

Action brought on 6 April 2010 — Schneider España de Informática v Commission

(Case T-153/10)

(2010/C 148/74)

Language of the case: English

Parties

Applicants: Schneider España de Informática, SA (Madrid, Spain),
(represented by: P. De Baere and P. Muñiz, lawyers)

Defendant: European Commission

Form of order sought

- Annul the Commission's decision C(2010) 22 final of 18 January 2010 finding that post-clearance entry in the accounts of import duties is justified and remission of those duties is not justified in a particular case (REM 02/08);
- Order the European Commission to bear the costs of the proceedings.

Pleas in law and main arguments

By means of the present application, the applicant seeks, pursuant to Article 263 TFUE, the annulment of the Commission's decision of 18 January 2010, by which the defendant concluded that the import duties concerned for colour televisions should be entered in the accounts since the conditions for the application of Article 220(2)(b) of the Community Customs Code ⁽¹⁾ were not met. The contested decision also concluded that the remission of the import duties concerned was not justified pursuant to Article 239 of the Community Customs Code.

In support of his appeal, the applicant submits the following pleas in law:

Firstly, the applicant alleges that the defendant infringed its rights of defence since it took a decision which was solely based on the documents submitted by the applicant.

Secondly, the defendant infringed Article 220(2)(b) of the Community Customs Code, taken together with Article 236 of the Community Customs Code, as:

— The defendant erroneously considered that the anti-dumping regulations adopted against imports from third countries are automatically applicable to goods in free circulation in the EU-Turkey customs union;

— The defendant failed to inform traders that Council Regulation (EC) No 2584/98 ⁽²⁾ was also applicable to goods in free circulation in the EU-Turkey customs union;

— Alternatively, the defendant wrongly considered that no error had been committed by the competent authorities as the Turkish authorities wrongly confirmed that the anti-dumping duties imposed on goods from third countries were not applicable to goods in free circulation in the EU-Turkey customs union;

— The defendant wrongly considered that no error had been committed by the competent authorities as the Spanish customs authorities wrongly assumed that goods accompanied by an origin certificate could not be subject to any additional duties or trade protection measures, and therefore failed to inform economic operators that their imports from Turkey could be subject to trade measures, even if such goods were in free circulation.

In addition, the applicant submits that the error committed by the competent customs authorities could not have been reasonably detected by the person liable for payment, having acted in good faith and complied with all the provisions laid down by legislation in force as regards the customs declaration.

Finally, the applicant submits that it finds itself in a special situation within the meaning of Article 239 of the Community Customs Code and that no deception or obvious negligence can be attributed to the applicant pursuant to this legal provision.

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, p. 1).

⁽²⁾ Council Regulation (EC) No 2584/98 of 27 November 1998 amending Regulation (EC) No 710/95 imposing a definitive anti-dumping duty on imports of colour television receivers originating in Malaysia, the People's Republic of China, the Republic of Korea, Singapore and Thailand and collecting definitively the provisional duty imposed (OJ L 324, p.1).