

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25. II. 1993

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A NE PAS PUBLIER

COMMISSION DECISION
of 25. II. 1993

finding that the request for repayment of import duties in
a particular case is inadmissible
(request submitted by Ireland)

REM 11/92

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1430/79 of 2 July 1979 on the
repayment or remission of import or export duties,¹ as last amended by
Regulation (EEC) No 3069/86,²

Having regard to Commission Regulation (EEC) No 3799/86 of 12 December 1986
laying down provisions for the implementation of Articles 4a, 6a, 11a and
13 of Council Regulation (EEC) No 1430/79 on the repayment or remission of
import or export duties,³ and in particular Article 8 thereof,

Whereas by letter dated 25 August 1992, received by the Commission on
1 September 1992, Germany requested the Commission to decide, pursuant to
Article 13 of Regulation (EEC) No 1430/79, whether the repayment of import
duties is justified in the following circumstances:

1 OJ No L 175, 12.7.1979, p. 1.

2 OJ No L 286, 9.10.1986, p. 1.

3 OJ No L 352, 13.12.1986, p. 19.

In September 1989, an Irish company entered 656 cartons of frozen boneless beef, paying customs duty of IRL 8 181.49. The container was released without customs examination. It was opened in the company's cold store in the presence of a Department of Agriculture Veterinary Inspector and found to contain only 356 cartons.

The container was consigned from New Zealand to Tilbury in the UK for transshipment to Dublin. A UK Customs seal was affixed in Tilbury. All shipping documents presented for clearance - consignor's invoice, certificates issued by the New Zealand Department of Agriculture and a New Zealand Assurance company and an invoice from the UK agents - refer to the despatch of 656 cartons.

The Veterinary Inspector present at the opening of the container confirms that the proper UK Customs seal was intact and that there was no New Zealand Customs seal.

The import duty applicable to the missing cartons is IRL [REDACTED] and the company is seeking a repayment of this amount. The application for repayment was made within the period described in Regulation No 1430/79.

Whereas in accordance with Article 8 of Regulation (EEC) No 3799/86, a group of experts composed of representatives of all the Member States met on 8 January 1993 within the framework of the Committee on Duty Free Arrangements 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 Irish customs and veterinary authorities were satisfied that the UK Customs seal on the container was intact when the goods were inspected;

Whereas the missing cartons could not, therefore, have been removed during their journey from the UK to Ireland, nor on Irish territory;

Whereas no customs debt was therefore incurred in Ireland in respect of the 300 cartons;

Whereas Article 2(2) of Regulation (EEC) No 1430/79 provides that import duties shall be repaid or remitted in so far as the competent authorities are satisfied that the amount of such duties entered in the accounts relates to goods in respect of which a customs debt has not arisen;

Whereas in these circumstances the Irish authorities may repay the duties themselves;

Whereas the request for repayment of import duties in the sum of IRL [REDACTED] cannot therefore be dealt with under Article 13 of Regulation (EEC) No 1430/79,

HAS ADOPTED THIS DECISION:

Article 1

The request for repayment presented by Ireland on 25 August 1992 is inadmissible.

Article 2

This Decision is addressed to Ireland.

Done at Brussels, 25. 11. 1993

For the Commission

Ch. SCRIVENER

