

385R0059

10. 1. 85

Diario Oficial de las Comunidades Europeas

Nº L 9/1

REGLAMENTO (CEE) Nº 59/85 DEL CONSEJO

de 9 de enero de 1985

relativo a la celebración de un Acuerdo con los Estados Unidos de América, referente a los intercambios de tubos y conducciones de acero

EL CONSEJO DE LAS COMUNIDADES EUROPEAS,

Visto el Tratado constitutivo de la Comunidad Económica Europea y, en particular, su artículo 113,

Vista la propuesta de la Comisión,

Considerando que los Estados Unidos de América han tomado una serie de medidas que afectan a las exportaciones comunitarias de tubos y conducciones de acero;

Considerando que se han llevado a cabo negociaciones por parte de la Comisión con los Estados Unidos de América, que han conducido el 7 de enero de 1985 a un Acuerdo que prevé una limitación, en determinadas condiciones, de las exportaciones comunitarias de tubos y conducciones de acero;

Considerando que dicho Acuerdo permite salvaguardar en lo esencial los intereses de los productores comunitarios que exportan tubos y conducciones de acero al mercado de los Estados Unidos de América,

HA ADOPTADO EL PRESENTE REGLAMENTO:

Artículo 1

1. Queda aprobado en nombre de la Comunidad el Acuerdo con los Estados Unidos de América referente a

los intercambios de tubos y conducciones de acero, que debe celebrarse en forma de Canje de Notas.

2. El texto del Acuerdo en forma de Canje de Notas se adjunta al presente Reglamento.

Artículo 2

Se autoriza al Presidente del Consejo para que designe a la persona facultada para proceder al Canje de Notas a fin de obligar a la Comunidad Económica Europea.

Artículo 3

El presente Reglamento entrará en vigor el día de su publicación en el *Diario Oficial de las Comunidades Europeas*.

Será aplicable a partir del 1 de enero de 1985.

El presente Reglamento será obligatorio en todos sus elementos y directamente aplicable en cada Estado miembro.

Hecho en Bruselas, el 9 de enero de 1985.

Por el Consejo

El Presidente

G. ANDREOTTI

ARRANGEMENT

in the form of an exchange of letters with the United States of America concerning trade in steel pipes and tubes

LETTER No 1*A. Letter from the European Economic Community*

Sir,

In the course of the discussions between the European Economic Community (hereinafter referred to as 'the EEC') and the Government of the United States of America (hereinafter referred to as the US'), concerning EEC exports of pipes and tubes to the United States of America (hereinafter referred to as 'the USA'), both parties have agreed as follows:

1. The EEC shall restrain exports to, or destined for consumption in, the USA of steel pipes and tubes described in Annex A, originating in the Community (such exports hereinafter referred to as 'pipes and tubes') to a level of 7,6 % of US apparent consumption for calendar years 1985 and 1986. During this period, export licences shall be required for pipes and tubes.

For the purpose of this Arrangement, 'US apparent consumption' shall mean shipments (deliveries) minus exports plus imports.

2. Within the limit set in Section 1, EEC exports of oil country tubular goods (OCTG) as described in Annex A, shall not exceed 10 % of US apparent consumption of oil country tubular goods.

3. (a) Where pipes and tubes imported into the USA are subsequently re-exported therefrom, without having been subject to substantial transformation, the export limit for such products for the calendar year corresponding to the time of such re-export shall be increased by the same amount upon presentation of documentation of such re-export.

(b) For the purposes of this Arrangement, the USA shall comprise both the customs territory of the United States and US foreign trade zones. In consequence, the entry into the customs territory of the United States of pipes and tubes which have already entered into a US foreign trade zone shall not be again taken into account.

4. The US, with the advice of the EEC, will select an independent and objective forecaster which will provide the estimate of US apparent consumption for the purpose of this Arrangement.

For 1985 a first projection of US apparent consumption will be established. These figures for projected consumption will then be revised in February, May, August and October 1985, by the said independent forecaster, and appropriate adjustments will be made to the export limits for pipes and tubes on the basis of these revisions, taking into account licences already issued. The same procedure will be followed to calculate and revise the US apparent consumption and export limits for 1986, the first projection being established by the independent forecaster by 1 October 1985, and subsequently in February, May, August and October 1986.

By March 1986, adjustments to the 1986 export limits will be made for differences between the forecasted US apparent consumption and actual US apparent consumption in 1985.

