

COMMISSION DECISION
of 3-7-1996
finding that the remission of import duties in a particular
case is justified
(request submitted by Germany)

REM 14/95

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,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 21 November 1995, received by the Commission on 4 December 1996, Germany asked the Commission to decide, under Article 239 of Council Regulation (EEC) No 2913/92, whether the remission of import duties was justified in the following circumstances:

In November 1991 a German forwarding agent received a consignment of goods from Korea under the external Community transit procedure as authorized consignee within the meaning of Article 71 of Regulation (EEC) No 1062/87.³ The goods were divided into three separate consignments and dispatched to Portugal under the Community transit procedure, the agent acting as authorized consignor in accordance with Article 63 of Regulation (EEC) No 1062/87. However, by mistake, an internal rather than an external transit declaration (T2) was completed for one of the individual consignments. The three

¹ OJ No L 302, 19.10.1992, p.1.

² OJ No L 253, 11.10.1993, p.1.

³ OJ L 107, 22.4.1987, p. 1.

consignments were duly presented at the customs office of destination in Portugal where the import duties applicable to goods from non-member countries were levied. The forwarding agent notified the Portuguese customs authorities as soon as it became aware of the mistake it had made.

Given that one of the three consignments had been accorded the wrong customs status the German authorities took the view that the goods had been removed from customs supervision and requested payment of customs duties of XXXXX on the consignment concerned. The agents asked for remission of this sum on the grounds that import duties on that consignment had already been paid in Portugal when it was released for free circulation.

Whereas the administrative procedure was suspended in accordance with Articles 905 and 907 of Regulation No 2454/93 between 1 February and 12 April 1996; whereas additional information that the Commission had requested of the German authorities by a letter of 1 February 1996 was given in a letter from the German authorities of 27 March 1996 and received by the Commission on 12 April 1996;

Whereas the agent concerned is acquainted with the contents of the dossier that the German authorities sent to the Commission and has nothing further 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 20 March 1996 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 to 238 of that Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas in the case under consideration use of the internal Community transit procedure erroneously conferred Community status on the consignment of goods concerned; whereas a customs debt was consequently incurred in Germany following the removal of the goods from customs supervision in accordance with Article 2(1)(c) of Regulation (EEC) No 2144/87⁴, in combination with Article 1 of Regulation (EEC) No 597/89⁵;

⁴ OJ L 201, 22.7.1987, p. 15.

⁵ OJ L 655, 9.3.1989, p. 11.

Whereas import duties at the rate applicable to non-member countries had been paid on this consignment of goods in Portugal at the time of their release for free circulation;

Whereas, furthermore, the agent concerned himself informed about the error the portuguese customs authorities as soon as he knew about it;

Whereas these circumstances constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92;

Whereas, moreover, in the special circumstances of the case in question 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,

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXX requested by Germany on 21 November 1995 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 3-7-1996

For the Commission