



## Reports of Cases

JUDGMENT OF THE COURT (Ninth Chamber)

9 February 2023\*

(Reference for a preliminary ruling – Customs union – Common Customs Tariff – Classification of goods – Combined Nomenclature – Subheadings 7616 99 90 and 8609 00 90 – Tubular Transport Running System (TubeLock) – Meaning of ‘container’)

In Case C-788/21,

REQUEST for a preliminary ruling under Article 267 TFEU from Retten i Esbjerg (the Court of Esbjerg, Denmark), made by decision of 16 December 2021, received at the Court on 17 December 2021, in the proceedings

**Skatteministeriet Departementet**

v

**Global Gravity ApS,**

THE COURT (Ninth Chamber),

composed of J.-C. Bonichot, acting as President of the Chamber, S. Rodin and O. Spineanu-Matei (Rapporteur), Judges,

Advocate General: A.M. Collins,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- the Danish Government, by V. Pasternak Jørgensen, acting as Agent, and by B. Søes Petersen, advokat,
- the European Commission, by K. Rasmussen and M. Salyková, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

\* Language of the case: Danish.

## Judgment

- 1 This request for a preliminary ruling concerns the interpretation of subheading 8609 00 90 of the Combined Nomenclature ('CN'), set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1), as amended by Commission Implementing Regulation (EU) No 1001/2013 of 4 October 2013 (OJ 2013 L 290, p. 1).
- 2 The request has been made in proceedings between Skatteministeriet Departementet (the Department of the Danish Ministry of Taxation) and Global Gravity ApS ('GG') concerning the tariff classification of a pipe transportation device developed by GG.

### Legal context

#### *The HS*

- 3 The Harmonised Commodity Description and Coding System ('the HS') was established by the International Convention on the Harmonised Commodity Description and Coding System, concluded in Brussels on 14 June 1983 within the framework of the World Customs Organization (WCO), and approved, together with its amending protocol of 24 June 1986, on behalf of the European Economic Community by Council Decision 87/369/EEC of 7 April 1987 (OJ 1987 L 198, p. 1). The explanatory notes to the HS are drawn up within the WCO in accordance with the provisions of that convention.
- 4 Under Article 3(1)(a)(ii) of that convention, each contracting party undertakes to apply the general rules for the interpretation of the HS and all the section, chapter and subheading notes, and to not modify the scope of the sections, chapters, headings or subheadings of the HS.
- 5 The explanatory notes and classification opinions adopted by the HS Committee are approved by the WCO, under the conditions laid down in Article 8 of that convention.
- 6 Heading 8609 of the HS, in the version applicable to the dispute in the main proceedings, concerns 'Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport'.
- 7 According to the HS explanatory notes on that heading, in the version applicable to the dispute in the main proceedings:

'These containers (including lift vans) are packing receptacles specially designed and equipped for carriage by one or more modes of transport (e.g. road, rail, water or air). They are equipped with fittings (hooks, rings, castors, supports, etc.) to facilitate handling and securing on the transporting vehicle, aircraft or vessel. They are thus suitable for the "door-to-door" transport of goods without intermediate repacking and, being of robust construction, are intended to be used repeatedly.

The more usual type, which may be of wood or metal, consists of a large box equipped with doors, or with removable sides.

The principal types of container include:

- (1) Furniture removal containers.
- (2) Insulated containers for perishable foods or goods.
- (3) Containers (generally cylindrical) for the transport of liquids or gases. These containers fall in this heading **only** if they incorporate a support enabling them to be fitted to any type of transporting vehicle or vessel; otherwise they are classified according to their constituent material.
- (4) Open containers for bulk transport of coal, ores, paving blocks, bricks, tiles, etc. These often have hinged bottoms or sides to facilitate unloading.
- (5) Special types for particular goods, especially for fragile goods such as glassware, ceramics, etc., or for live animals.

