non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or

(b) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods,

in cases other than those referred to in Article 203 unless it is established that those failures have no significant effect on the correct operation of the temporary storage or customs procedure in question.

2. The customs debt shall be incurred either at the moment when the obligation whose non-fulfilment gives rise to the customs debt ceases to be met or at the moment when the goods are placed under the customs procedure concerned where it is established subsequently that a condition governing the placing of the goods under the said procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. The debtor shall be the person who is required, according to the circumstances, either to fulfil the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they have been placed, or to comply with the conditions governing the placing of the goods under that procedure.

6. Regulation 199(1) of the Regulation implementing the Customs Code (Commission Regulation (EEC) No 2454/93) provides:

Without prejudice to the possible application of penal provisions, the lodging of a declaration signed by the declarant or his representative with a customs office or a transit declaration lodged using electronic data-processing shall render the declarant or his representative responsible under the provisions in force for:

– the accuracy of the information given in the declaration,

– the authenticity of the documents presented, and

– compliance with all the obligations relating to the entry of the goods in question under the procedure concerned.

7. The Explanatory Note of the Annex to Commission Regulation (EEC) No 2454/93) describes which forms are to be used to complete the formalities relating to customs procedures including the temporary admission procedure. Title II of the Annex sets out the particulars to be entered in the various boxes of the relevant form. In the UK these are set out in volume three of the Customs Tariff.

8. Section 1(4) of the Value Added Tax Act 1994 provides:

> VAT on the importation of goods from places outside the member States shall be charged and payable as if it were a duty of customs

9. In its judgment in *Terex Equipment Limited v HMRC* [2010] EUECJ C-430/08, a case concerning inward processing, a different customs procedure to that in the present appeal, the Court of Justice of the European Union ("CJEU") stated:

> "40. Article 865 of the Implementing Regulation covers a situation in which declarations confer on goods the status of Community goods which they cannot be deemed to have, so that non-Community goods are removed from the customs supervision which the Customs Code, and in particular Article 37 thereof, imposes on them.
>
> 41. In that regard, emphasis must be placed on the particular characteristics of the inward processing procedure and the role played, in particular, in that context by the use of the correct customs code for the purposes of assessing whether or not the use of a code indicating the export of Community goods affects the monitoring abilities of the customs authorities.
>
> 42. It must be observed, first of all, as the Commission of the European Communities maintains, that the inward processing procedure, which involves the suspension of customs duties, is an exceptional measure intended to facilitate the carrying out of certain economic activities. Since that procedure involves obvious risks to the correct application of the customs legislation and the collection of duties, the beneficiaries of that regime are required to comply strictly with the obligations resulting therefrom. Similarly, the consequences of non-compliance with their obligations must be strictly interpreted.
>
> 43. The obligation under Article 182(3) of the Customs Code to lodge a customs declaration bearing the correct customs code indicating that there is a re-export of goods that were under the inward processing procedure is of particular importance for customs supervision in the framework of that customs procedure.
>
> 44. The objective of the use of the customs code indicating the re-export of goods under the inward processing procedure is to ensure effective monitoring by the customs authorities and to give them the power to identify, solely on the basis of the customs declaration, the status of the goods concerned without the need for subsequent assessments and findings. That objective is particularly important since the goods which are introduced into the customs territory of the Community remain under customs supervision, pursuant to Article 37(2) of the Customs Code, only until such time as they are re-exported.

45. Therefore, the objective of the use of the customs code indicating the re-export of Community goods under the inward processing procedure is to permit the customs authorities to decide at the last minute to carry out a customs check pursuant to Article 37(1) of the Customs Code, namely to check whether the re-exported goods in fact correspond to the goods placed under the inward processing procedure.

46. Consequently, the use of customs code 10 00 in the export declarations at issue in the main proceedings erroneously conferred the status of Community goods on the goods concerned and therefore directly affected the ability of the customs authorities to carry out controls pursuant to Article 37(1) of the Customs Code.

47. In these circumstances, the use in the export declarations of customs code 10 00 indicating the export of Community goods instead of code 31 51 used for the re-export of goods under the inward processing procedure must be classified as 'removal' of those goods from customs supervision (see, by way of analogy, *British American Tobacco*, paragraph 53).

