

**COMMISSION REGULATION (EC) No 1264/2003
of 16 July 2003**

initiating an investigation concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2320/97 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and of anti-dumping measures imposed by Council Regulation (EC) No 348/2000 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Ukraine by wrong declaration of imports of the same product and by imports of certain seamless pipes and tubes of alloy steel, other than stainless steel, originating in Russia and Ukraine, and making such imports subject to registration

THE COMMISSION OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 1972/2002 ⁽²⁾, and in particular Article 13(3), Article 14(3) and Article 14(5) thereof,

After having consulted the Advisory Committee,

Whereas:

— other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm,

currently classifiable within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93.

(4) The products under investigation are the product concerned and certain seamless pipes and tubes of alloy steel other than stainless steel, originating in Russia and Ukraine and declared under CN codes 7304 59 91 and 7304 59 93.

(5) The CN codes are given for information only.

A. REQUEST

(1) The Commission has received a request pursuant to Article 13(3) of Regulation (EC) No 384/96 (the basic Regulation) to investigate the alleged circumvention of the anti-dumping measures imposed on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.

(2) The request has been lodged on 2 June 2003 by the Defence Committee of the Seamless Steel Tube Industry of the European Union on behalf of producers representing a major proportion, i.e. over 50 % of the Community production of certain seamless pipes and tubes of iron or non-alloy steel.

B. PRODUCT

(3) The products concerned by the allegation of circumvention are:

— seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm,

— seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes,

C. EXISTING MEASURES

(6) The measures currently in force and allegedly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 2320/97 ⁽³⁾, as last amended by Council Regulation (EC) No 190/2000 ⁽⁴⁾, and by Council Regulation (EC) No 348/2000 ⁽⁵⁾, as last amended by Council Regulation (EC) No 1515/2002 ⁽⁶⁾.

D. GROUNDS

(7) The request contains sufficient evidence, that the anti-dumping measures on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine are being circumvented by means of adding minimal quantities of other substances to the product concerned, thus allowing these products to be classifiable under other CN codes not subject to anti-dumping measures, in particular CN codes 7304 59 91 and 7304 59 93, or by importing under these CN codes the product concerned. Hereinafter, the products which are being imported via these practices are referred to as 'products under investigation'.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ L 322, 25.11.1997, p. 1.

⁽⁴⁾ OJ L 23, 28.1.2000, p. 1.

⁽⁵⁾ OJ L 45, 17.2.2000, p. 1.

⁽⁶⁾ OJ L 228, 24.8.2002, p. 8.

- (8) The evidence submitted is as follows:

The request shows a significant change in the pattern of trade, as imports of the products under investigation originating in Russia and Ukraine have increased substantially following the imposition of measures on the products concerned. This change in the pattern of trade appears to stem from the practice that minimal quantities of other substances are being added to the product concerned, so that they fall outside the relevant CN codes affected by the measures, notwithstanding the fact that the basic characteristics and uses of the products remain unchanged, or from the practice of wrong declaration under other CN codes. There is insufficient due cause or economic justification for these practices other than the imposition of the measures.

- (9) Furthermore, the request contains sufficient evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of products under investigation appear to have replaced imports of the product concerned originating in Russia and Ukraine. In addition, there is sufficient evidence that this increase in imports is made at prices below the non-injurious or remedial prices established in the investigations that led to the existing measures.
- (10) Finally, the request contains sufficient evidence that the prices of products under investigation are dumped in relation to the normal values previously established for certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.

E. PROCEDURE

- (11) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of all goods declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

- (12) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers named in the request and to the known associations of exporters/producers in

Russia and Ukraine and to the importers named in the request and to the known associations of importers in the Community and to the authorities of Russia and Ukraine. Information, as appropriate, may also be sought from the Community industry.

- (13) In any event all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.
- (14) The authorities of Russia and Ukraine will be notified of the initiation of the investigation and provided with a copy of the request.

(b) Collection of information and holding of hearings

- (15) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption of registration of imports or measures

- (16) In accordance with Article 13(4) of the basic Regulation, imports of the product concerned may be exempted from registration or measures if the importation does not constitute circumvention.
- (17) Given that the alleged circumvention takes place outside the Community and pursuant to Article 14(3) of the basic Regulation, exemption of imports from registration or measures would depend entirely on the findings in respect of the exporters in Russia and Ukraine. Therefore exporters wishing to obtain an exemption of registration of imports or measures should apply for the exemption and submit the questionnaire reply (in order to establish that they are not circumventing the anti-dumping duties within the meaning of Article 13(1) of the basic Regulation) within the time limits set in Article 3(2) of this Regulation. Although no exemption could be granted purely on the basis of information from importers, these could still benefit from exemption from registration or measures to the extent that their imports are from exporters which are granted such an exemption.

F. REGISTRATION*Article 2*

- (18) Pursuant to Article 14(5) of the basic Regulation, imports of the products under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties can be levied retroactively from the date of the initiation of this investigation on certain seamless pipes and tubes of alloy steel, other than stainless steel from Russia and Ukraine.

The Customs authorities are hereby directed, pursuant to Article 13(3) and Article 14(5) of Council Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

G. TIME LIMITS

- (19) In the interest of sound administration, time limits should be stated within which:

- interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation;
- interested parties may make a written request to be heard by the Commission.

- (20) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products exported by exporters having applied for an exemption of registration and having been found not to be circumventing the anti-dumping duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days from publication of this Regulation in the *Official Journal of the European Union*.

2. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Interested parties may also apply to be heard by the Commission within the same 40-day time limit.

4. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for authorisation of certificates of non-circumvention must be made in writing (not in electronic format, unless otherwise specified), must indicate the name, address, e-mail address, telephone, fax and/or telephone numbers and should be sent to the following address:

European Commission
Directorate General for Trade
Directorate B
Office: J-79, 5/16
B-1049 Brussels
Fax (32 2) 295 65 05
Telex COMEU B 21877.

H. NON-COOPERATION

- (21) In cases in which any interested party refuses access to or otherwise does not provide necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of certain seamless pipes and tubes of iron or non-alloy steel, and of certain seamless pipes and tubes of alloy steel, other than stainless steel declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine, are circumventing the measures imposed by Regulation (EC) No 2320/97 and by Regulation (EC) No 348/2000. The above CN codes are only given for information.

Article 4

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 July 2003.

For the Commission
Pascal LAMY
Member of the Commission
