

REM/OU1

COMMISSION DECISION

of 23.9.1992

finding that the remission of import duties in a particular
case is justified

(request submitted by Italy)

REM 2/92

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 4 February 1992, received by the Commission on 25 February 1992, Italy requested the Commission to decide, pursuant to Article 13 of Regulation (EEC) No 1430/79, whether the remission 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.

Two Italian firms holding authorizations for the temporary importation of durum wheat from the United States to be used for the manufacture of pasta under the inward processing procedure in accordance with Regulation (EEC) No 2657/87⁴ re-exported the pasta to the United States. The pasta was shipped on the vessel "Commandate Rocio" on 1 December 1990 and the necessary customs formalities were carried out.

On 10 December 1990 the vessel was wrecked and the pasta was lost, as attested by a certificate issued by the Port of Naples.

As a result the Certificate P1, which under Regulation (EEC) No 2657/87 must be stamped by the US authorities to prove that the pasta has been released for home use in the United States, thus discharging the inward processing procedure, could not be presented to the Italian authorities.

As the inward processing procedure was not finally discharged, a customs debt was incurred.

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 3 June 1992 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;

4 OJ No L 251, 2.9.1987, p. 4.

Whereas this is an exceptional case and the failure to complete the inward processing procedure correctly was due solely to unforeseeable events wholly beyond the control of those concerned and in no way reflecting on their good faith;

Whereas the failure to fulfil the obligations inherent in the inward processing procedure was a case of force majeure;

Whereas Regulation (EEC) No 2657/87 contains no force majeure clause and hence does not provide for the settlement of this case;

Whereas the circumstances of this case involve no deception or obvious negligence on the part of the person concerned;

Whereas in this case the remission of import duties requested under Article 13(1) of Regulation (EEC) No 11430/87 is therefore justified,

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties of LIT [REDACTED] requested by Italy on 4 February 1992 is hereby found to be justified.

Article 2

This Decision is addressed to Italy.

Done at Brussels, 23.7.1992

For the Commission.