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**REM 19/01**



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 02/05/02

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NOT FOR PUBLICATION

**COMMISSION DECISION**

**of 2-5-2002**

**finding that a request for remission of import duties is inadmissible in a particular case**

**(request submitted by the Netherlands)**

**(REM 19/01)**

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## COMMISSION DECISION

of 2-5-2002

**finding that a request for remission of import duties is inadmissible in a particular case  
(request submitted by the Netherlands)  
(REM 19/01)**

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> as last amended by Regulation (EC) No 2700/2000,<sup>2</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,<sup>3</sup> as last amended by Regulation (EC) No 444/2002,<sup>4</sup> and in particular Article 907 thereof,

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<sup>1</sup> OJ L 302, 19.10.1992, p. 1.

<sup>2</sup> OJ L 311, 12.12.2000, p. 17.

<sup>3</sup> OJ L 253, 11.10.1993, p. 1.

<sup>4</sup> OJ L 68, 12.03.2002, p. 11.

Whereas:

- (1) By letter dated 6 August 2001, received by the Commission on 14 August 2001, the Netherlands 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,<sup>5</sup> as last amended by Regulation (EEC) No 1854/89,<sup>6</sup> whether remission of duties is justified in the following circumstances:
- (2) In the 1992/93 marketing year a Dutch firm produced more than the quota of A and B sugar allocated to it for that year under Council Regulation (EEC) No 1785/81 of 30 June 1987 on the common organisation of the markets in the sugar sector.<sup>7</sup>
- (3) Under Article 26(1) of Regulation (EEC) No 1785/81, sugar not covered by the A and B quota, known as C sugar, which is not carried forward to the next marketing year to be treated as part of that year's production pursuant to Article 27 of the Regulation must be exported in the natural state before 1 January following the end of the marketing year in question, in this case 1 January 1994.
- (4) The firm sold the C sugar to firms in Croatia, Slovenia and Morocco. However, the T5 forms returned to the competent authorities in the Netherlands did not bear the correct stamps and could not, therefore, be used to prove that the sugar concerned had actually been exported from the Community territory.

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<sup>5</sup> OJ L 175, 12.07.1979, p. 1.

<sup>6</sup> OJ L 186, 30.06.1989, p. 1.

<sup>7</sup> OJ L 177, 01.07.1981, p. 4.

- (5) As a result the competent Dutch administration, in accordance with Article 3 of Commission Regulation (EEC) No 2670/81 of 14 September 1981 laying down detailed implementing rules in respect of sugar production in excess of the quota,<sup>8</sup> issued a demand on 25 April 1994 for the payment of XXXXX, corrected on 13 June 1994 to XXXXXX, the sum for which remission is sought in this case.
- (6) In accordance with Article 905 of Regulation (EEC) No 2454/93, the firm stated that it had seen the dossier submitted to the Commission by the Dutch authorities and made a number of observations, which were annexed to the dossier sent to the Commission.
- (7) 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 17 January 2002 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case.
- (8) Article 13(1) of Regulation (EEC) No 1430 permits the remission of import duties. Article 1 of that Regulation defines "import duties" as customs duties and charges having equivalent effect, as well as agricultural levies and other import charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products; the same Article defines "export duties" as agricultural levies and other export charges laid down within the framework of the common agricultural policy, or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty, to certain goods resulting from the processing of agricultural products.
- (9) The request in question concerns an amount due, under Article 26 of Regulation (EEC) No 1785/81 and Article 3 of Regulation (EEC) No 2670/81, for quantities of sugar not exported from the Community territory.

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<sup>8</sup> OJ L 262, 16.09.1981, p. 14.

- (10) Article 3 of Regulation (EEC) No 2670/81 concerns the calculation of the amount due when C sugar is not exported to third countries. Though this Article and the associated recital refer to the highest import charges applicable to the product concerned, it is clear that they concern a method of calculation. The purpose of Article 3 is to place sugar which has not been exported on a similar footing to sugar or isoglucose imported from non-member countries; this amount is therefore tantamount to a penalty imposed on operators who fail to comply with the conditions laid down for the export of C sugar in Article 26 of Regulation (EEC) No 1785/81.
- (11) Furthermore, in accordance with the budget rules applicable in the matter, the amount payable by the manufacturer of the sugar is to be entered in the accounts under Article 113 ("Charges levied on non-exported C sugar and C isoglucose production") of Chapter 11 ("Levies and other charges provided for under the common organisation of the markets in sugar (Article 2(1)(a) of Decision (88/376/EEC, Euratom)") of Part A of the General Statement of Revenue of the general budget of the European Union.
- (12) This amount cannot therefore be considered import or export duties within the meaning of Article 1 of Regulation (EEC) No 1430/79. Accordingly, in so far as the duties for which remission is requested in this case are outside the scope of Regulation (EEC) No 1430/79, there are no grounds for the Commission to examine this case under Article 13 of that Regulation,

HAS ADOPTED THIS DECISION:

*Article 1*

The request submitted by the Netherlands on 6 August 2001 for the remission of import duties in the sum of XXXXXXXXX is inadmissible.

*Article 2*

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 02/05/02

*For the Commission*

*Member of the Commission*