

COMMISSION DECISION

of 23.7.1992

finding that the application for remission of import duties
in a particular case is inadmissible

(request submitted by France)

REM 1/92

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 29 January 1992, received by the Commission on 4 February 1992, France 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, 9.10.1986, p.1.

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

In the first quarter of 1991 a French company imported gas turbines from the United States, where they originated, using the inward processing (suspension) procedure.

The turbines were fitted to the compressors manufactured by the company and re-exported to Syria via Le Havre.

Because an employee of the company forgot to send the forwarding agent the dossiers relating to the turbines they were declared for ordinary re-exportation (declaration EX 1) instead of re-exportation following inward processing (suspension system) using declaration EX 3.

Since the inward processing (suspension) procedure had not been discharged, the customs duty on the turbines became payable.

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 June 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 French company held an inward processing (suspension) authorization for the operation in question; whereas the imported turbines were used entirely as specified in the authorization and the goods were re-exported in the original packings;

Whereas the company endeavoured to regularize the operation as soon as it discovered the mistake;

Whereas under Article 2(1)(d) of Council Regulation (EEC) No 2144/87 of 13 July 1978,¹ no customs debt will be incurred where an obligation attaching to goods liable to import duties by reasons of the customs procedure under which they are placed is not fulfilled, provided it can be established that the failure has no significant effect on the correct operation of the customs procedure in question;

Whereas the goods covered by the inward processing authorization did leave the customs territory of the Community and the French company supplied evidence that they were imported into Syria and declared to Syrian customs;

Whereas the company's mistake therefore had no significant effect on the correct operation of the customs procedure;

Whereas no customs debt was therefore incurred and the French authorities may themselves remit the duties under Article 2 of Regulation (EEC) No 1430/79,

HAS ADOPTED THIS DECISION:

Article 1

The application for remission presented by France on 29 January 1992 is inadmissible.

Article 2

This Decision is addressed to France.

Done at Brussels, 23.7.1992

For the Commission

¹ OJ No L 201, 22.7.1987, p.17.