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**REM 20/00**



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8-6-2001

NOT FOR PUBLICATION

**COMMISSION DECISION**

**of 8-6-2001**

**finding that the repayment of import duties in a particular case is justified  
(Request submitted by the Portuguese Republic)  
(REM 20/00)**

FR

## COMMISSION DECISION

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**finding that the repayment of import duties in a particular case is justified  
(Request submitted by the Portuguese Republic)  
(REM 20/00)**

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,<sup>1</sup> as last amended by Regulation (EC) No 2700/2000,<sup>2</sup>

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, as last amended by Regulation (EC) No 2787/2000, and in particular Article 907 thereof,

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<sup>1</sup> OJ L 302, 19.10.1992, p. 1.

<sup>2</sup> OJ L 311, 12.12.2000, p. 17.

<sup>3</sup> OJ L 253, 11.10.1993, p. 1.

<sup>4</sup> OJ L 330, 27.12.2000, p. 1.

Whereas:

- (1) By letter dated 6 September 2000, received by the Commission on 12 September 2000, Portugal asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the repayment of import duties is justified in the following circumstances.
- (2) On 29 May 1998 a foundation set up by the Republic of Venezuela as part of the 1998 world exhibition held in Lisbon declared 1 104 cases containing a total of 13 248 bottles of rum for release for free circulation. These bottles carried labels indicating “EXPO 98” and were to be sold at cost price plus the various expenses in the Venezuela pavilion of the exhibition. Of the 13 248 bottles, 11 928 bottles could not be sold and were exported from Community territory to Venezuela. The foundation requests repayment of the import duties paid for these 11 928 bottles, i.e. a sum of XXXX.
- (3) In support of the request submitted by the competent authorities of Portugal, the party concerned, pursuant to Article 905 of Regulation (EEC) No 2454/93, stated that it had taken note of the file sent by the authorities of the Portuguese Republic to the Commission and that it had nothing to add.
- (4) 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 3 April 2001 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case.

- (5) 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 party concerned.
- (6) The file sent by the Portuguese authorities to the Commission shows that the aim of the foundation, a non-profit making organisation, was to make this traditional Venezuelan product known. Bottles were sold at their cost price plus only the expenses arising from their presentation at Expo 98. Furthermore, the bottles bore Expo 98 labels and could not therefore be sold outside the exhibition.
- (7) To avoid payment of the import duties on any bottles remaining unsold, the foundation could have used customs warehousing arrangements instead of direct release for free circulation.
- (8) It should also be noted that all the bottles which were not sold were exported from Community territory under customs control.
- (9) It emerges from the foregoing that this case did not impair the European Communities' financial interests and the circumstances were such as to constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92.
- (10) The foundation should be regarded as an inexperienced operator in the field of customs regulation.
- (11) It should also be noted that it is an isolated case, which occurred only once.
- (12) The circumstances of the case are such that no deception or obvious negligence may be attributed to the party concerned, as confirmed by the competent Portuguese authorities.
- (13) The repayment of import duties requested is therefore justified in this case,

HAS ADOPTED THIS DECISION:

*Article 1*

The repayment of import duties in the sum of XXXXX requested by the Portuguese Republic on 6 September 2000 is justified.

*Article 2*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 8-6-2001

*For the Commission*

*Member of the Commission*