

COMMISSION DECISION

of 13.12.1993

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

(request submitted by Germany)

REM 16/93

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 18 May 1993, received by the Commission on 28 May 1993, Germany asked the Commission to decide, under 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.

In March 1992 a German forwarding agent acting as authorized consignee and consignor placed various non-Community goods originating in Switzerland in temporary storage. Subsequently it despatched the goods to the US under a transit procedure. The clerk responsible for customs formalities issued a T2 internal transit document instead of a T1 external transit document.

Use of a T2 transit document resulted in the goods being removed from customs supervision, which gave rise to a customs debt. Payment of the corresponding customs duty, amounting to DM [REDACTED], was claimed from the company.

The company is claiming repayment of this duty under Article 13 of Regulation (EEC) No 1430/79 on the grounds that the goods had indeed left the customs territory of the Community and had duly cleared customs in the United States.

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 3 September 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 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 in the case under consideration goods were being exported from Switzerland to the United States; whereas two non-member countries were bound by the relevant commercial contract; whereas the risk of release for home use in the territory of the Community was accordingly minimal;

Whereas the goods in question were non-Community goods; whereas evidence of their release for home use in another non-member country has been provided;

Whereas the lodging a of T2 internal transit document instead of a T1 external transit document was a clerical error which was not apparently due to poor knowledge of Community legislation and conferred, by mistake, a different status on the goods;

Whereas, furthermore, the company itself informed the customs authorities of the error made;

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 repayment of import duties requested is justified in this case,

HAS ADOPTED THIS DECISION:

Article 1

The repayment of import duties in the sum of DM [REDACTED]3 requested by Germany on 12 May 1993 is hereby found to be justified.

Article 2

This Decision is addressed to Germany.

Done at Brussels, 23.05.1993

For the Commission