

**COMMISSION DECISION**

of 10 February 1997

finding that the repayment of import duties in a particular  
case is not justified  
(request submitted by Belgium)

**REM 12/96**

**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,<sup>1</sup>

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92,<sup>2</sup> and in particular Article 907 thereof,

Whereas by letter dated 25 July 1996, received by the Commission on 12 August 1996, Belgium asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the repayment of import duties is justified in the following circumstances:

On 23 June 1995 a firm entered for free circulation in Belgium gherkins of Moroccan origin destined for a customer in France and paid the relevant import duties.

The firm subsequently asked for the duties to be repaid, a sum of XXXX, on the grounds that the goods in question were covered by an origin certificate for the importation into France of Moroccan goods, which, under the Protocol on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State, annexed to the

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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.

Treaty, permits certain goods originating in Morocco to be imported into France without duty being paid.

Repayment was, however, refused by the competent authorities in Belgium on the grounds that the exemption conferred by this special origin certificate was conditional on Moroccan goods being delivered directly to France, whereas the goods in this case had been entered for free circulation in Belgium.

The firm is asking for the duties to be repaid on the basis of Article 239 of Regulation (EEC) No 2913/92 because the Moroccan authorities refused to issue a EUR.1 movement certificate entitling it to benefit from the preferential arrangements between the Community and Morocco.

Whereas the firm concerned declares that it has taken note of the dossier sent to the Commission by the Belgian 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 10 January 1997 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 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 ineligible for the preferential tariff arrangements between Morocco and France because they were not imported directly into France;

Whereas in the absence of a valid origin certificate, the import duties applicable to these goods are due;

Whereas the goods in question were not eligible for a preferential rate of duty when traded between Morocco and the Community; whereas the Moroccan authorities were therefore right to refuse to issue a EUR.1 certificate for the goods exported;

Whereas this is not a special case within the meaning of Article 239 of Regulation (EEC) No 2913/92;

Whereas, therefore, the repayment of import duties requested is not justified in this case,

**HAS ADOPTED THIS DECISION:**

Article 1

The repayment of import duties in the sum of XXXXX requested by Belgium on 27 July 1996 is hereby found not to be justified.

Article 2

This Decision is addressed to Belgium.

Done at Brussels, on 10 February 1997

For the Commission