

COMMISSION DECISION
of 12-12-1996

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

REM 9/96

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,¹

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

Whereas by letter dated 14 June 1996, received by the Commission on 18 June 1996, Denmark 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 3069/86,⁴ whether the repayment of import duties is justified in the following circumstances:

On 15 June 1993 a Danish company imported a consignment of yarn from Pakistan under CN code 55 09 53 00 and applied for zero-duty treatment under the existing import ceiling.

During a post-clearance check the Danish authorities discovered that the company had erroneously been granted zero-duty treatment as the import ceiling had been reached and the duty was reintroduced with effect from 22 May 1993 in accordance with Commission Regulation (EEC) No 1216/93 of 17 May 1993 re-establishing the levying of customs duties on products of category 22 (order No 40.0220) originating in Pakistan, to which the preferential tariff arrangements set out in Council Regulation (EEC) No 3832/90 apply⁵.

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, 12.07.1979, p. 1.

⁴ OJ No L 286, 09.10.1986, p. 1.

⁵ OJ No L 123, 19.05.1993, p. 14

Post-clearance recovery and repayment of the import duties in question totalling XXXXX was requested;

Whereas the person concerned has stated that he has taken note of the request submitted by the Danish authorities to the Commission 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 13 September 1996 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 the customs duties were re-established on the products in question before they were imported into the Community; whereas these duties are therefore to be paid;

Whereas the Danish authorities in question erroneously granted zero-duty treatment to the imported products although the customs duties had already been re-established by the Regulation published in the Official Journal of the European Communities;

Whereas, however, this error could have been easily detected by the person concerned as the Regulation re-establishing the import duties on the products in question had been published in the Official Journal of the European Communities of 19 May 1993, i.e. several weeks before the goods were imported;

Whereas, in the circumstances, a special situation does not exist within the meaning of Article 13 of Regulation (EEC) No 1430/79, nor is it clear that no obvious negligence may be attributed to the person concerned;

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 XXXXXX requested by Denmark on 14 June 1996 is hereby found not to be justified.

Article 2

This Decision is addressed to Denmark.

Done at Brussels, 12-12-1996

For the Commission