

COMMISSION DECISION
of 23-11-1995
finding that the repayment of import duties in a particular
case is not justified

(request submitted by FRANCE)

REM 2/95

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,¹

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993,¹ laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,

Whereas by letter dated 15 May 1995, received by the Commission on 22 May 1995, France asked the Commission to decide, under Article 13 of 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 3069/86,¹ whether the repayment of import duties is justified in the following circumstances:

Between October 1991 and February 1992 a French company imported various products from Japan, declared them for home use and paid the corresponding customs duties. The goods in question were incorporated into machinery which was re-exported to Indonesia.

Since this machinery was intended for shipment to Indonesia even before the Japanese components were imported into France, the operator applied retrospectively for the imported Japanese products to be entered under the inward processing arrangements on the grounds that the goods had been released for free circulation due to an error on his part. This authorization was refused.

1 OJ No L 302, 19.10.1992, p.1.

2 OJ No L 253, 11.10.1993, p.1.

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

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

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 2 October 1995 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) 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 laid down 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 in accordance with Council Regulation (EEC) No 1999/85 of 16 July 1985,¹ the inward processing arrangements allow for goods to be imported free of duty if they are intended for re-export in the form of compensating products;

Whereas in accordance with the aforementioned Regulation, eligibility for the inward processing arrangements is conditional on the issue by the competent authorities of an inward processing authorization at the request of the operator concerned; whereas this authorization should be delivered before the goods in question are processed and no later than the date of import of the goods; whereas in the case under consideration no request had been submitted by the required date;

Whereas one of the obligations of the inward processing arrangements is to verify the identity of the goods at the moment of re-export; whereas in this case no such controls were carried on exportation;

Whereas the fact that the operator released the imported goods for free circulation by mistake does not constitute a special situation within the meaning of Article 13 of Regulation 1430/79 and no deception or obvious negligence may be attributed to the person concerned;

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 in the sum of XXXXX requested by FRANCE on 15 May 1995 is hereby found not to be justified.

Article 2

This Decision is addressed to FRANCE.

5 OJ No L 188, 20.7.85, p.1.

Done at Brussels, 25-11-1995

For the Commission