Containers usually vary in size from 4 to 145 m<sup>3</sup> capacity. Certain types are however smaller, but their capacity is not normally less than 1 m<sup>3</sup>.

The heading **excludes**:

- (a) Cases, crates, etc., which though designed for the “door-to-door” transport of goods are not specially constructed as described above to be secured to the transporting vehicle, aircraft or vessel; these are classified according to their constituent material.

...’

### ***The CN***

8 Article 1 of Regulation No 2658/87, as amended by Council Regulation (EC) No 254/2000 of 31 January 2000 (OJ 2000 L 28, p. 16) (‘Regulation No 2658/87’), provides:

‘1. A goods nomenclature, hereinafter called the ... “CN”, which meets at one and the same time, the requirements of the Common Customs Tariff, the external trade statistics of the Community and other Community policies concerning the importation or exportation of goods shall be established by the Commission.

2. The [CN] shall comprise:

- (a) the [HS] nomenclature;
- (b) Community subdivisions to that nomenclature, referred to as “CN subheadings” in those cases where a corresponding rate of duty is specified;
- (c) preliminary provisions, additional section or chapter notes and footnotes relating to CN subheadings.

3. The [CN] is reproduced in Annex I. ...

...'

- 9 Under Article 12(1) of that regulation, the Commission is to adopt each year a regulation reproducing the complete version of the CN, together with the rates of duty, in accordance with Article 1, as resulting from measures adopted by the Council or the Commission. That regulation is to be published not later than 31 October in the *Official Journal of the European Union* and will apply from 1 January of the following year.
- 10 It is apparent from the documents before the Court that the version of the CN applicable in the main proceedings is that resulting from Implementing Regulation No 1001/2013.
- 11 Part One of the CN includes Section I on general rules, under which subsection A, entitled 'General rules for the interpretation of the [CN]', provides as follows:

'Classification of goods in the [CN] shall be governed by the following principles:

1. The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions.
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.  
(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.
3. When, by application of rule 2(b) or for any other reason, goods are prima facie classifiable under two or more headings, classification shall be effected as follows:
  - (a) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;
  - (b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable;
  - (c) when goods cannot be classified by reference to 3(a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

...

6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes ... For the purposes of this rule, the relative section and chapter notes also apply, unless the context requires otherwise.'
- 12 Part Two of the CN, entitled 'Schedule of customs duties', contains Section XV, entitled 'Base metals and articles of base metal', which includes Chapter 76 of that nomenclature, entitled 'Aluminium and articles thereof'.
- 13 CN headings 7601 to 7615 concern various specific aluminium products, such as unwrought aluminium and aluminium bars, rods and profiles. CN heading 7616 is a residual heading which covers 'other articles of aluminium'. CN subheading 7616 10 concerns a number of specific goods such as nails, tacks, staples (other than those of heading 8305), screws, bolts and nuts. Subheading 7616 99 concerns other articles.
- 14 Section XVII, entitled 'Vehicles, aircraft, vessels and associated transport equipment', of Part Two of the CN contains Chapter 86 of that nomenclature, entitled 'Railway or tramway locomotives, rolling stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electromechanical) traffic signalling equipment of all kinds'.
- 15 CN headings 8601 to 8608 concern goods such as rail locomotives, self-propelled railway coaches, maintenance or service vehicles.
- 16 CN heading 8609 and its subheadings are worded as follows:

'8609 00	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport
8609 00 10	Containers with an anti-radiation lead covering, for the transport of radioactive materials (Euratom)
8609 00 90	Other'

### *Taric*

- 17 Under Article 2 of Regulation No 2658/87, the European Commission is to establish on the basis of the CN an Integrated Tariff of the European Communities, known as the 'Taric', which is based on the CN and includes, inter alia, additional Community subdivisions, referred to as 'Taric subheadings'.
- 18 Article 3 of that regulation provides:
- '1. Each CN subheading shall have an eight digit code number:
- (a) the first six digits shall be the code numbers relating to the headings and subheadings of the [HS] nomenclature;

(b) the seventh and eighth digits shall identify the CN subheadings. When a heading or subheading of the [HS] is not further subdivided for Community purposes, the seventh and eighth digits shall be “00”.