5. (a) Pipes and tubes exported to the USA after 31 December 1984 must be counted against the export limit for 1985 or 1986, as appropriate.

(b) For pipes and tubes which were exported prior to 1 January 1985 but which were not entered, or withdrawn from a warehouse or a foreign trade zone, for consumption before 29 November 1984:

(1) the US will permit entry, under appropriate procedures, of 60 000 net tonnes of pipes and tubes, of which not more than 28 000 net tonnes will be oil country tubular goods; and

- (2) for all other such pipes and tubes, consultations shall be entered into on or before 1 February 1985 to examine the causes of the situation and to determine within 60 days whether entries, or withdrawals from warehouse, for consumption of such other pipes and tubes shall be permitted and how such entries will be subject to and accounted for under the limit, sub-limit, or other provisions of this Arrangement.
6. (a) Export licences will be issued against the export limit for a specific calendar year. Export licences for 1986 may be used as early as 1 December 1985 up to 8 % of the export limit for 1986. Export licences must be used before 31 December of the year for which they are issued, except that 1985 licences not so used may be used during the first two months of 1986 up to 8 % of the export limit for 1985.
- (b) The limit provided for in Section 1 and the sub-limit provided for in Section 2, may be adjusted by the EEC with prior notice to the US. Adjustments to increase or decrease the limit or sub-limit must be offset by an equivalent volume change in the limit or sub-limit or in one or more export ceilings established under the EEC/US Arrangement on certain steel products of 21 October 1982. No adjustment may be made which results in an increase or a decrease of the limit provided for in Section 1, the sub-limit provided for in Section 2, or any export ceiling under such 1982 Arrangement by more than 5 % by volume for the relevant period. The EEC and the US may agree to increase this percentage limit.
- (c) Normally, only one change on a limit, sub-limit or ceiling may be made by an adjustment under this section. Accordingly, more than one such change in a given year may be made only upon agreement between the EEC and the US.

7. By Regulations to be published in the *Official Journal of the European Communities*, the EEC will require an export licence for pipes and tubes described in Annex A. Such export licences will be issued in a manner that will avoid abnormal concentration in exports of pipes and tubes to the USA, taking into account seasonal trade patterns. The EEC shall take such action, including the imposition of penalties, as may be necessary to make effective the obligations resulting from the export licences. The EEC will inform the US of any violations concerning the export licences which come to its attention and the action taken with respect thereto.

Export licences will provide that shipment must be made within a period of three months.

The EEC will require that pipes and tubes shall be accompanied by a certificate, substantially in the form set out in Annex B, endorsed in relation to such a licence. The US shall require presentation of such certificate as a condition for entry into the USA of the pipes and tubes. The US shall prohibit entry of such pipes and tubes not accompanied by such a certificate.

8. The US shall accept exports of pipes and tubes in addition to those permitted under Sections 1 and 2 where a shortage of supply is identified, i.e. where the US industry is unable to meet demand in the USA for a particular product. At the request of the EEC, on the basis of information received from US consumers, consultations shall take place between the EEC and the US authorities. If necessary, the advice of an independent expert may be sought by either party. The US shall make a decision under this section on the basis of objective evidence from all relevant sources within a maximum of 60 days from the date of the request for consultation. The US recognizes that priority should be given to the examination, under the 'short-supply' provisions of this Arrangement, of requests concerning contracts recognized to have been already concluded between USA and EEC enterprises and which are in course of execution in connection with large projects.

9. (a) The EEC will, within one month after the end of each calendar quarter, or upon request, supply the US with such non-confidential information on all export licences and certificates issued for pipes and tubes and actions taken with respect to violations of this Arrangement.
- (b) The US will collect and transmit quarterly, or upon request, to the EEC all non-confidential information relating to certificates received during the preceding quarter in respect to pipes and tubes, and relating to actions taken in respect to such products for violation of customs laws.

10. Quarterly consultations shall take place between the EEC and the US on any matter arising out of the operation of this Arrangement. Consultations shall be held at any other time at the request of either the EEC or the US. If imports of a product within a limit or sub-limit significantly increase, relatively or absolutely and in relation to US apparent consumption, so as to disturb traditional patterns of trade, consultations shall be held upon request in order to find an appropriate solution.

