

**EN**

**REM 23/98 – XXI/1040/99**



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19-07-1999

**COMMISSION DECISION**

**of 19-7-1999**

**finding that remission of import duties is justified in a particular case.**

**(request submitted by the Federal Republic of Germany)**

**(REM 23/98)**

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code,<sup>1</sup> as last amended by Regulation (EC) No 955/1999;<sup>2</sup>

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92,<sup>3</sup> as last amended by Regulation (EC) No 502/1999,<sup>4</sup> and in particular Article 907 thereof,

Whereas by letter dated 10 November 1998, received by the Commission on 17 November 1998, the Federal Republic of Germany asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the remission of import duties is justified in the following circumstances:

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<sup>1</sup> OJ No L 302, 19.10.1992, p. 1  
<sup>2</sup> OJ No L 119, 7.5.1999, p. 1  
<sup>3</sup> OJ No L 253, 11.10.1993, p. 1  
<sup>4</sup> OJ No L 65, 12.3.1999, p. 1

During November and December 1997 a forwarding company, in the capacity of "authorised consignee" within the meaning of Article 406 of Regulation (EEC) No 2454/93, took receipt of twenty-one consignments of non-Community goods. The Community transit procedures for these goods were completed in accordance with the rules. The goods were then placed in temporary storage. Subsequently they were moved to the Free Port of Hamburg, whence they were forwarded to a number of third countries.

However, although they still had the status of non-Community goods they were forwarded to the Free Port of Hamburg without having been previously placed under the Community external transit procedure.

The competent German authorities therefore claimed import duties from the company on the grounds that a customs debt of XXXXX had been incurred, which is the amount for which the company is requesting remission in this case;

Whereas the company has stated that it has seen the dossier submitted to the Commission by the German authorities and has nothing to add;

Whereas in accordance with Article 907 of Regulation (EEC) No 2454/93, a group of experts composed of representatives of all the Member States met on 25 February 1999 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

Whereas Article 239 of Regulation (EEC) No 2913/92 allows import duties to be repaid or remitted in special situations other than those laid down in Articles 236, 237 and 238 of that Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas because of an error by the company the goods were on several occasions forwarded to the Free Port of Hamburg and then exported directly without having previously been placed under the Community external transit procedure;

Whereas this gave rise to a customs debt of XXXXX;

Whereas the company's error is connected with a particular situation affecting it at the end of 1997; whereas, namely, following the destruction of a shed the company had been obliged to transfer its premises suddenly, in November 1997, to a location outside the Free Port of Hamburg;

Whereas during November and December 1997 the company had not had time to train its staff sufficiently in the customs formalities which were now required as a result of the new location;

Whereas the twenty-one operations which gave rise to the customs debt are related to one and the same circumstance, namely the abrupt transfer of the company premises to a location outside the Free Port of Hamburg;

Whereas, moreover, the company's error affected only a very small proportion of its operations; whereas, in any case, the twenty-one operations concerned were carried out in a short period following the transfer of the company's premises;

Whereas the German authorities state that the company has supplied documents proving that the goods have actually left the customs territory of the Community and so have not entered commercial channels in the Community;

Whereas the company has cooperated efficiently in establishing these facts;

Whereas all these circumstances constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92 ;

Whereas no deception or obvious negligence may be attributed to the company in this case;

Whereas, therefore, the remission of import duties requested is justified in this case,

HAS ADOPTED THIS DECISION:

*Article 1*

The remission of import duties in the sum of XXXX requested by the Federal Republic of Germany on 10 November 1998 is justified.

*Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 19-07-1999

*For the Commission  
Member of the Commission*