

COMMISSION DECISION

of 18-12-1998

finding that the remission of import duties in a particular
case is justified
(request submitted by France)

Ref. **REM 42/97**

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 8 December 1997, received by the Commission on 12
December 1997, France 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 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.

Between 20 July 1993 and 7 December 1993 a French firm imported textile products originating in India and Thailand. Pursuant to Council Regulation (EEC) No 3917/92 of 21 December 1992 extending into 1993 the application of Regulations (EEC) No 3831/90, (EEC) No 3832/90, (EEC) No 3833/90, (EEC) No 3834/90, (EEC) No 3835/90 and (EEC) No 3900/91 applying generalised tariff preferences for 1991 in respect of certain products originating in developing countries and adding to the list of beneficiaries of such preferences,⁵ those products qualified for a tariff preference, subject to ceilings.

When the goods were imported the firm requested the preferential treatment in question as soon as the goods were placed in the warehouse. Import duties were not paid when the said goods were released for free circulation. However, at the time of such release for free circulation, the import duties payable under ordinary law had been reinstated.

Under the abovementioned Regulation the goods had to be charged against the ceilings as and when they were entered for free circulation and not at the time at which they were placed in the warehouse, and the French competent authorities therefore held that a customs debt had been incurred and accordingly required the firm to pay the sum of XXXXX by way of lawfully payable import duties, 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 French authorities and has nothing to add;

Whereas by letter of 15 April 1998, the Commission informed the firm concerned that it planned to take a decision that was adverse to it and made clear the reasons for its objections; Whereas by letter of 15 May 1998, received by the Commission on that same day, the firm concerned stated its position regarding the said objections;

Whereas the administrative procedure was suspended from 18 May 1998 until 11 September 1998 in accordance with Articles 905 and 907 of Regulation (EEC) No

4 OJ No L 186, 30.6.1989, p.1.

5 OJ No L 396, 31.12.1992, p.1.

2454/93; whereas certain additional information, requested by the Commission by letter of 18 May 1998, was sent to it by the French authorities by letter of 7 September 1998 which the Commission received on 11 September 1998;

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 16 October 1998 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

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 Article 14 of Council Regulation (EEC) No 3832/90 of 20 December 1990 applying generalised tariff preferences for 1991 in respect of certain products originating in developing countries,⁶ the application of which was extended into 1993 by the abovementioned Regulation (EEC) No 3917/92, provided that goods had to be charged against the ceilings as and when the products concerned were entered for free circulation;

Whereas in the case in point, the import duties payable under ordinary law had been reinstated at the time at which the goods concerned were released for free circulation;

Whereas the local customs department agreed, however, to charge the imported goods against the ceilings as soon as they were placed in the warehouse;

Whereas that practice had been authorised in writing by the local customs authorities before the goods in question were imported, as made clear by the firm concerned and by the French authorities in their letters of 15 May 1998 and 7 September 1998, respectively;

Whereas the firm concerned was lawfully entitled to rely on the information supplied in writing by the French authorities;

Whereas the circumstances of this case are such as to constitute a special situation within the meaning of Article 13 of Regulation (EEC) No 1430/79;

Whereas in these circumstances no deception or obvious negligence may be attributed to the firm 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 XXXX requested by France on 8 December 1997 is hereby found to be justified.

Article 2

This Decision is addressed to France.

Done at Brussels, 18-12-1998

For the Commission

⁶ OJ No L 370, 31.12.1990, p.39.