

COMMISSION DECISION

of 8-12-1995

finding that a request to decide whether it is justified not to take action for the post-clearance recovery of import duties in a particular case is inadmissible  
(request submitted by the Netherlands)

**REC 6/95**

**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,<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>1</sup> and in particular Article 873 thereof,

Whereas by letter dated 23 June 1995 received by the Commission on 27 June 1995, the Netherlands asked the Commission to decide under Article 220(2)(b) of Regulation (EEC) No 2913/92 whether it is justified not to take action for the recovery of import duties in the following circumstances:

Commission Regulation (EC) No 3115/94 of 20 December 1994 entered into force on 1 January 1995. It fixed the rate of import duties on goods classified in heading 8482 at 8% of their customs value. In January and February 1995 Dutch officials provided the firm concerned with tariff information based on the Regulation as published in OJ No L 345 and the firm made its declarations for release for free circulation accordingly.

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

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

On 3 March 1995 the Commission published, in OJ No L 48, a corrigendum to the above Regulation fixing the rate of duty applicable to goods of heading 8482 at 8.8% of their customs value.

Whereas in accordance with Article 873 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 examine the case;

Whereas the corrigendum published by the Commission in OJ No L 48 of 3 March 1995 is not retroactive; whereas the rate of duty applicable at the time the customs declarations were presented is therefore that laid down at the publication of Commission Regulation (EC) No 3115/94 of 20 December 1994;

Whereas the amount of duties in question relates to goods for which no customs debt has arisen;

Whereas the Dutch authorities therefore have no cause to recover the duties in question;

Whereas, therefore, the request for the post-clearance recovery of import duties cannot be considered in terms of Article 220(2)(b) of Regulation (EEC) No 2913/92,

**HAS ADOPTED THIS DECISION:**

Article 1

The request to decide whether it is justified not to take action for the post-clearance recovery of import duties in the sum of XXXX, which was presented by the Netherlands on 23 June 1995, is inadmissible.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 8-12-1995

For the Commission