

COMMISSION DECISION
of 01-12-1997
finding that the repayment of import duties in a particular
case is justified

(request submitted by Germany)

Ref. **REM 6/97**

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 30 May 1997, received by the Commission on 10 June 1997, Germany asked the Commission to decide, under Article 13 of Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties,³ as

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.

last amended by Regulation (EEC) No 3069/86,⁴ whether the repayment of import duties is justified in the following circumstances:

For some years a German company (the “person concerned”) has been importing goods from Slovenia, leaving the import formalities to a forwarding agent. The company enters the goods for free circulation in the Community duty-free on presentation of EUR.1 preferential certificates.

In February and March 1993 the forwarding agent entered rolls of PVC flooring for the external Community transit procedure under two T1 transit documents.

The goods were delivered to the consignee without having been presented at the customs office of destination. When the company learned that the goods had not cleared customs before delivery it presented the appropriate transit documents and EUR.1 certificates to customs.

Since failure to fulfil the obligations entailed by use of the Community transit system meant a customs debt was incurred, the competent customs office issued two recovery notices for a total of XXXXX, the sum whose repayment the company is now claiming.

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 9 September 1997 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

4 OJ No L 286, 9.10.1986, p.1.

Whereas, in accordance with Article 13(1) 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 goods entered for a Community transit procedure must be presented at the customs office of destination, failing which a customs debt will be incurred under Regulation (EEC) No 2144/87 on customs debt;⁵

Whereas the firm argues, however, that it had never before received goods not cleared through customs and it was unaware at the time that the goods had to be presented again, at the customs office of destination;

Whereas properly made out EUR.1 certificates were produced for the imports, together with the transit documents;

Whereas according to the German authorities, there is no doubt that the imported goods were the ones identified in the documents;

Whereas these circumstances, and in particular the fact that the company actually had in its possession valid EUR.1 certificates for the goods in question, are such as to constitute a special situation within the meaning of Article 13 of Regulation (EEC) No 1430/79; whereas a similar case occurring today would be covered by Article 900(1)(o) of Regulation (EEC) No 2454/93;

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

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

⁵ OJ No L 201, 22.7.1987, p. 15.

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties in the sum of XXXXX requested by Germany on 30 May 1997 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 01-12-1997

For the Commission