

COMMISSION DECISION
of 28-11-1996
finding that the remission of import duties in a particular
case is justified

(request submitted by Germany)

REM 7/96

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

Whereas by letter dated 17 May 1996, received by the Commission on 30 May 1996, Germany asked the Commission to decide, under Article 239 of Council Regulation (EEC) No 2913/92, whether the remission of import duties is justified in the following circumstances:

On 9 March 1995 a forwarding agent mistakenly applied to enter nine container loads of cigarette filters for transport by road under the external Community transit procedure. As the goods were leaving the person responsible for the operation noticed the word "filters" was missing from one of the transit documents and typed it in, using a typewriter different from the one used for the rest of the documents.

¹ OJ No L 302, 19.10.1992, p.1.

² OJ No L 253, 11.10.1993, p.1.

The authorities noticed the difference in typeface, carried out an investigation and found that the goods being moved under the transit procedure were filter cigarettes, not cigarette filters. They accordingly ruled that a customs debt had been incurred under Article 204(1) of Regulation (EEC) No 2913/92.

Arguing that the misdescription was the result of a slip implying neither deception nor obvious negligence the operator is requesting remission of a customs debt totalling XXXXX. The request is backed by the German authorities, who state that there was clearly no intent to defraud in this case.

Whereas the operator states that he has seen the dossier submitted to the Commission by the German authorities and has nothing to add; whereas he further sent a statement of his position to the German authorities, which forwarded it to the Commission in annex to their letter of 17 May 1996;

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 13 September 1996 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 the misdescription of the goods on the T1 forms meant the external Community transit procedure did not apply to the goods actually carried; whereas a customs debt was therefore incurred under Article 204(1) of the said Regulation (EEC) No 2913/92;

Whereas the mistake in completing the transit papers, though technically constituting a failure of compliance, in practice had no actual or potential effect in terms of customs debt as the cigarettes were duly produced at destination and the transport documents discharged in accordance with customs regulations; whereas the cigarettes were subsequently exported from the Community to a non-EC country;

Whereas the rest of the documentation contained the correct description of the goods in transit and gave particulars of the sealed containers used to transport them;

Whereas these factors constitute a situation falling within Article 239 of Regulation (EEC) No 2913/92;

Whereas the misdescription of the goods on the transit papers was the result of a simple isolated slip made in the bustle of a busy office by a person accustomed to complete transit forms for cigarette filters but who had never previously been required to do so for cigarettes;

Whereas in the special circumstances of the case in question no deception or obvious negligence may be attributed to the person concerned;

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

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXXX requested by Germany on 17 May 1996 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 28-11-1996

For the Commission