

Commission Decision
of 22-07-1998
finding that the remission of import duties
in a particular case is justified
(request submitted by the Federal Republic of Germany)

Ref. **REM: 8/98**

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 1993² laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,

Whereas by letter dated 15 January 1998, received by the Commission on 13 February 1998, the Federal Republic of Germany asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the remission of import duties is justified in the following circumstances:

¹ OJ L 302, 19.10.1992, p.1.

² OJ L 253, 11.10.1993, p.1.

On 25 October 1995, following the satisfactory completion of two external Community transit procedures, a German company received 168 drums of lithium (CN 2805 19 00) into temporary storage. It subsequently took the goods from Hamburg to Bremerhaven, where they were loaded onto a ship bound for the United States of America.

Although the consignment still had the status of third-country goods, it was transported without being placed under the external Community transit procedure.

The German authorities therefore requested payment of import duties as a customs debt amounting to XXXXXX had been incurred, remission of which is requested by the company concerned.

Whereas the company concerned declares that it has taken note of the submission sent to the Commission by the German authorities 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 7 May 1998 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 company concerned;

Whereas, as the result of an error by the company concerned, the goods in question were exported without being placed under the external Community transit procedure; whereas the company concerned thus failed to fulfil the obligations arising from temporary storage;

Whereas a customs debt of XXXXXXXX was therefore incurred under Article 204 of Regulation (EEC) No 2913/92;

Whereas Article 859 of Regulation (EEC) No 2454/93 does not apply to this case because the formalities necessary to regularise the situation of the goods could not subsequently be carried out;

Whereas the German authorities assert that the goods in question left Community customs territory and thus did not enter the Community's commercial channels; whereas, according to the German authorities, the goods were cleared by the US customs;

Whereas the German authorities maintain that the situation was simply the result of an oversight by the company concerned;

Whereas these factors constitute a situation falling within Article 239 of Regulation No 2913/92; whereas the error in question had no significant effect on the correct operation of the procedure;

Whereas in the circumstances of the case in question no deception or obvious negligence may be attributed to the company concerned; whereas the company itself alerted the customs authorities as soon as it became aware of its oversight;

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

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXXX requested by the Federal Republic of Germany on 15 January 1998 is hereby found to be justified.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 22-07-1998

For the Commission

REM/OUI