

Commission Decision  
of 19-04-1999  
finding that the repayment of import duties  
in a particular case is justified  
(request submitted by Sweden)

Ref. **REM: 15/98**  
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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 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,<sup>2</sup>

Whereas by letter dated 19 May 1998, received by the Commission on 28 May 1998, Sweden 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:

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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.

A Swedish firm signed a contract with representatives of the United States Government to develop and supply a mobile bridge system. The US contractor lent several vehicles to the firm for use in the construction and load-testing of the bridge system. The vehicles were then to be sent back to the United States.

The vehicles were imported from the United States and moved from Göteborg to Karlskrona under the external Community transit procedure on 7 January 1997. However, they were delivered directly to the firm.

Because the transit procedure had not been discharged properly, the firm incurred a customs debt of XXXXX, which it paid on 3 April 1997. As it was owing to a misunderstanding that the vehicles had been delivered directly to the firm's premises and as they would have been granted temporary admission to the territory of the European Community if the transit procedure had been discharged properly, the firm requested repayment of the customs debt.

Whereas the firm declared that it had taken note of the submission sent to the Commission by the Swedish authorities and had nothing to add;

Whereas the administrative procedure was suspended in accordance with Articles 905 and 907 of Regulation (EEC) No 2454/93 between 16 October 1998 and 15 December 1998; whereas additional information requested by the Commission in a letter of 16 October 1998 was provided by the Swedish authorities in a letter of 9 December 1998, received by the Commission on 15 December 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 25 February 1999 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 applicant;

Whereas goods placed under the Community transit procedure must be presented to the customs office of destination, failing which a customs debt is incurred under Article 203 of Regulation (EEC) No 2913/92;

Whereas, however, the firm in question did not know that the goods it was receiving had been placed under a transit procedure which had not been completed; whereas it was the US Government's agents, which were not familiar with the transit and temporary admission customs procedures, that had looked after the carriage of the vehicles;

Whereas if the Community transit procedure had been discharged properly the vehicles in question, as confirmed by the Swedish authorities, would have been eligible for temporary admission to the territory of the European Community;

Whereas there is no doubt as to the identification of the vehicles in question;

Whereas the vehicles were re-exported to the United States on 7 July 1998;

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

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

Whereas, therefore, the repayment of customs duties is justified in this case,

**HAS ADOPTED THIS DECISION:**

Article 1

The repayment of import duties in the sum of XXXXX requested by Sweden on 19 May 1998 is justified.

Article 2

This Decision is addressed to Sweden.

Done at Brussels, 19-04-1999

For the Commission

