

REM/YES

COMMISSION DECISION

of (2. 7. 1979)

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

(request submitted by the Federal Republic of Germany)

REM 6/91

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 7 August 1991, received by the Commission on
20 August 1991, Germany 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, 9.10.198, p.1.

3 OJ No L 352, 13.12.1986, p. 19.

A check carried out on 3 September 1989 at the Helmstedt motorway customs post on the former German-German border revealed that two Polish-registered lorries were carrying goods loaded in the Federal Republic and destined for West Berlin. Under the national regulations governing the temporary importation of commercial vehicles, this constituted an unauthorized cabotage operation entailing the collection of import duties totalling DM [REDACTED]. Once the lorries had been unloaded in West Berlin, they then returned to Poland.

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 20 November 1991 within the framework of the Committee on Duty Free Arrangements to consider the case;

Whereas in accordance with Article 13(12) 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 such special circumstances exist in this case;

Whereas the national regulations restrict access to temporary importation arrangements to commercial vehicles engaged in operations beginning or ending outside German territory; whereas the fact that the Polish-registered lorries had loaded and unloaded their freight inside Germany gave rise to a customs debt;

Whereas, however, the legal situation was unclear to the lorry drivers since the transport operation involved the crossing of two frontiers in order to reach West Berlin;

Whereas the strict application of the customs regulations applicable to this type of transport operation would not be wholly equitable;

Whereas there is no evidence in this case of deception or obvious negligence on the part of the person concerned;

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

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties of DM [REDACTED] requested by the Federal Republic of Germany on 7 August 1991 is hereby found to be justified.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 12.2.1992

For the Commission