

COMMISSION DECISION
of 21 April 1997
finding that the remission of import duties in a particular
case is justified

(request submitted by the Netherlands)

Ref. **REM 25/96**

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,¹

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, and in particular Article 907 thereof,²

Whereas by letter dated 28 October 1996, received by the Commission on 4 November 1996, the Netherlands asked the Commission to decide, under Article 239 of Regulation (EEC) No 2913/92, whether the remission of import duties is justified in the following circumstances:

A citizen of the Netherlands, hereinafter referred to as the “person concerned”, agreed to drive a car belonging to a US citizen from Hungary to Rotterdam for export to the United States, where the vehicle was registered.

¹ OJ No L 302, 19.10.1992, p.1 .

² OJ No L 253, 11.10.1993, p.1 .

She left Hungary on 23 June 1994 and drove the vehicle to the Netherlands. A check carried out by the Netherlands customs authorities on 27 June 1994 revealed that she was not in possession of a temporary import authorization for the car, which would have allowed EC import duties to be waived.

The Netherlands customs authorities accordingly requested payment of import duties in the sum of XXXXX, which the person concerned is seeking to have remitted. The car was shipped from the Netherlands to the United States on 29 June 1994;

Whereas the person concerned states that she has seen the dossier submitted to the Commission by the Netherlands authorities and has nothing to add; Whereas 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 7 March 1997 within the framework of the Customs Code Committee (Section for General Customs Rules/Repayment) to consider the case;

Whereas, in accordance with Article 239 of Regulation (EEC) No 2913/92, import duties may be repaid or remitted in situations other than those referred to in Articles 236, 237 and 238 of that Regulation, resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned;

Whereas the facts show that the vehicle did leave the territory of the Community and had been imported into that territory solely for the purpose of being delivered to Rotterdam for export to the United States;

Whereas the case fulfilled the conditions for issue of an authorization for temporary importation of a means of transport into the Community with relief from import duty;

Whereas use of the vehicle on Community territory was confined to what was physically necessary for the purpose of re-exporting it to a third country, i.e. driving it to Rotterdam and placing it on board a ship; whereas in the event the lack of a temporary import authorization for the vehicle had no effect on the operation of the procedure for temporary importation of a means of transport;

Whereas these factors are such as to constitute a situation covered by Article 239 of Regulation (EEC) No 2913/92;

Whereas in the circumstances of the case in question no deception or obvious negligence may be attributed to the person concerned;

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

HAS ADOPTED THIS DECISION:

Article 1

The remission of import duties in the sum of XXXX requested by the Netherlands on 28 October 1996 is hereby found to be justified.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 21 April 1997

For the Commission