11. It is understood that this Arrangement has been agreed to in the context of the US national policy for the steel industry as defined in the Presidential decision of 18 September 1984. If an arrangement with a third country which is a major exporter of pipe and tube products to the USA provides for more favourable terms than those defined in this Arrangement, in particular in relation to market share and duration, the EEC may request consultations with the US. Consultations will also be held if there are indications that imports from third countries of pipe and tube products are displacing imports from the EEC.

12. A special consultation will be held in October 1985 in order to review the implementation of this Arrangement in the global context of the US steel programme, as well as the relative share of the EEC in the burden of the overall limitation of imports.

13. If, during the period in which the Arrangement is in effect, any petition seeking import relief under US law, including the countervailing duty laws, anti-dumping laws, Section 337 of the Tariff Act of 1930, Section 201 of the Trade Act of 1974, Section 301 of the Trade Act of 1974 (other than Section 301 petitions relating to third country sales by US exporters), or Section 232 of the Trade Expansion Act of 1962, is filed or investigations initiated or litigation (including anti-trust litigation) instituted with respect to pipes and tubes, the EEC shall be entitled to terminate the Arrangement with respect to some or all of the pipes and tubes after consultation with the US, at the earliest 15 days after such consultations.

14. This Arrangement shall apply to the US customs territory (except as otherwise provided in Section 3) and to the territories to which the Treaty establishing the EEC as presently constituted applies on the conditions laid down in that Treaty.

I hereby confirm the agreement of the EEC to the foregoing. I should be grateful if you would acknowledge receipt of this letter and confirm your Government's agreement to its content.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the
Council of the European Communities*

B. Letter from the United States of America

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'In the course of the discussions between the European Economic Community (hereinafter referred to as 'the EEC') and the Government of the United States of America (hereinafter referred to as 'the US'), concerning EEC exports of pipes and tubes to the United States of America (hereinafter referred to as 'the USA'), both parties have agreed as follows:

1. The EEC shall restrain exports to, or destined for consumption in, the USA of steel pipes and tubes described in Annex A, originating in the Community (such exports hereinafter referred to as 'pipes and tubes') to a level of 7,6 % of US apparent consumption for calendar years 1985 and 1986. During this period, export licences shall be required for pipes and tubes.

For the purpose of this Arrangement 'US apparent consumption' shall mean shipments (deliveries) minus exports plus imports.

2. Within the limit set in Section 1, EEC exports of oil country tubular goods (OCTG) as described in Annex A, shall not exceed 10 % of US apparent consumption of oil country tubular goods.

3. (a) Where pipes and tubes imported into the USA are subsequently re-exported therefrom, without having been subject to substantial transformation, the export limit for such products for the calendar year corresponding to the time of such re-export shall be increased by the same amount upon presentation of documentation of such re-export.

(b) For the purposes of this Arrangement, the USA shall comprise both the customs territory of the United States and US foreign trade zones. In consequence, the entry into the customs territory of the United States of pipes and tubes which have already entered into a US foreign trade zone shall not be again taken into account.

4. The US, with the advice of the EEC, will select an independent and objective forecaster which will provide the estimate of US apparent consumption for the purposes of this Arrangement.

For 1985 a first projection of US apparent consumption will be established. These figures for projected consumption will then be revised in February, May, August and October 1985, by the said independent forecaster, and appropriate adjustments will be made to the export limits for pipes and tubes on the basis of these revisions, taking into account licences already issued. The same procedure will be followed to calculate and revise the US apparent consumption and export limits for 1986, the first projection being established by the independent forecaster by 1 October 1985, and subsequently in February, May, August and October 1986.

By March 1986, adjustments to the 1986 export limits will be made for differences between the forecasted US apparent consumption and actual US apparent consumption in 1985.

5. (a) Pipes and tubes exported to the USA after 31 December 1984 must be counted against the export limit for 1985 or 1986, as appropriate.