2. The Taric subheadings shall be identified by the 9th and 10th digits which, together with the code numbers referred to in paragraph 1, form the Taric code numbers. In the absence of a Community subdivision, the 9th and 10th digits shall be “00”.

...’

19 Under Article 12(2) of that regulation, measures and information concerning the Common Customs Tariff or Taric are, whenever possible, to be disseminated in electronic format by using computerised means.

20 As regards CN subheading 7616 99, which concerns other articles of aluminium, the Taric, in the version applicable to the dispute in the main proceedings, was worded as follows:

‘7616 99 90 — Other:

— Handmade:

— Other:

7616 99 90 10 — Collars, flanges and other devices for fixing, jointing, clamping or spacing, for use in certain types of aircraft

...

7616 99 90 91 — — — — Aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks

7616 99 90 99 — Other’

21 The Taric, in the version applicable to the dispute in the main proceedings, did not provide for a specific code associated with CN subheading 8609 00 90.

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

22 On 28 February 2014, GG applied to Skattestyrelsen (the Danish Tax Administration) for a binding tariff information decision in respect of the product known as a ‘Tubular Transport Running System (TTRS)’ or ‘TubeLock®’ (‘TubeLock’).

23 That product, developed by GG, the defendant in the main proceedings, is described as a safe method for transporting pipes from pipe manufacturers to oil and gas drilling rigs by various modes of transport (by road, train and/or boat) without there being any need to repack them in transit.

- 24 TubeLock consists of a number of aluminium lifting profiles, two steel lifting poles (left and right) per lifting profile and two steel M20 bolts per lifting profile to secure them. The lifting profiles come in the shape of an aluminium beam with a number of cradle-like holes suitable for a specific diameter of pipe. Once the pipes have been placed in the holes, a lifting profile is placed on top of the pipes, after which a new layer of pipes can be laid. The two lifting poles are each equipped with an eyelet through which a sling is inserted when the transport system is to be moved away from the means of transport. The system has a robust design which allows repeated use. The system is imported with all its parts together, but at the time when it is imported, it is not assembled. When the system is not in use (that is to say, when pipes are not loaded in it), it can be disassembled and stored in a transport box, thereby taking up little space.
- 25 By decision of 15 August 2014, the Danish Tax Administration held that TubeLock should be classified as an article of aluminium under CN subheading 7616 99 90 (Taric commodity code 7616 99 90 99), for which the customs duty was 6%.
- 26 GG brought an action against that decision before Landsskatteretten (the National Tax Tribunal, Denmark), which held, on 2 December 2019, that TubeLock should be classified under CN subheading 8609 00 90 (Taric commodity code 8609 00 90 00) as a container, which was not subject to customs duty.
- 27 By application of 28 February 2020, the Department of the Danish Ministry of Taxation appealed against that decision before the referring court, Retten i Esbjerg (the Court of Esbjerg), claiming that TubeLock should be classified under CN subheading 7616 99 90.
- 28 The referring court notes that, according to the Ministry of Taxation, the product concerned cannot be classified under CN subheading 8609 00 90 because, first, it is not a container. Indeed, it does not have a base and sides made of solid material, does not have a specific volume and cannot therefore contain goods. That conclusion is confirmed by the explanatory notes to CN heading 8609.
- 29 Second, according to that ministry, TubeLock is not specially designed or equipped for carriage by one or more modes of transport, whereas, in order to come under CN subheading 8609 00 90, a goods container must have fittings installed to facilitate handling and securing on a transporting vehicle, as is apparent from the explanatory notes. Yet the eyelets of the lifting poles are not used for attachment to a means of transport. Moreover, that characteristic is not disputed by GG.
- 30 Third, according to that ministry, TubeLock is covered by Taric subheading 7616 99 90 99 as an ‘article of aluminium’. Indeed, it is a composite product consisting of different materials. In addition, in accordance with Rule 3(b) of the General Rules for the interpretation of the CN, such products – where they cannot be classified by reference to Rule 3(a) – must be classified as if they consisted of the material which gives them their essential character. TubeLock’s lifting profiles constitute the essential element of that transport system and are made from aluminium.
- 31 GG contests that classification. In its view, the items that may be regarded as containers in the HS Explanatory Notes are listed only by way of example. In addition, a goods container does not have to be equipped with fittings for attachment to a means of transport in order for it to be classified as a ‘container’ under CN heading 8609. Furthermore, an article cannot be classified under CN heading 7616 if the article description for the ‘articles of aluminium’ is more precise elsewhere in the CN. In the present case, CN subheading 8609 00 90 is more precise.

