

Commission Decision

of 16-06-1998

finding that the remission of import duties in a particular case is justified  
and authorising the Federal Republic of Germany to repay or remit duties  
in cases involving comparable issues of fact and of law

(request submitted by the Federal Republic of Germany)

**REM : 43/97**

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**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 Regulation (EEC) No 2913/92, and in particular  
Article 907 thereof,<sup>2</sup>

Whereas by letter dated 28 November 1997, received by the Commission on  
16 December 1997, the Federal Republic of Germany asked the Commission to decide,  
under Article 239 of the abovementioned Regulation (EEC) No 2913/92, whether the  
remission of import duties is justified in the following circumstances:

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<sup>1</sup> OJ No L 302, 19.10.1992, p.1.

<sup>2</sup> OJ No L 253, 11.10.1993, p.1.

On 22 December 1994 a German firm, hereinafter referred to as the firm concerned, acting as authorised consignor within the meaning of Article 398 of the abovementioned Regulation (EEC) No 2454/93, consigned in error goods (sixteen pallets of veneer sheets) under the internal Community transit procedure despite the fact that they lacked the status of Community goods and it was, accordingly, not possible to place them under that procedure.

In spite of that error, the goods in question were dealt with as non-Community goods and their transit was correctly discharged at the customs office of destination. They were subsequently transported to Slovenia.

Since the goods had been accorded the status of Community goods wrongly, the competent German authorities requested the firm concerned to pay the import duties, as a customs debt amounting to XXXXXXXX had been incurred, remission of which is requested by the firm concerned.

Whereas the firm concerned states that it 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 7 May 1998 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, 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 goods in question were placed in error under the Community internal transit procedure despite the fact that they lacked the status of Community goods;

Whereas such a situation constitutes removal of goods from customs supervision under the terms of Article 865 of the abovementioned Regulation (EEC) No 2454/93; whereas in the case in point a customs debt amounting to XXXXXXXXX has been incurred pursuant to Article 203 of the abovementioned Regulation (EEC) No 2913/92;

Whereas the firm concerned contends, however, that this was the first time that it committed this kind of error;

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

Whereas the German authorities affirm that the goods in question have left the Community customs territory and have not therefore entered the trade channels of the Community;

Whereas these circumstances taken as a whole are such as to constitute a situation referred to in Article 239 of Regulation (EEC) No 2913/92; whereas in the case in point, removal of the goods from customs supervision has had no actual repercussions on the proper functioning of the procedure;

Whereas in the special circumstances of the case in point no deception or obvious negligence may be attributed to the firm concerned; whereas the goods in question were dealt with in accordance with their non-Community status, *inter alia*, on its initiative;

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

Whereas where the circumstances under consideration justify repayment or remission, the Commission may, pursuant to Article 908 of the abovementioned Regulation (EEC) No 2454/93, under conditions which it shall determine, authorise a Member State to repay or remit duties in cases involving comparable issues of fact and of law;

Whereas by letter of 28 November 1997, received by the Commission on 16 December 1997, the Federal Republic of Germany requested authorisation to repay or remit duties in various cases involving comparable issues of fact and of law;

**HAS ADOPTED THIS DECISION:**

Article 1

The remission of import duties in the sum of XXXXXXXXXXXXXXXX requested by the Federal Republic of Germany on 28 November 1997 is hereby found to be justified.

Article 2

The Federal Republic of Germany is hereby authorised to repay or remit the duties payable in cases involving issues of fact and of law which are comparable to the case which forms the subject of the request submitted by the Federal Republic of Germany on 28 November 1997.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 16-06-1998

For the Commission