

COMMISSION DECISION

of 26-01-1998

finding that remission of import duties in a particular
case is justified

(request submitted by Germany)

Ref. **REM 16/97**

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 2913/92,² and in particular Article 907 thereof,

Whereas by letter dated 14 August 1997, received by the Commission on 25 August 1997, Germany asked the Commission to decide, under Article 13 of Council Regulation (EEC) No 1430/79 of 2 July 1973 on the repayment or remission of import or export duties,³ as last amended by Regulation (EEC) No 1854/89,⁴ 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.

³ OJ No L 175, 12.7.1979, p. 1.

⁴ OJ No L 186, 30.6.1989, p. 1.

A German firm, hereinafter referred to as “the person concerned”, acting as an authorised consignor, inadvertently re-dispatched goods under the Community internal transit procedure on six occasions between July and September 1992 although the goods did not have Community status and did not therefore qualify for this procedure.

Despite these mistakes, the goods in question were treated as third-country goods and the transit procedure was correctly discharged at the customs offices of destination in Bremen and Bremerhaven. They were then shipped to North America and Central America.

The competent German authorities nevertheless recovered the import duties concerned on the grounds that a customs debt of XXXX had been incurred; the person concerned has applied for remission of this amount.

Whereas the applicant 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 13 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 concerned were erroneously placed under the Community internal transit procedure but did not have the status of Community goods;

Where such a situation constitutes unlawful removal of goods from customs supervision within the meaning of Article 1 of Commission Regulation (EEC) No 597/89 of 8 March 1989⁵; whereas, therefore, in the case in question a customs debt of XXXX was incurred under Article 2(1)(c) of Regulation (EEC) No 2144/87 on customs debt⁶;

Whereas, however, the person concerned has pointed out that this was the first time the customs authorities had detected any such error in his activities, although he carries out a very large number of operations every year;

Whereas the Community transit procedure was correctly discharged at the customs office of destination and the goods concerned were dealt with in accordance with their actual status;

Whereas the German authorities have pointed out that the goods in question left the Community customs territory and did not enter the EU economy;

Whereas all these circumstances combined may be taken to constitute a special situation within the meaning of Article 13 of Regulation (EEC) No 1430/79; whereas, in particular, the unlawful removal of goods from customs supervision in this case did not have any substantive impact on the correct operation of the procedure;

⁵ OJ No L 65, 9.3.1989, p. 11.

⁶ OJ No L 201, 22.7.1987, p. 15.

Whereas in the circumstances of this case no deception or obvious negligence may be attributed to the person concerned;

Whereas, therefore, the remission of import duties requested is justified in this case,

HAD DECIDED AS FOLLOWS:

Article 1

The remission of import duties in the sum of XXXXX requested by Germany on 14 August 1997 is hereby found to be justified.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 26-01-1998

For the Commission