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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 819/92

of 30 March 1992

amending Regulation (EEC) No 112/90 imposing a definitive anti-dumping duty on imports of certain compact disc players originating in Japan and the Republic of Korea and collecting definitively the provisional duty

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 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 consultation within the Advisory Committee as provided for under the above Regulation,

Whereas :

(1) Regulation (EEC) No 112/90 (2) imposed a definitive anti-dumping duty on imports of certain compact disc players originating in Japan and the Republic of Korea. Article 1 (1) of the Regulation laid down its scope and, with great precision, the products affected by the anti-dumping duty. The scope includes compact disc players falling within CN code ex 8519 99 10 (Taric code : 8519 99 10 * 10), including those which may be incorporated in a 'rack' system but are nevertheless capable of operating alone, separately from the 'rack' system, by means of their own power supply and commands.

(2) CN code ex 8519 99 10 (Taric code : 8519 99 10 * 10), however, includes a compact disc player incorporated in a rack only in so far as it gives the 'rack' its essential character. In other cases, i.e. where another apparatus gives the assembly its essential character, the entire 'rack' is classified under a different tariff heading and consequently falls outside the scope of Regulation (EEC) No 112/90.

Conversely, where the compact disc player is considered to give the 'rack' its essential character, the entire set of apparatus is classified under CN code ex 8519 99 10 (Taric code : 8519 99 10 * 10) and the anti-dumping duty is applied to the value of the entire 'rack' and not just to the value of the compact disc player component.

(3) Combined application to the customs rules and Article 1 (1) of Regulation (EEC) No 112/90 results in the Regulation being implemented in a way which deviates from the aims which the Council assigned to it. Regulation (EEC) No 112/90 was designed in particular to make compact disc players incorporated in a 'rack' subject to an anti-dumping duty, whether or not they gave the 'rack' its essential character. Furthermore, that Regulation was not designed to make a 'rack' incorporating a compact disc player subject to an anti-dumping duty on the basis of its total value but simply on the basis of the value of the compact disc player alone.

(4) Consequently Article 1 of Regulation (EEC) No 112/90 must be amended.

(5) It is necessary to that end to take account of the fact that a 'rack' incorporating a compact disc player may be classified under CN codes ex 8519 31 00, ex 8519 39 00, ex 8519 99 10, ex 8520 31 90, ex 8520 39 10, ex 8520 39 90 and ex 8527 31 91 (Taric codes 8510 31 00 * 10,

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 13, 17. 1. 1990, p. 21.

8519 39 00 * 10, 8519 99 10 * 10, 8520 31 90 * 30, 5820 39 10 * 10, 8520 39 90 * 10 and 8527 31 91 * 10) according to the component which gives it its essential character.

(6) To ensure uniform application of the Regulation, the amendment must take effect as from 17 January 1990, the date on which Regulation (EEC) No 112/90 entered into force. However, Article 13 (4) (a) of Regulation (EEC) No 2423/88 lays down that anti-dumping and countervailing duties shall be neither imposed nor increased with retroactive effect, subject to Article 13 (4) (b), which does not apply to the case in point. Consequently, the amendment may not enter into force with retroactive effect as regards the imposition of a definitive anti-dumping duty on imports of certain compact disc players falling within CN codes ex 8519 31 00, ex 8519 39 00, ex 8520 31 90, ex 8520 39 10, ex 8520 39 90 and ex 8527 31 91 (Taric codes: 8519 31 00 * 10, 8519 39 00 * 10, 8520 31 90 * 30, 8520 39 10 * 10, 8520 39 90 * 10 and 8527 31 91 * 10),

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EEC) No 112/90 is hereby amended as follows:

1. paragraph 1 shall be replaced by the following:

'1. A definitive anti-dumping duty is hereby imposed on imports of certain compact disc players falling within CN codes ex 8519 31 00, ex 8519 39 00, ex 85 19 99 10, ex 8520 31 90, ex 8520 39 10, ex 8520 39 90 and ex 8527 31 91 (Taric codes 8519 31 00 * 10, 8519 39 00 * 10, 8519 99 10 * 10, 8520 31 90 * 30, 8520 39 10 * 10, 8520 39 90 * 10 and 8527 31 91 * 10) (1), i.e. stand-alone sound reproducers with a laser optical reading system and with external dimensions of at least 216 × 45 × 150 mm, equipped to accommodate up to a maximum of ten compact discs, including sound reproducers which may be incorporated in a "rack" system but can nevertheless operate alone separately from the "rack", with their own power supply and commands, functioning with AC mains supply of usually 110/120/220/240 V and not capable of operating with a power supply of 12 V DC or less, originating in Japan and in the Republic of Korea.;

(1) Taric codes shown are those applicable on the date on which this Regulation enters into force.'

2. The following paragraph shall be added:

'3a. Where the compact disc player is combined with other apparatus to form a "rack", the free-at-frontier value used in applying the anti-dumping duty shall be that of the compact disc player alone.

If this value is not specified on the invoice, the importer shall declare the value of the player at the time of release for free circulation and shall submit appropriate evidence and information on that occasion.'

Article 2

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

It shall apply with effect from 17 January 1990 save as regards the imposition of a definitive anti-dumping duty on imports of certain compact disc players falling within CN codes ex 8519 31 00, ex 8519 39 00, ex 8520 31 90, ex 8520 39 10, ex 8520 39 90 and ex 8527 31 91 (Taric codes: 8519 31 00 * 10, 8519 39 00 * 10, 8520 31 90 * 30, 8520 39 10 * 10, 8520 39 90 * 10 and 8527 31 91 * 10). However, the provisions of Article 15 of Regulation (EEC) No 2423/88 shall apply from 17 January 1990 to compact disc players falling within the code numbers listed above.

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

Done at Brussels, 30 March 1992.

For the Council

The President

Arlindo MARQUES CUNHA