

Commission Decision

of 22-07-98

finding that the remission of import duties  
in a particular case is justified

(request submitted by the Kingdom of Sweden)

Ref. **REM: 7/98**

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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<sup>2</sup> laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,

Whereas by letter dated 19 January 1998, received by the Commission on 23 January 1998, the Kingdom of Sweden asked the Commission to decide, under Article 239 of 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 L 302, 19.10.1992, p.1.

<sup>2</sup> OJ L 253, 11.10.1993, p.1.

Between January and June 1995 a company imported into Sweden five consignments of ferro-chromium originating in Russia.

Following an inspection by the customs authorities in December 1995, the investigators found that the anti-dumping duty applicable to imports of ferro-chromium originating in Russia had either not been levied at all on the consignments, or had been levied at a lower rate than that laid down in the regulations.

The Swedish authorities therefore claimed payment from the company of XXXXX for the anti-dumping duties not levied. On the grounds that the anti-dumping duty applicable had been recorded incorrectly in both the Community's Taric database and the Swedish customs information system, the company concerned requested remission of the sum in question on the basis of Article 239 of Regulation No (EEC) 2913/92.

Whereas the company concerned declares that it has taken note of the submission sent to the Commission by the Swedish authorities and has nothing to add; whereas it further sent a statement of its position to the Swedish authorities, which forwarded it to the Commission in annex to their letter of 19 January 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 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 situations other than those laid down in Articles 236, 237 and 238 of the said Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the company concerned;

Whereas under Council Regulation (EEC) No 2717/93 of 28 September 1993 imposing a definitive anti-dumping duty on imports of ferro-chrome with a carbon content by weight of maximum 0.5 % (low carbon ferro-chrome), originating in Kazakhstan, Russia and Ukraine<sup>3</sup>, an anti-dumping duty was applicable to the imports in question at the rate of ECU 0.31 per kilogram net;

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<sup>3</sup> OJ L 246, 2.10.1993, p. 1.

Whereas the company concerned did not declare the correct amount of anti-dumping duties for the three consignments imported between January and March 1995 and declared no anti-dumping duty on the two consignments imported on 1 June 1995;

Whereas when the consignments in question were imported, neither the company concerned nor the Swedish authorities had the Swedish text of Regulation (EEC) No 2717/93 because the Official Journal of the European Communities had not yet published a Swedish version of the said Regulation;

Whereas the company's uncertainty as to the anti-dumping duties applicable was heightened by the fact that between 1 January and 20 February 1995 the Community's Taric database, the Swedish customs information system and the "paper" version of the Swedish tariff erroneously laid down for the goods in question an anti-dumping duty of ECU 0.31 per 100 kilograms instead of ECU 0.31 per kilogram; whereas this error remained in the "paper" version of the Swedish tariff for the whole period during which the consignments were imported;

Whereas the company's uncertainty was also heightened by the fact that the customs authorities did not, after inspection, contest the fact that the company had not declared anti-dumping duties for the consignments imported on 1 June 1995;

Whereas these factors constitute a situation falling within Article 239 of Regulation (EEC) No 2913/92;

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

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

**HAS ADOPTED THIS DECISION:**

Article 1

The remission of import duties in the sum of XXXXXX requested by the Kingdom of Sweden on 19 January 1998 is hereby found to be justified.

Article 2

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels, 22-07-98

For the Commission

