

**COUNCIL REGULATION (EEC) No 1027/83**

of 27 April 1983

**amending Regulation (EEC) No 3072/80 imposing a definitive countervailing duty on certain seamless tubes of non-alloy steels originating in Spain**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>(1)</sup>, as amended by Regulation (EEC) No 1580/82<sup>(2)</sup>,

Having regard to the proposal from the Commission after consultation with the Advisory Committee set up under the abovementioned Regulation,

Whereas Council Regulation (EEC) No 3072/80<sup>(3)</sup> imposed, with effect from 1 December 1980, a definitive countervailing duty on certain seamless tubes of non-alloy steels falling within subheadings ex 73.18 A and C of the Common Customs Tariff (NIMEXE codes 73.18-ex 13, ex 23, ex 27, ex 28, ex 72 and ex 74) and originating in Spain;

Whereas the Spanish steel producers' association Unesid, on behalf of the Spanish exporters of seamless steel tubes, has requested a review of the duty on the ground that the rate of turnover tax in Spain has substantially increased since 1980;

Whereas, since this rate of tax was a key element in the determination of the rate of subsidy, a review appeared to be warranted; whereas the Commission, after consultation, decided that the anti-dumping proceeding should be reopened and accordingly announced that a new investigation would be undertaken<sup>(4)</sup>;

Whereas the Commission has given the interested parties the opportunity to make known their views, in particular by replying to the questionnaire addressed to the parties known to be concerned, and has in addition again formally requested the Spanish authorities

for information about the level of indirect taxation on the products in question;

Whereas the Spanish exporters have supplied no evidence which could have enabled the Commission to look at the actual aggregate level of indirect taxes on seamless steel tubes exported to the Community; whereas the Commission's formal request for information from the Spanish authorities has also remained unanswered;

Whereas the Commission has therefore been obliged to base its new calculation of the subsidy effect of Spanish export rebates on information supplied confidentially by the complainants; whereas the Spanish exporters' representatives have expressly agreed to this procedure;

Whereas the Commission has used the same method of calculation applied to determine the definitive countervailing duty in Regulation (EEC) No 3072/80; whereas, on the basis of the latest information supplied by the complainants and the higher general rates of aggregate turnover tax now prevailing in Spain, the Commission has concluded that, taking a weighted average for all the exporters concerned, the tax incidence in respect of which an export rebate can be claimed has increased from 2,75 to 4,5 %;

Whereas in these circumstances the definitive countervailing duty can be reduced by an amount corresponding to the increase in the tax burden, namely from 11,75 to 10 % of the export price, account being taken of any commission, in respect of which no export rebate may be claimed,

HAS ADOPTED THIS REGULATION :

*Article 1*

Article 1 (2) and the first subparagraph of Article 1 (3) of Regulation (EEC) No 3072/80 shall be replaced by the following :

'2. The amount of the definitive countervailing duty shall be equal to 10 % of the export price fob Spanish port of export or free Spanish frontier, as appropriate.

<sup>(1)</sup> OJ No L 339, 31. 12. 1979, p. 1.

<sup>(2)</sup> OJ No L 178, 22. 6. 1982, p. 9.

<sup>(3)</sup> OJ No L 322, 28. 11. 1980, p. 30.

<sup>(4)</sup> OJ No C 196, 3. 7. 1982, p. 3.

Where the importer cannot furnish reasonable evidence of this price, the duty shall be equal to 10 % of the value for customs purposes after deduction of a fixed amount of 29,40 ECU per tonne.

3. In the case of shipments to the Federal Republic of Germany by Tubexport on behalf of Tubos Reunidos SA or Babcock and Wilcox Espanola SA which are imported by Goosmann GmbH Stahlrohrvertrieb acting as sole agent for the above companies, the duty shall amount to 9,6 % of the

price or value referred to in paragraph 2 above where this includes the commission paid to Goosmann GmbH.'

*Article 2*

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

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

Done at Luxembourg, 27 April 1983.

*For the Council*

*The President*

I. KIECHLE

---