COUNCIL REGULATION (EEC) No 60/85

of 9 January 1985

on the restriction of exports of steel pipes and tubes to the United States of America

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Community has concluded an Arrangement (1), hereinafter referred to as 'the Arrangement', with the United States of America under which exports to the United States of certain steel pipes and tubes originating in the Community are to be limited to certain levels over an agreed period ; whereas, moreover, it is necessary, pursuant to this Arrangement, to introduce in the Community measures to restrict the amount of these products exported to the United States ;

Whereas, in accordance with the Arrangement, the export restrictions cover steel pipes and tubes originating in the Community ; whereas the origin of these products is determined in accordance with applicable Community legislation, that is to say Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods (2), as last amended by the 1979 Act of Accession ;

Whereas, for practical and management reasons, the quantitative export limits agreed by the Commuity must be allocated among the Member States, whereas, in order to do so, an allocation method must be established, whereas, thereafter the Member States must share out the amounts allocated to them among undertakings in accordance with objective criteria ;

Whereas utilization of the Community limits, based on allocations among Member States made in this way, would seem to be in keeping with the Community nature of these limits ;

Whereas the allocation among the Member States of the total export possibilities which the Arrangement affords should take account of traditional trade patterns ;

Whereas measures must be taken to avoid abnormal concentration at certain times of exports to the United States ;

Whereas, in order to keep a check on exports, a system of export licences and certificates should be introduced ;

Whereas it is necessary to provide that export licences issued to undertakings shall indicate the undertaking engaged in production of steel pipes and tubes within the Community and established in the issuing Member State that is holding the allocation against which the licence is issued ;

Whereas, in order to take account of the interests of distributive undertakings, it must be possible for these licences to be transferred not only between undertakings producing steel pipes and tubes but also by undertakings producing steel pipes and tubes to distributive undertakings, in particular where the undertakings producing steel pipes and tubes decide to sell their products to such distributive undertakings ;

Whereas it appears necessary, and for the moment sufficient, that Member States ensure compliance with the different provisions of the regime laid down by applying the various penalties provided for in their laws ;

Whereas, in order to facilitate the application of the envisaged provisions, it is appropriate to set up a procedure establishing close cooperation between the Member States and the Commission within a committee ; whereas it is sufficient for this purpose to apply the procedure set up in Council Regulation (EEC) No 1023/70 of 25 May 1970 establishing a common procedure for administering quantitative quotas (3),

HAS ADOPTED THIS REGULATION :

Article 1

1. Community export limits are hereby established for the period 1 January 1985 to 31 December 1986 for exports effected after 31 December 1984 from the Community to the United States of America (hereinafter referred to as 'the United States') of the steel pipes and tubes originating in the Community which are listed in Annex I.

For the purposes of this Regulation, the United States shall comprise United States customs territory and United States foreign trade zones as described in Annex II.

(1) See page 2 of this Official Journal.
(2) OJ No L 148, 28. 6. 1968, p. 1.
(3) OJ No L 124, 8. 6. 1970, p. 1.

2. The origin of the products covered by this Regulation shall be determined in accordance with the rules in force in the Community.

Article 2

1. The Community export limit for steel tubes and pipes is hereby fixed at 7,6 % of United States apparent consumption.

In the case of what are termed OCTG tubes, as referred to in Annex I, the Community limit, forming part of the overall limit for steel pipes and tubes, is hereby fixed at 10 % of apparent consumption of these tubes in the United States.

The limits shall be calculated by the Commission on the basis of the level of apparent consumption of these products in the United States, as laid down in the Arrangement.

2. The Community export limits calculated pursuant to paragraph 1 shall be adjusted by the Commission to take account of revisions of the said United States apparent consumption.

3. These limits may also be adjusted by the Commission after consulting the Arrangement Committee :

— for advance use or carry-over of licences,

— to enable transfers to be made between on the one hand the products covered by this Regulation and on the other those covered by Regulation (EEC) No 2870/82 (1) and by Decision 2872/82/ECSC (2),

under the conditions provided for in the Arrangement.

Article 3

1. The Community quantitative export limits established and calculated pursuant to the method set out in Article 2 shall be allocated for 1985 and 1986 by the Commission in accordance with Annex III.

2. The Commission shall hold regular consultations with the Arrangement Committee set up by Decision 84/59/ECSC, EEC (3) on the situation regarding licences issued and on the measures to be taken with a view to ensuring the best use of the overall limit.

