

COMMISSION DECISION

of 15.10.1992

finding that the request for repayment of import duties
in a particular case is inadmissible

(request submitted by Germany)

REM 14/92

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 12 October 1992, received by the Commission on
20 October 1992, Germany asked the Commission to decide under
Article 13 of Regulation (EEC) No 1430/79 whether or not the repayment 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.

In July 1991 a German firm exported a component of a military antenna system to the USA to be repaired free of charge.

It was clear from the export declaration that the component was being exported provisionally (Code 2100/5 marked in box 37 of the Single Administrative Document and the reference to "provisional export for repair"). However, no specific request for authorization for outward processing was made.

When the component was reimported on 8 October 1991 customs duty amounting to DM 10 940.79 was levied.

On 14 October 1991, the firm applied for a refund of the import duties on the basis of Article 13 of Regulation (EEC) No 1430/79.

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 25 March 1993 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 referred to 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 Article 14(1) of Regulation (EEC) No 2458/87⁴ provides that in the case of repairs the lodging of the declaration for entry of goods for the arrangements can also constitute the application for the authorization, in which case the acceptance of the declaration constitutes the authorization;

4 OJ No L 230, 17.8.1987, p.1.

Whereas the acceptance of the export declaration by customs was therefore equivalent to authorization for outward processing, which entailed the right to preferential treatment when the item was reimported;

Whereas the customs authorities ascertained that the item exported was the same as that imported;

Whereas, consequently, no customs debt arose when the item in question was imported;

Whereas the German authorities can accordingly repay the import duties themselves, on the basis of Article 2 of Regulation (EEC) No 1430/79;

Whereas, in the circumstances, the request for repayment of import duties in the sum of DM [REDACTED] cannot be dealt with under Article 13 of Regulation (EEC) No 1430/79;

HAS ADOPTED THIS DECISION:

Article 1

The request for repayment presented by Germany on 12 October 1992 is inadmissible.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 29.4.1993

For the Commission