

COMMISSION DECISION
of 26-1-1996
finding that the remission of import duties in a particular
case is justified

(request submitted by Germany)

REM 6/95

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 Regulation (EEC) No 2913/92,¹ and in particular Article 907 thereof,

Whereas by letter dated 17 July 1995 received by the Commission on 28 July 1995, Germany 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,¹ as last amended by Regulation (EEC) No 3069/86,¹ whether the remission of import duties is justified in the following circumstances:

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, 12.7.1979, p.1.
4 OJ No L 286, 9.10.1986, p.1.

During a spot-check on 3 February 1992 the German police stopped a vehicle registered in Poland pulling a trailer registered in Germany. The tractor was transporting goods within the territory of the Federal Republic in breach of the German rules on the temporary admission of means of transport. The Polish driver had been hired for this contract by an employee of a German haulage firm.

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 4 December 1995 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 since the vehicle concerned was used illegally in the light of the German legislation on the temporary admission of means of transport, a customs debt was incurred by the head of the firm concerned pursuant to Council Regulation No 2144/87 of 13 July 1987 on customs debt;¹

Whereas the prohibition was based on the national law governing cabotage; whereas the infringement of this legislation arose quite by chance;

Whereas neither the employee, on account of his inexperience, nor the Polish driver knew the relevant German legislation on the temporary admission of means of transport;

⁵ OJ L 201, 22.07.1987, p. 15.

Whereas all these circumstances represent a special case within the meaning of Article 13 of Regulation No 1430/79;

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

Whereas, therefore, the remission of import duties requested is justified in this case,

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXX requested by Germany on 17 July 1995 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 26-1-1996

For the Commission