

Case C-371/09

Commissioners for Her Majesty's Revenue and Customs

v

Isaac International Limited

(Reference for a preliminary ruling
from the High Court of Justice of England and Wales,
Chancery Division)

(Regulation (EEC) No 2913/92 — Customs Code — Article 212a — Regulation
(EEC) No 2454/93 — Article 292 — Regulation (EEC) No 88/97 — Article 14 —
Anti-dumping duty — Bicycle frames)

Judgment of the Court (Third Chamber), 29 July 2010 I - 7730

Summary of the Judgment

1. *Common commercial policy — Protection against dumping*
(Council Regulation No 2913/92, Art. 82(1); Commission Regulations Nos 2454/93, Arts 292(3), and 88/97, Art. 14))

2. *Own resources of the European Communities — Repayment or remission of import duties (Council Regulation No 2913/92, Art. 212a; Commission Regulations No 2454/93, Art. 292, and No 88/97, Art. 14(c))*

1. The procedure laid down in Article 292(3) of Regulation No 2454/93 laying down provisions for the implementation of Regulation No 2913/92 establishing the Community Customs Code, as amended by Regulation No 1602/2000, may not be used to authorise an importer established and operating in two Member States, which imports goods into the first Member State and transports them immediately to the second Member State, so as to permit the importer to obtain an exemption from anti-dumping duty under Article 14(c) of Regulation No 88/97 on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Regulation No 71/97 of the anti-dumping duty imposed by Regulation No 2474/93.

quantitative limits could easily be avoided by imports into both the Member State of importation and that of final destination. On the other, under Article 82(1) of the Customs Code, control of the end-use must be carried out during the entire reference period, namely, one month, so as to ascertain whether the quantitative limit has been complied with. However, when the goods are immediately transported to a second Member State, the customs authorities of the first Member State are unable, on their own, to control compliance with that limit but are dependant on the co-operation of the authorities in the other Member State, with the result that more than one customs administration is necessarily involved, contrary to the condition laid down in Article 292(3) of Regulation No 2454/93, according to which the simplified procedure presupposes that only one customs administration is involved.

That last provision lays down a monthly, quantitative limit that cannot be satisfactorily controlled by the customs administration of the Member State of importation alone. On the one hand, the

(see paras 34-37, operative part 1)

2. Article 212a of Regulation No 2913/92 establishing the Community Customs Code, as amended by Regulation No 2700/2000, does not permit an exemption from anti-dumping duty to be granted to an importer who does not have the prior authorisation to benefit from the exemption from such duties provided for in Article 14(c) of Regulation No 88/97 on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Regulation No 71/97 of the anti-dumping duty imposed by Regulation No 2474/93.

Among other conditions, the provision in Article 14(c) of Regulation No 88/97 refers expressly to the condition of the issue of a prior authorisation, set out in Article 292 of Regulation No 2454/93 laying down provisions for the implementation of Regulation No 2913/92. Requiring, for the purposes of applying

Article 212a of the Customs Code, compliance with only one of the conditions laid down in Article 14(c) in order to conclude that 'the other conditions for the application' for the application of Article 212a of the Customs Code have been satisfied would render nugatory the condition requiring a prior authorisation laid down in Article 292. Given that that article lays down an exemption from anti-dumping duty and must therefore be interpreted strictly, account must be taken of that condition for the purposes of interpreting Article 212a, all the more so as the abovementioned prior authorisation is of particular importance in the context of the rules laid down in Regulation No 88/97, inasmuch as it permits the customs authorities to verify, at the material time, that all the requirements regarding the exemption from anti-dumping duty at issue have been satisfied.

(see paras 41-43, 45, operative part 2)