- 32 The referring court has doubts as to the interpretation of the concept of ‘container’ and the scope of CN heading 8609.
- 33 In those circumstances, Retten i Esbjerg (the Esbjerg Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) What criteria must be applied in order to determine whether an article constitutes a container under [CN] subheading [8609 00 90] ..., as set out in Annex 1 to [Implementing Regulation No 1001/2013?] [In that regard:]
- (a) [can] these criteria, each viewed in isolation, ... lead to the classification of an article as a container;
  - (b) [should] an overall assessment of [the] criteria ... be made in order to determine whether an article should be classified as a container, so that the fulfilment of several criteria – but not all criteria – results in the article being classified as a container;
- or
- (c) [must] all the criteria ... be met cumulatively before an article can be classified as a container?
- (2) Should the term ‘container’ under [CN] subheading [8609 00 90] ... as set out in [Implementing Regulation No 1001/2013], be interpreted as covering an article which is a system for transporting pipes, consisting of a number of aluminium lifting profiles, two steel lifting poles per lifting profile and two M20 bolts per lifting profile used to secure the lifting profiles[, which is used as follows: t]he pipes are placed on top of the lifting profiles[; a] new set of lifting profiles [is] added and then pipes are placed on top of those lifting profiles, and so on until the desired quantity of pipes is packed[; a] set of lifting profiles [is] always used to finish the system[and o]nce the pipes are finished being packed in the lifting profiles, steel [slings] are attached to the lifting poles through each of the four corners (via eyelets on the lifting poles) and the article is ready to be loaded either by crane or by forklift truck if transport is by land?’

### Consideration of the questions referred

- 34 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether CN subheading 8609 00 90 must be interpreted as covering a device for transporting pipes that consists of a number of aluminium lifting profiles between two of which the pipes to be transported are placed perpendicularly, those two lifting profiles being linked together by two steel lifting poles that are equipped with eyelets, and on top of which additional pipes may then be placed in the same way until the load comprises the number of pipes to be transported, the load then being completed by the attachment of steel slings to the lifting poles at the four corners of the load (by passing them through the said eyelets) in order to facilitate handling of the load.
- 35 At the outset, it should be recalled that, when the Court is requested to give a preliminary ruling on a matter of tariff classification, its task is to provide the national court with guidance on the criteria which will enable the latter to classify the goods in question correctly in the CN (see, to that effect, judgment of 3 June 2021, *Flavourstream*, C-822/19, EU:C:2021:444, paragraph 33).
- 36 According to the general rules for the interpretation of the CN, the classification of goods is to be determined according to the terms of the headings and any section or chapter notes to that nomenclature. In the interests of legal certainty and ease of verification, the decisive criterion for



the classification of goods for customs purposes is in general to be sought in their objective characteristics and properties as defined in the wording of the relevant heading of that nomenclature and of the notes to the sections or chapters (judgment of 28 April 2022, *PRODEX*, C-72/21, EU:C:2022:312, paragraph 28).

