

COMMISSION DECISION
of 10-02-1998
finding that the remission of import duties in a particular
case is justified

(request submitted by Germany)

Ref. **REM 17/97**

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 laying down provisions for the implementation of Regulation (EEC) No 2913/92, and in particular Article 907 thereof,²

Whereas by letter dated 19 August 1997, received by the Commission on 26 August 1997, 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:

¹ OJ No L 302, 19.10.1992, p.1 .

² OJ No L 253, 11.10.1993, p.1 .

A German company, hereinafter referred to as the person concerned, acting as an authorised consignee within the meaning of Article 406 of Regulation (EEC) No 2454/93, took delivery of 364 boxes of children's garments on 5 March 1997. These goods were then placed in temporary storage.

On 7 March 1997 they were loaded onto a truck bound for Croatia. However, although they still had the status of non-Community goods, they were transported without having been previously placed under the external Community transit procedure.

Despite this error the goods in question were treated as non-Community goods and carried in a sealed vehicle with another consignment of goods covered by a external Community transit document intended for Croatia. The transit procedure for the second consignment covered by the T1 document was properly discharged at the office of destination at Spielfeld. The consignment of goods not covered by the T1 document also left the Community and was sold in Croatia.

The German authorities nevertheless recovered import duties on the grounds that a customs debt of XXXXX had been incurred; this is the amount the party concerned wishes to be remitted;

Whereas the operator states that he 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 31 October 1997 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

Whereas, 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;

Whereas, as a result of the slip by the person concerned, the goods in question were not placed under the external Community transit procedure despite having the status of non-Community goods;

Whereas this situation constitutes the removal of goods from customs supervision; whereas this gives rise to a customs debt of XXXXX;

Whereas the party concerned argues that this was due to an isolated oversight on his part;

Whereas the goods were nevertheless treated as non-Community goods;

Whereas the German authorities have stated that the goods left Community customs territory and did not enter the Community economy;

Whereas these factors are such as to constitute a situation covered by Article 13 of Regulation (EEC) No 1430/79; whereas the fact that the goods were removed from customs supervision had no significant effect on the correct operation of the procedure;

Whereas in the special circumstances of the case in question no deception or obvious negligence may be attributed to the person concerned; whereas it was on his initiative that the goods in question were processed in accordance with their non-Community status;

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 XXXXX requested by Germany on 19 August 1997 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 10-02-1998

For the Commission

