

Commission Decision
of 18 September 1991
finding that the repayment of import duties in a
particular case is not justified

(request submitted by Germany)

REM 8/91

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 12 September 1991, received by the Commission on 18 September 1991, Germany requested the Commission to decide, pursuant to Article 13 of Regulation (EEC) No 1430/79, whether 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.

On 2 May 1991 a private individual imported household effects which her 96 year old mother had left her as an "advance" (inter vivos) legacy when entering an old folks' home.

Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty¹ makes no provision for relief in such a case, and no movement certificate was produced to allow preferential treatment under the EEC-EFTA trade arrangements. German customs therefore levied DM [REDACTED] in import duties.

The importer now claims repayment of the duty on the grounds that the circumstances in which the goods were imported were exceptional;

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 31 January 1992 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 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 the Community legislator did not consider that importation of personal property as an inter vivos legacy should confer entitlement to relief, since it would be difficult both to define and to verify in practice the necessary conditions;

1 OJ No L 105, 23.4.1983, p. 1.

Whereas the law on this point cannot be altered by application of the repayment provisions; whereas while Regulation (EEC) No 918/83 provides for relief on an inheritance, the fact that this situation does not obtain in this case does not constitute special circumstances within the meaning of Article 13 of Regulation (EEC) No 1430/79;

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

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties of DM [REDACTED] which is the subject of the request submitted by Germany on 12 September 1991 is not justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 18.3.1992

For the Commission