- 37 Furthermore, the Court has repeatedly held that, in spite of the fact that they lack binding force, the Explanatory Notes, in particular to the HS, are an important means of ensuring the uniform application of the Common Customs Tariff and may be regarded as useful aids to its interpretation (see, to that effect, judgments of 25 February 2021, *Bartosch Airport Supply Services*, C-772/19, EU:C:2021:141, paragraph 23, and of 28 April 2022, *PRODEX*, C-72/21, EU:C:2022:312, paragraph 29), in so far as their content is consistent with the provisions which they interpret (see, to that effect, judgment of 19 February 2009, *Kamino International Logistics*, C-376/07, EU:C:2009:105, paragraph 48).
- 38 It is in the light of that case-law that it is necessary to examine whether an item which has the characteristics of TubeLock may come under CN subheading 8609 00 90, itself a subdivision of CN subheading 8609 00 which covers ‘containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport’.
- 39 It follows from the wording of the latter subheading that, for the purposes of the classification of a product under that subheading, two conditions must be satisfied cumulatively: first, that product must be classified as a ‘container’ and, second, it must be specially designed and equipped for carriage by one or more modes of transport.
- 40 As regards the first condition, namely the classification as a ‘container’, it must be noted, as a preliminary point, that there is a discrepancy between the different language versions of CN subheading 8609 00. Among those different language versions, the French (*‘cadre ou conteneur’*), Italian (*‘Casse mobili e contenitori’*), Dutch (*‘Containers en dergelijke laadkisten’*) and Romanian (*‘Cadre și containere’*) language versions use two terms. Other language versions use only one term, followed by a synonym in brackets. That applies, in particular, to the Danish (*‘Godsbeholdere (containere)’*) and German (*‘Warenbehälter (Container)’*) versions. Others are limited to just one term, such as the English (*‘Containers’*), Polish (*‘Pojemniki’*) and Portuguese (*‘Contentores’*) versions.
- 41 Furthermore, in the language versions using two terms, those terms do not necessarily have the same meaning. Whereas the Dutch and Italian versions use, in addition to the word ‘container’, an equivalent to the word ‘crate’, the Romanian and French language versions use the word ‘frame’. The latter is not, *prima facie*, a synonym for the term ‘container’ or ‘crate’.
- 42 According to settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard, since provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all languages of the European Union (judgment of 28 October 2021, *KAHL and Roeper*, C-197/20 and C-216/20, EU:C:2021:892, paragraph 33).

