COUNCIL REGULATION (EEC) No 2902/85

of 17 October 1985

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 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1),

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee provided for in that Regulation,

Whereas :

A. Definitive action

1. Council Regulation (EEC) No 3072/80 (2), as amended by Regulation (EEC) No 1027/83 (3), imposed a definitive countervailing duty on imports of certain seamless tubes of non-alloy steels originating in Spain.

B. Subsequent procedure

2. In December 1984, after the introduction and subsequent reduction of the definitive countervailing duty, the Spanish Government and Spanish exporters requested a further reduction in the rate of that duty on the grounds that by Decree No 1313/1984 of 20 June 1984, published in the Spanish official gazette (BOE No 164) of 10 July 1984, which entered into force on the following day, the Spanish Government had modified the system of export rebates. Article 4 of the Decree provided for an across-the-board reduction of 15 % in the rate of the rebate.

3. In March 1985, by Regulation (EEC) No 638/85 (4), the Council amended the definitive countervailing duty accordingly.

4. In May 1985 the Commission received a request from the Spanish exporters and the Spanish Government for a further reduction of the countervailing duty imposed in view of the fact that the Spanish Government had decided upon a further general reduction of 15 % in the export rebates in force with effect from 1 June 1985 which was published in the Spanish official gazette (BOE No 74) of 27 March 1985.

C. Subsidy

5. The Commission obtained the necessary information from the Spanish Government and the Spanish exporters, including particulars from the exporters of deliveries to the Community of certain seamless tubes of non-alloy steels and of the export rebates received, which were verified to the extent considered necessary. It emerged that as from 1 June 1985 the export rebate for the products in question was cut by 15 % from 12,3 to 10,5 % (rounded off to the first decimal place). The export subsidy as found by the Commission was thereby reduced by 1,8 %, from 7,8 to 6,0 % of the export price.

D. Customs duty

6. Since the Spanish Government has lowered by 1,8 % the rebate on exports of the said products, a corresponding reduction should be made in the definitive countervailing duty with effect from 1 June 1985. Under Article 2 of Council Regulation (EEC) No 1430/79 (5) importers are entitled to a refund of countervailing duties paid in excess of the amount due under this Regulation on goods released for free circulation in the Community since 1 June 1985,

HAS ADOPTED THIS REGULATION :

Article 1

Article 1 of Regulation (EEC) No 3072/80 is hereby replaced by the following :

'*Article 1*

1. A definitive countervailing duty is hereby imposed on seamless tubes of non-alloy steels falling within subheadings ex 73.18 B I and ex

(1) OJ No L 201, 30. 7. 1984, p. 1.
(2) OJ No L 322, 28. 11. 1980, p. 30.
(3) OJ No L 116, 30. 4. 1983, p. 7.
(4) OJ No L 73, 14. 3. 1985, p. 3.
(5) OJ No L 175, 12. 7. 1979, p. 1.

73.18 B III of the Common Customs Tariff, corresponding to NIMEXE codes 73.18 ex 13, ex 23, ex 27, ex 28, ex 72 and ex 74, and originating in Spain.

2. The amount of the definitive countervailing duty shall be equal to 6,0 % of the export price fob Spanish port of export or free Spanish frontier, as appropriate.

Where the importer cannot furnish evidence of this price, the duty shall be equal to 6,0 % 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 SA 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 be assessed at 5,65 % of the price or value referred to in paragraph 2 where this includes the commission paid to Goosmann GmbH.

The provisions in force with regard to customs duties shall apply to the definitive countervailing duty.'

Article 2

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 June 1985.

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

Done at Luxembourg, 17 October 1985.

For the Council

The President

J. F. POOS