# Council Regulation (EC) No 1322/2004 of 16 July 2004 amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, inter alia, Russia and Romania

## COUNCIL REGULATION (EC) No 1322/2004

## of 16 July 2004

## amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, *inter alia*, Russia and Romania

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation), in particular Articles 9, 11(2) and (3) thereof,

Having regard to the proposal from the Commission, submitted following consultation with the Advisory Committee provided for by the basic Regulation,

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 2320/97[(2)], the Council imposed definitive antidumping duties on imports of certain seamless pipes and tubes, of iron or non-alloy steel, originating in Hungary, Poland, Russia, the Czech Republic, Romania and the Slovak Republic. Undertakings offered by exporting producers in Hungary, Poland, the Czech Republic, Romania and the Slovak Republic were accepted by Decision 97/790/EC[(3)] and undertakings offered by exporting producers in Russia were accepted by Commission Decision 2000/70/EC[(4)].

(2) On 1 Mai 2004 the European Union enlarged to include 10 new Member States. As from that date, the antidumping measures in force in the Community of 15 Member States were automatically extended to be applied also by the new Member States to imports from third countries. Measures against the new Member States automatically lapsed on the same date.

(3) The measures currently in force apply to imports originating in Russia (anti-dumping duty of 26,8 % and three price undertakings) and in Romania (anti-dumping duties ranging from 9,8 to 38,2 % and four price undertakings).

2. Interim and expiry reviews

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EC) No 1322/2004. (See end of Document for details)*

(4) On 23 November 2002, the Commission published a notice of initiation of an expiry and an interim review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes, of iron or non-alloy steel originating in Poland, Russia, the Czech Republic, Romania and the Slovak Republic[(5)].

(5) The review was requested by the Defence Committee of the seamless steel tube industry of the European Union on behalf of producers representing a major proportion of the total Community production of certain seamless pipes and tubes, of iron or non-alloy steel.

(6) The request for the expiry review is based on the allegation of continuation or recurrence of dumping and injury to the Community industry. The request for the interim review is based on the grounds that the form and level of the measures are inappropriate to counteract the dumping which is causing the injury.

(7) The review investigations are still ongoing in respect of Russia and Romania.

3. Product concerned

(8) The categories of products covered by the expiry and interim reviews (Article 11(2) and (3) of the basic Regulation) (the product concerned), are the same as the ones in Regulation (EC) No 2320/97, i.e.

(a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm;

(b) seamless tubes of circular cross section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes;

c) other tubes of circular cross section, of iron or nonalloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm

currently classifiable within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93 These CN codes are given only for information.

B. ASSESSMENT OF THE RELATION BETWEEN DECISION 2003/382/EC AND REGULATION (EC) No 2320/97

1. Proceeding on anti-competitive conduct under Article 81 of the EC Treaty

(9) In Commission Decision 2003/382/EC (the competition Decision)[(6)], several Community producers were fined for involvement in two cases of infringement of Article 81(1) of the EC Treaty.

(10) Following the adoption of the competition Decision, it was initially considered that the potential link with Regulation (EC) No 2320/97, if any, was not such as to require a re-examination of the findings of that Regulation. However, following the publication of the competition Decision, one of the interested parties has raised the issue of a possible impact of the anti-competitive conduct on the anti-dumping measures in force, and has provided further information regarding issues related to the injury and

causation findings of Regulation (EC) No 2320/97. This Regulation aims at examining whether the competition Decision should have any consequences for the anti-dumping measures currently in force.

2. Product concerned by the competition Decision

(11) The products concerned by the competition Decision are seamless carbon-steel pipes and tubes, in particular those used by the oil and gas industry. They include two major categories, i.e. project line pipes for carrying oil and gas over medium and short distances (LP) on the one hand and borehole pipes and tubes, commonly called oil country tubular goods (OCTG pipes and tubes) on the other hand. Whereas LP are classifiable within CN code ex 7304 10 the OCTG pipes and tubes are classifiable within CN code 7304 21.

(12) The product scope of the anti-dumping investigation is wider than the products concerned by the competition Decision. However, a comparison shows that product categories falling under CN code ex 7304 10 10 and CN code ex 7304 10 30, i.e. line pipe of a kind used for oil or gas pipelines of an external diameter not exceeding 406,4 mm, appear to be affected by both the anti-dumping investigation and the competition infringement, even if this is only for a limited part of the Community market of the product concerned.

3. Producers concerned

(13) In the anti-dumping investigation 10 Community producers cooperated, representing more than 90 % of the total Community production of the product subject to investigation. Three out of the 10 companies were also involved in the infringement of Article 81(1) of the EC Treaty.

4. Infringement during investigation period and period considered

(14) The period for the examination of dumping and injury lasted from 1 September 1995 to 31 August 1996 (investigation period) whereas the examination of trends relevant for the injury assessment in the anti-dumping investigation covered the period from January 1992 to the end of the investigation period, i.e. 31 August 1996 (period considered).

(15) Two infringements have taken place within the investigation period and the period considered:

(a) in the EU-Japan cartel, the producers concerned have infringed Article 81(1) of the EC Treaty by participating, together with other producers, in an agreement providing, *inter alia*, for the observance of their respective domestic markets for seamless standard threaded OCTG pipes and tubes and LP. The infringement lasted from 1990 to 1995, although it could not be clearly proven when in 1995 the operations actually stopped;

b) in a parallel European cartel the producers infringed Article 81(1) of the EC Treaty by concluding, in the context of the anti-competitive conduct