Article 4

Member States shall transfer to a Community reserve within the first eight days of the third month of each quarter the fraction of the allocation for which they did not issue licences. The Commission shall allot this Community reserve, after consultation of the Arrangement Committee, to one or more Member States to the extent that the best use of the quantitative export limits or possible problems in administering the system call for the allocation to be adjusted.

The Commission may establish the technical conditions upon which licences are to be issued by the Member States in respect of such additional allocations.

Article 5

1. The Community exports described in Article 1 shall, from 1 January 1985 to 31 December 1986, be subject to the production to the competent Community customs office where the export formalities are carried out of an export licence and an export certificate. The export licences shall be issued by the competent authorities of each Member State within the limits of the amounts allocated to it pursuant to Article 3.

Member States shall fix for each quarter the amounts for which they anticipate that licences will be issued for all steel pipes and tubes on the one hand and for OCTG on the other; they shall inform the Commission thereof in the first 15 days of the relevant quarter. In doing so, they shall make sure that the export licences for each quarter ensure an adequate spread of exports over the whole year, taking into account the seasonal variations in trade in each product category, However, Member States shall not, without the prior authorization of the Commission, issue in any two consecutive quarters licences for amounts which exceed 65 % of their allocations for each calendar year.

Member States may, subject to the second subparagraph, issue further licences in 1985 and 1986 respectively, in respect of the unused part of licences issued which have been returned to their competent authorities in 1985 or in 1986.

2. Licences shall be issued according to the following criteria :

— compliance with the rules prescribed by this Regulation, in particular those concerning the quota allocated by the Commission pursuant to Article 3,

— compliance with the traditional export patterns of undertakings taking account of the reduction principles established by this Regulation and possibly the situation of new producers of pipes and tubes,

— compliance with the rates of exports to the United States as traditionally spread out over the year,

— optimum use and administration of the export possibilities afforded by this Regulation,

— best use being made of any new possibilities provided for, where appropriate, by this Regulation.

(1) OJ No L 307, 1. 11. 1982, p. 3.
(2) OJ No L 307, 1. 11. 1982, p. 27.
(3) OJ No L 35, 7. 2. 1984, p. 23.

Each licence shall indicate the undertaking engaged in the production of steel pipes and tubes in the Community, and established in the issuing Member State that is holding the allocation against which the licence is issued.

3. Any licence issued in excess of limits laid down in Article 3 shall be automatically void.

4. Transfers of export licences between undertakings producing steel tubes and pipes, or by undertakings producing steel pipes and tubes to distributive undertakings, may take place after prior notification to the authorities of the Member State in which the undertaking transferring the licence is established. Such transfers may take place between undertakings established in different Member States.

5. The licence must specify whether they are OCTG tubes or other steel pipes or tubes.

6. Licences issued in one Member State of the Community shall be valid throughout the Community.

7. Member States shall ensure that appropriate penalties are applied in respect of all exports effected without production of the licence referred to in this Article and in respect of any other breaches of the provisions relating to such licences. Member States shall keep the Commission informed of all breaches of the abovementioned rules and of all penalties imposed in respect thereof, at intervals to be specified by the Commission.

8. The detailed rules for the application of this Regulation and the information to be supplied to the Commission concerning the licences and exports shall be laid down by the Commission.

Article 6

1. Member States shall charge the amounts set out on the licences issued by them against their respective allocations made pursuant to Article 3, including all licences subsequently transferred to an undertaking of another Member State.

2. Member States shall keep records of the exports of the products covered by this Regulation. The products shall be deemed to be exported on the date of acceptance, by the customs office of the Member State of export, of the export declaration or of the document provided for in Article 18 of Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods (1).

3. The extent to which a Member State has used up its allocation shall be determined on the basis of licences issued in accordance with Article 5.

Article 7

1. Exports to the United States of products which are to be re-exported from the United States in the same form or without having been subject to substantial transformations shall be charged against the allocation of the Member State where the licence was issued. Upon production to the authorities of such Member State of proof of such re-exportation from the United States, the allocation of that Member State for the period within which such proof is presented shall be increased by the same amount.

Article 8

Cooperation between the Commission and the Member States for the application of this Regulation shall be subject to Article 11 of Regulation (EEC) No 1023/70.

Article 9

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

It shall apply with effect from 1 January 1985.

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

Done at Brussels, 9 January 1985.

For the Council

The President

G. ANDREOTTI

(1) OJ No L 83, 30. 3. 1981, p. 40.

