

COMMISSION DECISION
of 3-7-1996
finding that the remission of import duties in a particular
case is justified

(request submitted by Italy)

REM 1/96

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 13 December 1995, received by the Commission on 9 January 1996, Italy 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:

¹ OJ No L 302, 19.10.1992, p.1.

² OJ No L 253, 11.10.1993, p.1.

The Italian customs authorities authorised an Italian company to import raw cane sugar from and originating in Cuba under the arrangements for inward processing, prior exportation and equivalent compensation.

Under the provisions of Article 29 of Commission Regulation (EEC) No 2228/91 of 26 June 1991 laying down provisions for the implementation of Council Regulation (EEC) No 1999/85 on inward processing relief arrangements³ the company was required to import raw cane sugar within three months of first exporting compensating products, these having been exported between 24 April and 6 May 1993.

Owing to the bad weather which affected Cuba for about a month, and because the Cuban government authorities had declared a state of *force majeure* on 3 June 1993 which made it legally impossible to export, the ship, which had been chartered to carry the raw cane sugar and arrived to load the goods at the port of Guyabal on 29 May that year, remained in the roads for over a month and was not able to commence loading until 4 July 1993. It arrived back in Italy on 4 August. The receipt in respect of temporary importation with equivalent compensation had been issued on 10 August 1993.

As the three-month time-limit had been exceeded, the Italian customs authorities requested payment of XXXXX, the customs duty due on the imported goods and the amount in respect of which the company is requesting remission.

Whereas the administrative procedure was suspended in accordance with the provisions of Articles 905 and 907 of Regulation No 2454/93 between 2 and 12 February 1996; whereas certain additional information the Commission requested in a letter of 2 February 1996 was provided by the Italian authorities in a letter of 9 February, received by the Commission on 12 February;

Whereas the operator concerned has indicated that he has taken note of the contents of the dossier the Italian authorities sent to the Commission, and that he has nothing to add;

³ OJ L 210 of 31 July 1991, p.1.

Whereas in accordance with the provisions of 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 the provisions of 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 the ship could not leave Cuba due to prevailing weather conditions and the consequent decision of the Cuban government authorities to declare a state of force majeure and this constitutes a situation of the type covered by the provisions of Article 239 of Regulation (EEC) No 2913/92;

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 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 Italy on 13 December 1995 is hereby found to be justified.

Article 2

This Decision is addressed to Italy.

Done at Brussels, 3-7-1996

For the Commission