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REM 15/00



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.4.2001

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NOT FOR PUBLICATION

COMMISSION DECISION

of 18.4.2001

finding that the repayment of import duties in a particular case is justified

(Request submitted by the United Kingdom of Great Britain and Northern Ireland)

(Ref. REM 15/00)

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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,¹ as last amended by Regulation (EC) No 2700/2000,²

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Regulation (EEC) No 2913/92,³ as last amended by Regulation (EC) No 2787/2000,⁴ and in particular Article 907 thereof,

¹ OJ L 302, 19.10.1992, p. 1.

² OJ L 311, 12.12.2000, p. 17.

³ OJ L 253, 11.10.1993, p. 1.

⁴ OJ L 330, 27.12.2000, p. 1.

Whereas:

- (1) By letter dated 20 July 2000, received by the Commission on 26 July 2000, the United Kingdom of Great Britain and Northern Ireland asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the repayment of import duties is justified in the following circumstances.
- (2) An agent, hereinafter referred to as the person concerned, imported a motor vehicle from the United States into the United Kingdom on 6 April 2000. He requested exemption from import duties under Article 72 of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty since the vehicle was intended for a disabled person.⁵ When the vehicle was imported it was not yet adapted for use by a disabled person within the meaning of Article 72 of that Regulation. On examining the vehicle the customs authorities found that the lift for access for the disabled person was not installed in the vehicle but was just placed on the floor.
- (3) Since the vehicle did not meet the conditions laid down for tax relief, the United Kingdom authorities requested payment of the import duties, i.e. XXXXXX repayment of which is now being sought.
- (4) Under Article 905 of Regulation (EEC) No 2454/93 and in support of the request made by the United Kingdom authorities, the person concerned indicated that he had seen the dossier submitted to the Commission by the United Kingdom authorities and had nothing to add.
- (5) 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 8 December 2000 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case.

⁵ OJ L 105, 23.4.1983, p. 1.

- (6) In accordance with Article 239 of Regulation (EEC) No 2913/92, import duties may 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.
- (7) It emerges from the dossier sent by the United Kingdom authorities to the Commission that if the vehicle had been adapted to the requirements of the disabled person for whom it was intended before import, relief would have been granted from the import duties. The vehicle was considered as not having been adapted simply because the lift which had been imported at the same time and was inside had not been installed in the vehicle.
- (8) The reason the lift had not been installed was, as confirmed by the United Kingdom authorities, the fact that the expected sailing date for the vessel on which the vehicle was to be transported to the Community had been brought forward.
- (9) Even though the vehicle was not adapted until after import, the person concerned originally intended to have the adaptation carried out before import and the imported vehicle was indeed intended for the use of a disabled person.
- (10) It emerges from the foregoing that this case did not impair the European Communities' financial interests and the factors are such as to constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92.
- (11) In the light of all the foregoing the circumstances indicate neither deception nor obvious negligence on the part of the person concerned, as confirmed by the United Kingdom authorities. The person concerned had asked for the vehicle to be adapted before import and so did not know that the lift would not be installed in the vehicle when the import formalities were completed.
- (12) The repayment of import duties requested is therefore justified in this case,

HAS ADOPTED THIS DECISION :

Article 1

The repayment of import duties in the sum of XXXXXX requested by the United Kingdom of Great Britain and Northern Ireland on 20 July 2000 is hereby found to be justified.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, on 18.4.2001

For the Commission

Member of the Commission