(b) For pipes and tubes which were exported prior to 1 January 1985 but which were not entered, or withdrawn from a warehouse or a foreign trade zone, for consumption before 29 November 1984:

- (1) the US will permit entry, under appropriate procedures, of 60 000 net tonnes of pipes and tubes, of which not more than 28 000 net tonnes will be oil country tubular goods; and
 - (2) for all other such pipes and tubes, consultations shall be entered into on or before 1 February 1985 to examine the causes of the situation and to determine within 60 days whether entries, or withdrawals from warehouse, for consumption of such other pipes and tubes shall be permitted and how such entries will be subject to and accounted for under the limit, sub-limit, or other provisions of this Arrangement.
6. (a) Export licences will be issued against the export limit for a specific calendar year. Export licences for 1986 may be used as early as 1 December 1985 up to 8 % of the export limit for 1986. Export licences must be used before 31 December of the year for which they are issued, except that 1985 licences not so used may be used during the first two months of 1986 up to 8 % of the export limit for 1985.
- (b) the limit provided for in Section 1 and the sub-limit provided for in Section 2, may be adjusted by the EEC with prior notice to the US. Adjustments to increase or decrease the limit or sub-limit must be offset by an equivalent volume change in the limit or sub-limit or in one or more export ceilings established under the EEC/US Arrangement on certain steel products of 21 October 1982. No adjustment may be made which results in an increase or a decrease of the limit provided for in Section 1, the sub-limit provided for in Section 2, or any export ceiling under such 1982 Arrangement by more than 5 % by volume for the relevant period. The EEC and the US may agree to increase this percentage limit.
- (c) Normally, only one change in a limit, sub-limit or ceiling may be made by an adjustment under this section. Accordingly, more than one such change in a given year may be made only upon agreement between the EEC and the US.
7. By Regulations to be published in the *Official Journal of the European Communities*, the EEC will require an export licence for pipes and tubes described in Annex A. Such export licences will be issued in a manner that will avoid abnormal concentration in exports of pipes and tubes to the USA, taking into account seasonal trade patterns. The EEC shall take such action, including the imposition of penalties, as may be necessary to make effective the obligations resulting from the export licences. The EEC will inform the US of any violations concerning the export licences which come to its attention and the action taken with respect thereto.

Exports licences will provide that shipment must be made within a period of three months.

The EEC will require that pipes and tubes shall be accompanied by a certificate, substantially in the form set out in Annex B, endorsed in relation to such a licence. The US shall require presentation of such certificate as a condition for entry into the USA of the pipes and tubes. The US shall prohibit entry of such pipes and tubes not accompanied by such a certificate.

8. The US shall accept exports of pipes and tubes in addition to those permitted under Sections 1 and 2 where a shortage of supply is identified, i.e. where the US industry is unable to meet demand in the USA for a particular product. At the request of the EEC, on the basis of information received from US consumers, consultations shall take place between the EEC and the US authorities. If necessary, the advice of an independent expert may be sought by either party. The US shall make a decision under this section on the basis of objective evidence from all relevant sources within a maximum of 60 days from the date of the request for consultation.

The US recognizes that priority should be given to the examination, under the 'short-supply' provisions of this Arrangement, of requests concerning contracts recognized to have been already concluded between USA and EEC enterprises and which are in course of execution in connection with large projects.

9. (a) The EEC will, within one month after the end of each calendar quarter, or upon request, supply the US with such non-confidential information on all export licences and certificates issued for pipes and tubes and actions taken with respect to violations of this Arrangement.

(b) The US will collect and transmit quarterly, or upon request, to the EEC all non-confidential information relating to certificates received during the preceding quarter in respect to pipes and tubes, and relating to actions taken in respect to such products for violation of customs laws.

10. Quarterly consultations shall take place between the EEC and the US on any matter arising out of the operation of this Arrangement. Consultations shall be held at any other time at the request of either the EEC or the US. If imports of a product within a limit or sub-limit significantly increase, relatively or absolutely and in relation to US apparent consumption, so as to disturb traditional patterns of trade, consultations shall be held upon request in order to find an appropriate solution.

11. It is understood that this arrangement has been agreed to in the context of the US national policy for the steel industry as defined in the Presidential decision of 18 September 1984. If an arrangement with a third country which is a major exporter of pipe and tube products to the USA provides for more favourable terms than those defined in this Arrangement, in particular in relation to market share and duration, the EEC may request consultations with the US.

Consultations will also be held if there are indications that imports from third countries of pipe and tube products are displacing imports from the EEC.

12. A special consultation will be held in October 1985 in order to review the implementation of this Arrangement in the global context of the US steel programme, as well as the relative share of the EEC in the burden of the overall limitation of imports.