48. Furthermore, as regards the possible lack of customs supervision during the period concerned, such a situation is not a factor excluding the application of the concept of removal from customs supervision. According to the case-law, for there to be removal from customs supervision, it is sufficient that the goods in question have been objectively removed from possible controls, whether or not such controls have actually been carried out by the competent authority (see *British American Tobacco*, paragraph 55).

49. Finally, the view that that interpretation of Article 203(1) of the Customs Code wrongly attributes the character of a disproportionate penalty to that article cannot be accepted.

50. As pointed out in paragraph 42 of this judgment, the beneficiaries of the inward processing procedure are required to comply strictly with their obligations under that procedure. Moreover, since the goods at issue were exported as Community goods, they might potentially be re-imported into the Community as returned goods within the meaning of Article 185 of the Customs Code without import duties being due.

51. In view of the foregoing, the answer to the second and third questions in Case C-430/08 and the first and second questions in Case C-431/08 is that the use in the export declarations at issue of customs code 10 00 indicating the export of Community goods, instead of code 31 51 used for goods on which duties have been suspended under the inward processing procedure, gives rise to a customs debt pursuant to Article 203(1) of the Customs Code and the first paragraph of Article 865 of the Implementing Regulation."

10. The Tax and Chancery Chamber of the Upper Tribunal in *TNT (UK) Limited v HMRC* [2012] STC 1232, which was like *Terex* a case dealing with inward processing relief, stated;

> "[13] … Although other errors in a declaration may be capable of correction, the status of the person making it is plainly of fundamental

> importance. The clear purpose of art 5 is to ensure that the customs authority knows unequivocally who is liable for any duty and VAT which may be payable. We see no scope for the importation into art 5(4) of any implied proviso such as Mr Brown suggested, relieving the supposed representative from liability if what he was told turns out to be wrong. Even if there should be any room for doubt about that conclusion, it is removed by art 199 of EC Commission Regulation 2454/93 ('the Implementing Regulation', also since replaced but in effect at the time):
>
> > 'Without prejudice to the possible application of penal provisions, the lodging with a customs office of a declaration signed by the declarant or his representative shall render him responsible under the provisions in force for:
> >
> > – the accuracy of the information given in the declaration,
> >
> > – the authenticity of the documents attached, and
> >
> > – compliance with all the obligations relating to the entry of the goods in question under the procedure concerned.'
>
> [14] It is perfectly clear from that provision that the accuracy of the declaration is of cardinal importance, and that responsibility for it is to be determined wholly objectively. Although it is not immediately obvious whether the word 'him' in the third line means the declarant or the representative, the effect of the second paragraph of art 5(4), as we have said, is to treat the supposed representative as if he were the declarant and in this context there is no ambiguity."

Evidence and Facts

11. We were provided with a bundle of documentary evidence which included copies of the C88 importation documents ("C88"), the C18s, correspondence between the parties, Bills of Lading etc. In addition to this documentary evidence we heard from Mr Samer Mansour, the Office Manager of the Company who gave his evidence on oath. We found Mr Mansour, who has had approximately 15 years experience in the freight business, to be a credible and reliable witness who sought to assist the Tribunal.

12. It is on the basis of this evidence that we make our findings of fact.

Background

13. The Company is a small freight company dealing mainly with the Arab community. Approximately 90% of its business involves the forwarding of personal and other effects by air. The remaining 10% involves the shipping of cars and furniture which occurs mainly in the summer and relates to Sheikh Nasser Hussan Ajal Al-Thani and members of his Royal Family who, between them, import around

ten cars a year from Qatar into the UK for their own use before re-exporting them to Qatar.

14. The Company's agents in Qatar arranges for the vehicles to be imported and sends the relevant documents, including the Bill of Lading to the Company which in turn supplies the information to John Good Shipping as agent for TransTainer Lines Limited, the shipper of the vehicles. John Good Shipping then completes and submits the C88 to HMRC on behalf of the Company, Mr Mansour confirmed that the same type of information was provided to John Good Shipping for each of the imported vehicles with which this appeal is concerned. Although the Company does not always receive copies of the C88 from John Good Shipping Mr Mansour agreed that it should do and that the Company was entitled to request copies of the documents to enable it to be certain that these had been completed accurately.

15. Usually when cars are imported into the UK from Qatar, the import documents are in the name of the Sheikh or a member of his family. However, in the case of the three vehicles with which this appeal is concerned it was the Company, and not the Sheikh, that was described as the shipper, consignee and declarant on the C88s submitted to HMRC. Mr Mansour explained that these details had been recorded on the shipping documents by the Company's Qatari agent and subsequently entered on the C88s in accordance with the information provided to John Good Shipping. Given the standing of its clients, the Company did not request that these details be amended.

16. When a car is re-exported to Qatar Mr Mansour forwards a manifest and a draft Bill of Lading to the shipping agents on which the date it was submitted is stated. However, it is only after shipment has been made and the vessel leaves the country that the Bill of Lading is issued.

17. As each vehicle with which this appeal is concerned was imported separately, and HMRC have issued have a C18 in respect of each import, it is appropriate to set out the circumstances in relation to each of these imports.

Mercedes

18. On 21 July 2008 a C88 was submitted to HMRC by John Good Shipping on behalf of the Company. As we have already noted this described the Company as the consignee and declarant. The form also described the vehicle le imported as:

> 1 x Mercedes CL63
>
> VIN: WDDEJ77X97A008607 REG: QATAR 272272
>
> 1 PK mercedes cl63 Container(s): UACU 3396398

The commodity code shown in box 33 of the C88 also indicated that it was a motor vehicle that was being imported. The customs procedure code, 5300D03 shown in box 37 of the C88, indicated that the vehicle was being imported under the Temporary Admissions Procedure. The Bill of Lading, which also describes the Company as "consignee", described the vehicle in the same terms as the C88.

19. On 1 July 2008, prior to its importation, the Sheikh who owned the Mercedes had completed and submitted a "Temporary Importation of a Motor Vehicle for Private Use from outside the European Community" to HMRC. This referred to a Mercedes CL 63 with the VIN (Vehicle Identification Number) and registration number as stated in the C88. This form was signed by the Sheikh and witnessed by a director of the Company. However, unbeknown to him and the Company such a form was neither required by HMRC nor necessary for the importation of the vehicle under the Temporary Admissions Procedure.

20. A European Community Export document EXP/SAD/SEC and Export Accompanying Document dated 21 August 2008 indicates that "a car" was exported by the Company to Qatar.

21. The description of the vehicles shown on the Bill of Lading in relation to that export, issued on 4 September 2008, was:

> 1 Car
>
> CL 65 MERCEDES

There was not any reference to the VIN or registration number or any further description of the vehicle in the Bill of Lading. The Standard Shipping Note, which like the Bill of Lading referred to the Company as the exporter, described the vehicle as "A Mercedes Car". Mr Mansour said that this was the same vehicle as had been imported and that he knew this as it was the personal vehicle of the Sheikh which was left hand drive and had been adapted for his use.

22. On 1 June 2010 HMRC wrote to the Company in the following terms:

> The maximum relief of use for the Temporary Importation relief claimed, on the above entry [ie the Mercedes] will soon expire. You are now required to submit the evidence of re-exportation or another allowable disposal, as soon as possible after the discharge has occurred.
>
> Acceptable forms of official evidence are:
>
> - a copy of the stamped C88 export declaration
> - or a goods departed message issued via CHIEF
> - or the C88 export reference number.
>
> Supporting evidence may include:
>
> - Bill of lading or airway bill
> - Commercial certificate of shipment issued by packers, consolidators, freight forwarder or courier.
> - Receipts from customers in third countries.
> - A letter on headed notepaper from the Customs authority, law enforcement agency or judicial authority for the Country outside the EU, where goods have been re-exported to. This should include a description of the goods, with any identifying

> marks or serial numbers confirming that the goods have been exported from the EU.
>
> If the required evidence is not received and therefore conditions or obligations of the relief are not met, Customs charges, relieved on entry will be due. Compensatory interest may also be applicable.

23. In the absence of any response by the Company, which in its Notice of Appeal stated "Notification Not Received" (presumably a reference to the letter dated 1 June 2010 from HMRC), HMRC issued a C18 in the sum of £23,695.17. Although the Company subsequently provided HMRC with the information, described above in relation to the exportation, as the car listed in the export documentation was a Mercedes CL65 not a CL63, as stated on the C88, in an email to the Company, dated 26 January 2012, HMRC confirmed that the C18 "still stands".

Land Rover Range Rover

24. On 22 July 2009 a C88 was submitted to HMRC on behalf of the Company under the Temporary Admissions Procedure in which the item imported was described as:

> 1 x LANDROVER
>
> CAPACITY EXCEEDING 1,500 CM!3! B UT NOT
>
> SALLMANA44A168758 ENGINE NO: 50063249 1
>
> PK LANDROVER Container(s) UACU3552680

25. As in the case of the Mercedes, a "Temporary Importation of a Motor Vehicle for Private Use from outside the European Community" form had been completed by the owner of the vehicle. This described the vehicle as a Land Rover Range Rover and quoted the same engine number as stated in the C88.

26. No UK export documentation exists for this vehicle and the evidence of export has been cancelled from CHIEF, HMRC's system. However, a Bill of Lading dated 2 September 2009 describes a vehicle being transported to Doha, Qatar as:

> 1 x Range Rover
>
> Chassis: SALLMAMA44A168759

An English translation of a Customs Declaration completed for the Ministry of Economy and Finance of Qatar also refers to the importation of a Range Rover into Qatar. Although the date of the translated document is stated as being both 28 September 2006 and 28 September 2009, it appears that the same date has been used throughout the original Arabic version of the document. Mr Mansour said that the C88 and the Qatari documentation referred to the same car and that it was generally acceptable to describe the vehicle as either a Range Rover or a Land Rover as both are manufactured by the same company. He explained the minor differences in the chassis numbers in the C88 and Bill of Lading as "a genuine error on my part".

27. On 6 July 2011 HMRC wrote to the Company, in similar terms to the letter set out in paragraph 22, above. In the absence of any UK export documentation HMRC issued a C18 in the sum of £5,386.25.

Smart Car

28. On 25 July 2008 a C88 was submitted on behalf of the Company under the Temporary Admissions Procedure. The goods imported were described as:

1 PACKAGE CAPACITY EXCEEDING 1,500 CM!3! B UT NOT

Mr Mansour said that this related to the import of a Smart Car in respect of which Sheikh Hamad Ahmed AA had, on 11 July 2008, completed a "Temporary Importation of a Motor Vehicle for Private Use from outside the European Community" form. Although the Sheikh was named as the consignor and consignee of the vehicle it is clear from the information derived from the C88 by HMRC that TransTainer Lines Limited was the declarant on behalf of and as the direct representative of the Company.

29. On 3 June 2010 HMRC wrote to the Company, again in similar terms to the letter set out at paragraph 22 above in relation to the Mercedes, requesting evidence that the car had been exported. No information was supplied by the Company and HMRC accordingly issued a C18 in the sum of £1,903.8

30. It is accepted by HMRC that a Smart Car remained in the UK under an extension of the Temporary Admission Procedure and ultimately that vehicle was released into free circulation by payment of the relevant charges.

31. On 27 February 2013 a "Notice of Assessment of Charges on imported Private Motor Vehicle" was sent by HMRC to Mr S Al Jabari, who Mr Mansour told us is the brother-in-law of Sheikh Hamad Ahmed AA. This Notice of Assessment refers to charges being due on a convertible Smart Car which, according to a letter, dated 25 July 2011, from HMRC to Mr Al Jabari, was temporarily imported into the UK on 11 July 2008.

32. Mr Mansour said that this was the vehicle that had been imported on 25 July 2008.

Discussion and Conclusion

33. For the Company Mr Chacko submitted that there was evidence that the Mercedes and Range Rover had been re-exported to Qatar within the relevant period under the Temporary Admissions Procedure and that the Smart Car had been released into free circulation the UK on payment of the proper charges. The reference to the Mercedes CL65 when it should have been a CL63 was, he contended, clearly a mistake as were the minor differences in the chassis number between the vehicle described as a Land Rover or Range Rover in the various documents.

34. Mr Chacko's alternative submission was that if we found there to have been a breach of the Customs procedure, the Sheikh whose vehicle it was, as "the person who uses the goods or arranges for them to be used", and not the Company was the debtor in accordance with Article 204 of the Customs Code and accordingly the appeals should be allowed.

35. Mr Staker, for HMRC, referred to Article 199 of the Implementing Regulation and submitted that "declarant" was the "debtor" for the purposes of Article 204 of the Customs Code, he also cited the passage from *TNT (UK) Limited v HMRC* which we have set out above (in paragraph 10) in support of his argument that in the present case as the Company was the declarant in all three C88s it was therefore responsible for the fulfilment of obligations under the Customs Code.

36. Relying on *Terex v HMRC*, he contended that if there is insufficient information provided to HMRC in the C88s to enable HMRC to check whether the re-exported goods correspond with the goods imported under the Temporary Admissions Procedure, as there was in the present case, the appeal should be dismissed. As C18s are issued on the basis of the information provided in the C88s, it was he submitted, not enough to adduce evidence of re-export at a hearing as the system required the correct declaration to be made, this was an indispensable requirement which was needed to prevent a breakdown in the system.

37. We accept Mr Staker's submission that it is necessary for HMRC to know that the vehicle imported is the same as that re-exported or released into free circulation in the UK on payment of the appropriate duties. We also consider that the following observation of the CJEU at [42] of *Terex* in relation to inward processing relief applies equally to the Temporary Admissions Procedure in that it describes the procedure:

> "… an exceptional measure …. [which] involves obvious risks to the correct application of the customs legislation and the collection of duties, the beneficiaries of that regime are required to comply strictly with the obligations resulting therefrom. Similarly, the consequences of non-compliance with their obligations must be strictly interpreted.

However, this should not preclude a Tribunal from allowing an appeal where evidence has been adduced and accepted, that was not provided or accepted by HMRC, on which it is possible to find that goods have been re-exported or properly released, after payment of the relevant charges, into free circulation the UK.

38. Turning to the vehicles with which this appeal is concerned, in the case of the Mercedes. although it was described only as "a car" in the export document and the Bill of Lading referred to a CL65 rather than a CL63 we accept Mr Mansour's evidence that this was an error and the same left hand drive car that had been adapted for the Sheikh's use that had been imported was re-exported to Qatar.

39. We therefore allow the appeal against the C18 issued in relation to that vehicle.

40. We also accept that despite the lack of UK export documents and notwithstanding the inaccuracies in the Qatari Customs Declaration there is clear evidence that the Land Rover Range Rover arrived in Doha after being in the UK and find that it was re-exported to Qatar.

41. Although there are discrepancies in the dates in the English translation of the Qatari Customs Declaration as the original Arabic version of document appears to have used the same date throughout we find that the variations in the English translation is more likely than not to have arisen as a result of a typographical error by the translator. As for the description of the vehicle as a Land Rover on some documents and as a Range Rover on others we accept Mr Mansour's explanation that either name could have been used as both are made by the same manufacturer. We also accept that the minor differences shown of chassis numbers was due to error and allow the Company's appeal in relation to the Land Rover Range Rover.

42. However, although it is not disputed that a Smart Car remained in the UK and was ultimately released into free circulation the description contained in the C88, namely "1 PACKAGE CAPACITY EXCEEDING 1,500 CM!3! B UT NOT" is incredibly vague and imprecise and is clearly insufficient to link the vehicle imported with the Smart Car released into free circulation and, despite the evidence of Mr Mansour, we are unable to find that this is the case.

43. Given that the Company was the declarant on the C88s and, as is clear from *TNT (UK) Limited v HMRC*, by virtue of the Article 199 of the Implementing Regulation is the person who is required, according to the circumstances, either to fulfil the obligations arising, in respect of goods liable to import duties, from the use of the customs procedure under which they have been placed under Article 204 of the Customs Code we find that the Company is responsible for the Customs debt as shown on the C18 in respect of this vehicle.

44. According we dismiss the Company's appeal in relation to the Smart Car.

Right to apply for Permission to Appeal

45. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

JOHN BROOKS
TRIBUNAL JUDGE

RELEASE DATE: 10 April 2014