

COMMISSION DECISION
of 18-7-1994
finding that the repayment of import duties in a particular
case is not justified
request submitted by Belgium

REM 3/94

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 Council Regulation (EEC) No 2913/92, and in particular Article 907 thereof,²

Whereas by letter dated 4 February 1994, received by the Commission on 8 February 1994, Belgium 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,³ as last amended by Regulation (EEC) No 3069/86,⁴ whether the repayment 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.

Duties were paid over a period of three years on imports of polyvinyl butyral for use in aircraft. The importer could have applied under the end-use arrangements for suspension of the duties, but failed to do so, and is now applying for repayment of the duties on the grounds that he was unaware of this possibility;

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 19 May 1994 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 Regulation (EEC) No 4142/87 determines the conditions under which certain goods are eligible on import for a favourable tariff arrangement by reason of their end-use;

Whereas none of the conditions for use of this arrangement were complied with, in particular the requirement to obtain written authorization; whereas such authorization cannot be made retrospective;

Whereas failure to comply with the rules does not constitute a special situation;

Whereas numerous consignments were imported and the same mistake was made; whereas the importer showed obvious negligence;

Whereas, therefore, the repayment of import duties requested is not justified in this case,

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties in the sum of XXXXX requested by Belgium on 4 February 1994 is hereby found not to be justified.

Article 2

This Decision is addressed to Belgium.

Done at Brussels, 18-7-1994

For the Commission