13. If, during the period in which the Arrangement is in effect, any petition seeking import relief under US law, including the countervailing duty laws, anti-dumping laws, Section 337 of the Tariff Act of 1930, Section 201 of the Trade Act of 1974, Section 301 of the Trade Act of 1974 (other than Section 301 petitions relating to third country sales by US exporters), or Section 232 of the Trade Expansion Act of 1962, is filed or investigations initiated or litigation (including anti-trust litigation) instituted with respect to pipes and tubes, the EEC shall be entitled to terminate the Arrangement with respect to some or all of the pipes and tubes after consultation with the US, at the earliest 15 days after such consultations.

14. This Arrangement shall apply to the US customs territory (except as otherwise provided in Section 3) and to the territories to which the Treaty establishing the EEC as presently constituted applies on the conditions laid down in that Treaty.

I hereby confirm the agreement of the EEC to the foregoing. I should be grateful if you would acknowledge receipt of this letter and confirm your Government's agreement to its content.

Please accept, Sir, the assurance of my highest consideration.'

I have the honour to confirm that my Government is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration.

*For the Government
of the United States of America*

LETTER No 2

A. Letter from the United States of America

Sir,

the US Government recognizes that the volumes of pipes and tubes exported before 1 January 1985 but which were not entered, or withdrawn from warehouse or a foreign trade zone, for consumption before 29 November 1984, attributable to individual Member States may not be consistent with the burden-sharing agreed to for Member States under the Arrangement. The US Government understands that the EEC agrees that such quantities of pipes and tubes will be permitted entry under Section 5 (b) of the Arrangement if they are covered by a special issue of *ad hoc* EEC export licences and certificates implementing such burden-sharing. The EEC shall issue such licences and certificates promptly. To the extent any amount of such pipes and tubes is entered under Section 5 (b) (2) of the Arrangement and is subject to the limit under Section 1 or sub-limit under Section 2, the EEC shall reduce the volume covered by licences for export in 1985 or 1986, accordingly. The EEC shall promptly provide the US with such information as may be necessary to document such reduction for the corresponding consumption under Section 5 (b) (2).

*For the Government
of the United States of America*

B. Letter from the European Economic Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'The US Government recognizes that the volumes of pipes and tubes exported before 1 January 1985 but which were not entered, or withdrawn from warehouse or a foreign trade zone, for consumption before 29 November 1984, attributable to individual Member States may not be consistent with the burden-sharing agreed to for Member States under the Arrangement. The US Government understands that the EEC agrees that such quantities of pipes and tubes will be permitted entry under Section 5 (b) of the Arrangement if they are covered by a special issue of *ad hoc* EEC export licences and certificates implementing such burden-sharing. The EEC shall issue such licences and certificates promptly. To the extent any amount of such pipes and tubes is entered under Section 5 (b) (2) of the Arrangement and is subject to the limit under Section 1 or sub-limit under Section 2, the EEC shall reduce the volume covered by licences for export in 1985 or 1986, accordingly. The EEC shall promptly provide the US with such information as may be necessary to document such reduction for the corresponding consumption under Section 5 (b) (2).'

I have the honour to confirm the agreement of the Community to the foregoing.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the
Council of the European Communities*

ANNEX A

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.		(*) Covered if OCTG.	
(*) Excluded if OCTG.					

<p>1 Exporter (full name and address)</p>	<p>CERTIFICATE FOR THE EXPORT OF IRON AND STEEL PRODUCTS TO THE UNITED STATES OF AMERICA</p> <p style="font-size: 1.2em; font-weight: bold;">No COPY</p>
<p>2 Consignee (full name and address)</p>	<p>3 Export licence No / issued in (Member State)</p> <hr/> <p>4 Extract No / issued in (Member State) of export licence No / issued in (Member State)</p>

NOTES

- A. This certificate must be completed on a typewriter and in English.
- B. This certificate and the export licence or the extract thereof to which it refers must be produced at the Customs office at which Customs formalities for export to the United States of America are completed.
- C. This certificate, duly endorsed by the Customs office shown in box no 7, must be produced to the competent authorities in the United States of America at the time of importation.

<p>5 Marks and numbers – Number and kind of packages – Category and detailed description of iron and steel products</p>	<p>6 Quantity (metric tonnes)</p>
--	--

7 ENDORSEMENT BY THE COMPETENT CUSTOMS OFFICE IN THE EUROPEAN COMMUNITY

The quantity (metric tonnes) of iron and steel products shown above has been attributed to the export licence shown in box no 3
 to the extract shown in box no 4. *)

Customs export document: Signature: Stamp:
 type:

number:

date:

Customs office:

Member State:

*) The appropriate box to be indicated like this: