

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22. IX. 1993

C(93) 2541 final

NOT FOR PUBLICATION

COMMISSION DECISION
of 22. IX. 1993

finding that the repayment of import duties in a particular
case is not justified

(request submitted by the United Kingdom)

REM : 11/93

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1430/79 of 2 July 1979 on the
repayment or remission of import or export duties,¹ as last amended by
Regulation (EEC) No 3069/86,²

Having regard to Commission Regulation (EEC) No 3799/86 of 12 December 1986
laying down provisions for the implementation of Articles 4a, 6a, 11a and 13
of Council Regulation (EEC) No 1430/79 on the repayment or remission of
import or export duties,³ and in particular Article 8 thereof,

Whereas by letter dated 26 March 1993, received by the Commission on
29 March 1993, the United Kingdom asked the Commission to decide under
Article 13 of Regulation (EEC) No 1430/79 whether or not the repayment of
import duties is justified in the following circumstances:

1 OJ No L 175, 12.7.1979, p.1.

2 OJ No L 286, 9.10.1986, p.1.

3 OJ No L 352, 13.12.1986, p.19.

In 1991 a UK firm signed a contract to supply equipment to an oil refinery in Russia.

To honour this contract it ordered component parts from a Netherlands firm, which was required to provide goods of Netherlands origin. In fact, when imported, part of the equipment proved to be of United States origin and the UK firm had to pay £[REDACTED] in import duties.

The firm is requesting repayment of those duties under Article 13 of Regulation 1430/79. It has explained that it did not have recourse to the inward processing relief arrangements when the goods were imported because it did not know that the goods were not of Community origin, and furthermore the goods have been re-exported to Russia.

Whereas in accordance with Article 8 of Regulation (EEC) No 3799/86, a group of experts composed of representatives of all the Member States met on 3 June 1993 within the framework of the Committee on Duty Free Arrangements to consider the case;

Whereas in accordance with Article 13(1) of Regulation (EEC) No 1430/79, import duties may be repaid or remitted in special situations other than those referred to in sections A to D of that Regulation resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas under Council Regulation (EEC) No 1999/85 of 16 July 1985,¹ inward processing relief arrangements allow exemption from import duties on goods to be re-exported in the form of compensating products;

¹ OJ No L 188, 20.7.1985, p.1.

Whereas in accordance with the abovementioned Regulation use of the inward processing relief arrangements is conditional on the grant of authorization by the competent authorities at the request of the person concerned; whereas authorization must be granted before the goods in question are processed, and not later than the time at which they are imported; whereas in this case no authorization was applied for;

Whereas, moreover, under the inward processing relief arrangements it is compulsory that the identity of the goods be verified when they are re-exported; whereas in this case no exit control was carried out;

Whereas, furthermore, the fact that the importer did not know that the goods were of non-Community origin, contrary to the contract between himself and the supplier, does not constitute a special situation within the meaning of Article 13 of Regulation 1430/79; whereas the dispute between the importing firm and the Netherlands firm that provided the goods is a matter to be settled under private commercial law;

Whereas the conditions of Article 13 of Regulation 1430/79 have consequently not been fulfilled;

Whereas, therefore, the repayment of import duties requested is not justified in this case,

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties amounting to £ [REDACTED] requested by the United Kingdom on 26 March 1993 is hereby found not to be justified.

Article 2

This Decision is addressed to the United Kingdom.

Done at Brussels, 22 IX. 1993

For the Commission

Ch. SCRIVENER