ANNEX I

LIST OF PRODUCTS

PIPES AND TUBES OTHER THAN OCTG				PIPES OCTG	
NIMEXE code	TS USA code	NIMEXE code	TS USA code	NIMEXE code	TS USA code
73.18-01	610.3000	73.19-10	610.4045	73.18-23 (*)	610.3216
73.18-05	610.3100	73.19-30	610.4055	73.18-24 (*)	610.3219
73.18-13	610.3205	73.19-50	610.4245	73.18-42	610.3233
73.18-15	610.3208	73.19-90	610.4255	73.18-67 (*)	610.3249
73.18-21	610.3209		610.4345	73.18-72 (*)	610.3252 (*)
73.18-22	610.3212		610.4355	84.23-25 (*)	610.3256
73.18-23 (1) (*)	610.3213		610.4500		610.3258 (*)
73.18-24 (1) (*)	610.3221		610.4600		610.3721
73.18-26 (1)	610.3227		610.4920		610.3722
73.18-27 (1)	610.3231		610.4925		610.3925
73.18-28 (1)	610.3234		610.4928		610.3935
73.18-32 (1)	610.3241		610.4931		610.4025
73.18-34 (1)	610.3242		610.4933		610.4035
73.18-36 (1)	610.3243		610.4936		610.4225
73.18-38	610.3252 (*)		610.4948		610.4235
73.18-41	610.3254		610.4951		610.4325
73.18-44	610.3258 (*)		610.4953		610.4335
73.18-46	610.3262		610.4955 (*)		610.4942
73.18-48	610.3264		610.4956 (*)		610.4944
73.18-51	610.3500		610.4957 (*)		610.4946
73.18-52	610.3600		610.4966 (*)		610.4954
73.18-54	610.3701		610.4967 (*)		610.4955 (*)
73.18-56 (1)	610.3704		610.4968 (*)		610.4956 (*)
73.18-58	610.3711		610.4969 (*)		610.4957 (*)
73.18-62 (1)	610.3712		610.4970 (*)		610.4966 (*)
73.18-64	610.3713		610.4976		610.4967 (*)
73.18-66	610.3727		610.5202		610.4968 (*)
73.18-67 (*)	610.3728		610.5204		610.4969 (*)
73.18-68	610.3731		610.5206		610.4970 (*)
73.18-72 (1) (*)	610.3732		610.5209		610.5221 (*)
73.18-74 (1)	610.3741		610.5211		610.5222
73.18-76	610.3742		610.5214		610.5226
73.18-78	610.3751		610.5216		610.5240
73.18-82 (1)	610.3945		610.5229		610.5242
73.18-84 (1)	610.3955		610.5230		610.5243
73.18-97			610.5231		610.5244 (*)
73.18-99			610.5234		
			610.5236		
			610.524292		
			610.524492		

(1) Plastic covered pipes and tubes for district heating systems covered by TS USA codes other than those indicated are excluded.

(*) Excluded if OCTG.

(*) Excluded if OCTG.

(*) Covered if OCTG.

ANNEX II

United States customs territory and United States foreign trade zones

The United States customs territory shall comprise the States, the district of Columbia and Puerto Rico.

A United States foreign zone shall be defined as follows:

It is an isolated, enclosed and policed area, operated as a public utility, in or adjacent to a port of entry, furnished with facilities for lading, unlading, handling, storing, manipulating, manufacturing and exhibiting goods and for reshipping them by land, water or air. Any foreign and domestic merchandise, except such as is prohibited by laws or such as the Board may order to be excluded as detrimental to the public interest, health or safety, may be brought into a zone without being subject to the customs laws of the United States governing the entry of goods or the payment of duty thereon; and such merchandise permitted in a zone may be stored, exhibited, manufactured, mixed or manipulated in any manner, except as provided in the act and other applicable laws or regulations. The merchandise may be exported, destroyed or sent into customs territory from the zone, in the original package or otherwise. It is subject to customs duties if sent into customs territory, but not if reshipped to foreign points.

ANNEX III

Allocation among Member States

	Member States	Proportion of US consumption
PIPES AND TUBES	Germany	2,82
	France	0,93
	Italy	2,00
	Netherlands	0,28
	Belgium	0,48
	Luxembourg	0,17
	United Kingdom	0,40
	Greece	0,52
	Denmark	0
	Ireland	0
OCTG	The allocation among the Member States will be decided on by the Council, acting by a qualified **majority** on a proposal from the Commission, before 31 January 1985.	