

Commission Decision
of 21-04-1999
finding that the remission of import duties
in a particular case is justified
(request submitted by the Portuguese Republic)

REM: 18/98

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 7 July 1998, received by the Commission on 29 July 1998, Portugal asked the Commission to decide, under Article 239 of the abovementioned Regulation (EEC) No 2913/92, whether the remission of import duties is justified in the following circumstances:

A Portuguese firm, hereinafter referred to as the firm concerned, imported from Belgium, under the external Community transit procedure, two containers of lamb from New Zealand falling within code 0204 30 00 of the Combined Nomenclature.

On 9 November 1995, the goods were placed in refrigerated warehouses in Portugal. However, as they had been delivered direct, the external Community transit procedure was not discharged and the goods were not presented to the customs office of destination in Portugal.

After carrying out checks, the competent customs authorities informed the firm concerned that the external Community transit procedure had not been discharged.

The competent Portuguese authorities then asked for payment of import duties, a customs debt having been incurred of XXXXXX.

When the goods arrived at the refrigerated warehouses, the firm concerned had in its possession a valid import licence entitling it, under Commission Regulation (EC) No 1440/95 of 26 June 1995 opening Community tariff quotas for the second half of 1995 for sheep, goats, sheepmeat and goatmeat falling within CN codes ex 0104 10, ex 0104 20 and 0204³, to suspension of customs duties applicable to imports.

The firm concerned then asked for the import duties to be remitted;

Whereas the firm concerned has stated that it has seen the dossier submitted to the Commission by the Portuguese authorities and has nothing to add;

¹ OJ No L 302, 19.10.1992, p.1.

² OJ No L 253, 11.10.1993, p.1.

³ OJ L 143 of 27.6.1995, p. 17.

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 16 October 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 special situations, other than those laid down in Articles 236, 237 and 238 of that Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas goods placed under a Community transit procedure must be presented to the customs office of destination; whereas in case of non-presentation a customs debt is incurred pursuant to the abovementioned Regulation (EEC) No 2913/92;

Whereas the firm concerned contends, however, that it did not know that the goods it was receiving had been placed under a Community transit procedure that had not been discharged and that it was the first time that it had received uncleared goods; whereas these facts are confirmed by the Portuguese authorities;

Whereas the firm concerned had in its possession a valid import licence entitling it, under the abovementioned Commission Regulation (EC) No 1440/95, to suspension of customs duties applicable to imports;

Whereas this licence was valid only until 31 December 1995;

Whereas this document was not presented to the customs authorities until 15 May 1996, at the same time as the customs declaration;

Whereas, as confirmed by the Portuguese authorities, the said licence has not been used by the firm concerned;

Whereas, however, at the moment the customs debt was incurred, this licence was still valid and would have entitled the firm concerned to suspension of import duties if the goods in question had been entered for free circulation at that moment in the European Community;

Whereas these circumstances taken as a whole, and in particular the fact that the firm concerned actually had in its possession a valid import licence for the goods in question, are such as to constitute a situation such as described in Article 239 of Regulation (EEC) No 2913/92;

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

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

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties amounting to XXXXX requested by the Portuguese Republic on 7 July 1998 is hereby found to be justified.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 21-04-1999

For the Commission