

REMB/NON

COMMISSION DECISION

of 22.10.1993

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

(request submitted by Belgium)

REM 14/93

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 24 April 1993, received by the Commission on 30 April 1993, Belgium 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 October and November 1991 a firm entered underwear for free circulation at the Zaventem customs office and paid duties totalling FB 1 252 284. The goods had earlier been exported on the basis of declarations dated 15 July and 14 August 1991.

The firm's operations were covered by an outward processing authorization valid until 30 June 1991. It did not apply for the renewal of that authorization until 19 August 1991; the authorization was renewed with effect from that date.

The firm therefore had no outward processing authorization for the period 1 July-18 August 1991.

Through its customs agent, the firm requested repayment of the difference between the amount of customs duties paid on the entry for free circulation of the goods in question and the sum that would have been payable had the outward processing arrangements been used, namely FB [REDACTED]

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 September 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 use of the outward processing arrangements requires prior authorization under Article 4(1) of Regulation (EEC) No 2473/86⁴; whereas, in cases which can be shown to be exceptional, Articles 11(2) and 4(4) of Regulation (EEC) No 2458/87⁵ permit a retroactive authorization to be issued, but its effect may not go back beyond the time when the application was lodged; whereas Article 2 of Regulation (EEC) No 2458/87 provides that applications for renewal are to be treated like applications for authorization;

Whereas the firm in question had no outward processing authorization for the goods exported on 15 July and 14 August 1991;

Whereas a special situation exists insofar as the firm did have an outward processing authorization for its operations before those in question; whereas this authorization was subsequently renewed;

Whereas, nevertheless, the procedures for export of the goods in question were conducted by a customs agent who should have been conversant with customs procedures and the associated obligations and formalities; whereas the declarant entered on the declaration the number of an authorization that was no longer valid, and no application had been made for renewal;

Whereas the declarant has obviously been negligent;

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

4 OJ No L 212, 2.8.1986, p.1.

5 OJ No L 230, 17.8.1987, p.1.

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties totalling FB [REDACTED] referred to in the request submitted by Belgium on 24 April 1993 is not justified.

Article 2

This Decision is addressed to Belgium.

Done at Brussels, 22.10.1993

For the Commission