

**REMB/NO**

**COMMISSION DECISION**

of 28-9-1994

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

**REM 10/94**

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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>

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

Whereas by letter dated 24 March 1994, received by the Commission on 29 March 1994,  
Spain 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,<sup>3</sup> as  
last amended by Regulation (EEC) No 3069/86,<sup>4</sup> whether the repayment 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 253, 11.10.1993, p.1.

<sup>3</sup> OJ No L 175, 12.7.1979, p.1.

<sup>4</sup> OJ No L 286, 9.10.1986, p.1.

On 21 October 1990, a consignment of electric radiators for domestic use was released for free circulation by the Irún customs office in Spain, and customs duty paid on the goods. Within a few hours of the goods being released, while the lorry was parked in the factory yard, fire broke out in the vehicle, and the cargo was completely destroyed.

The fire was one of a number of attacks which occurred in the area around that time, and the case was reported to the police.

The company requested repayment of the import duties paid, under Article 13 of Regulation (EEC) No 1430/79.

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 4 July 1994 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 the goods in question were destroyed after they were released;

Whereas Article 4(2)(b) of 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<sup>5</sup> stipulates that the destruction, for any reason whatsoever, of goods entered for free circulation after their release by the competent authorities does not by itself constitute a special situation resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

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<sup>5</sup> OJ No L 352, 13.12.1986, p.19.

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 Spain on 24 March 1994 is hereby found not to be justified.

Article 2

This Decision is addressed to Spain.

Done at Brussels, 28-9-1994

For the Commission