- 43 In that regard, it must nevertheless be noted that, in French and Romanian, one of the meanings of the word ‘frame’ in the field of transport is precisely that of a very large crate for the transport of movable goods by rail or lorry. In addition, in Romanian, the word ‘*cadru*’ is used as a synonym for the word ‘*carcasă*’, which denotes a three-dimensional structure or a casing, often made of wood or metal.
- 44 Thus, those words used in the French and Romanian language versions of CN subheading 8609 00 appear to have the same meaning as the word used in other language versions of that subheading, such as ‘*casse*’ in the Italian language version and ‘*laadkist*’ in the Dutch language version. The fact that several language versions use only the term ‘container’ or a synonym thereof also supports the interpretation that the word ‘frame’ used in the French and Romanian versions must be understood in the same way, namely in the sense of ‘container’ or ‘crate’.
- 45 Furthermore, that interpretation is supported by the fact that the CN lays down specific subheadings dedicated to other types of goods which, although bearing the name ‘frames’ cannot under any circumstances come under CN subheading 8609 00, for example subheading 4414 00, relating particularly to ‘wooden frames for paintings, photographs, mirrors or similar objects’, and subheading 3925 20 00 relating to ‘doors, windows and their frames and thresholds for doors’.
- 46 As follows from the foregoing, the term ‘frame’, within the meaning of CN subheading 8609 00, therefore refers to frames in the sense of ‘containers’, yet the fact remains that neither the CN nor its section or chapter notes define exactly what that concept covers. According to the case-law of the Court, in that event, its meaning must be determined according to its meaning in everyday language whilst considering the context in which it is used and the purposes of the rules of which it forms part (see, to that effect, judgment of 26 March 2020, *Pfizer Consumer Healthcare*, C-182/19, EU:C:2020:243, paragraph 48).
- 47 In that regard, a container refers, in everyday language, to a standardised receptacle consisting of at least a base and side walls made of solid material, intended for the storage or transport of gas or liquid or solid goods and which facilitates the handling of those goods during transport.
- 48 That interpretation of the concept of ‘container’ as referring to a receptacle, namely a hollow object with a base and walls, is supported by the wording of CN heading 7310, relating to ‘tanks, casks, drums, cans, boxes and similar containers ...’, since the description of the goods under that heading mentions only ‘receptacles’ and the examples given are all characterised by the fact that they are objects with at least a base and side walls made of solid materials. Since it is apparent from the preceding paragraph that a ‘container’ within the meaning of CN subheading 8609 00 is also a ‘receptacle’, there is no justification for considering that that term should be interpreted differently in the various headings of the CN.
- 49 That interpretation of the term ‘container’ as referring to a receptacle having at least a base and side walls is also corroborated by the explanatory notes to heading 8609 of the HS. Those notes describe the products coming under that heading as ‘packing receptacles’, citing as the more usual type a large box equipped with doors or with removable sides. All the examples given in those notes describe hollow receptacles intended to contain certain goods.
- 50 Those notes also refer to the ‘capacity’ of the containers, which also implies that they must be understood as receptacles intended to contain objects, liquids or gases for transportation.

- 51 Furthermore, by stating both for frames and containers that they have capacity, those explanatory notes confirm that the term ‘frame’ used in the French and Romanian versions of that subheading must be understood as designating a container, not a picture frame, a door or window frame or other kind of frame as referred to in paragraph 45 above.
- 52 In the present case, it must be stated that a device for transportation which cannot contain or enclose pipes for their transportation, but which holds them within itself by means of metal bars like a stirrup, so that that device covers only a very small part of the surface of those pipes, does not have the objective characteristics and properties of a receptacle, with the result that such a product does not have the requisite characteristics to be classified as a ‘container’ within the meaning of CN subheading 8609 00.
- 53 Since the conditions for classification of a product under the subheading concerned are cumulative, there is no need to examine the second condition that must be satisfied in order for a product to be covered by CN subheading 8609 00, namely that the product must be specially designed and equipped for carriage by one or more means of transport.
- 54 In the light of all those considerations, the answer to the questions referred is that CN subheading 8609 00 90 must be interpreted as not covering a device for transporting pipes that consists of a number of aluminium lifting profiles between two of which the pipes to be transported are placed perpendicularly, those two lifting profiles being linked together by two steel lifting poles that are equipped with eyelets, and on top of which additional pipes may then be placed in the same way until the load comprises the number of pipes to be transported, the load then being completed by the attachment of steel slings to the lifting poles at the four corners of the load (by passing them through the said eyelets) in order to facilitate handling of the load, which is a matter for the referring court to verify.

### **Costs**

- 55 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Ninth Chamber) hereby rules:

**Subheading 8609 00 90 of the Combined Nomenclature, set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Implementing Regulation (EU) No 1001/2013 of 4 October 2013,**

**must be interpreted as not covering a device for transporting pipes that consists of a number of aluminium lifting profiles between two of which the pipes to be transported are placed perpendicularly, those two lifting profiles being linked together by two steel lifting poles that are equipped with eyelets, and on top of which additional pipes may then be placed in the same way until the load comprises the number of pipes to be transported, the load then being completed by the attachment of steel slings to the lifting poles at the four corners of the load (by passing them through the said eyelets) in order to facilitate handling of the load, which is a matter for the referring court to verify.**

[Signatures]