JUDGMENT OF THE COURT (Fifth Chamber)

7 October 2010 *

In Case C-382/09,

REFERENCE for a preliminary ruling under Article 234 EC from the Augstākās Tiesas Senāts (Latvia), made by decision of 8 September 2009, received at the Court on 28 September 2009, in the proceedings

Stils Met SIA

v

Valsts ieņēmumu dienests,

THE COURT (Fifth Chamber),

composed of J.-J. Kasel, President of Chamber, A. Borg Barthet (Rapporteur) and E. Levits, Judges,

* Language of the case: Latvian.

Advocate General: N. Jääskinen,
Registrar: A. Calot Escobar,

after considering the observations submitted on behalf of:

— Stils Met SIA, by V. Meļkovs,

— the Valsts ieņēmumu dienests, by N. Jezdakova, acting as Agent,

— the Latvian Government, by K. Drēviņa and K. Krasovska, acting as Agents,

— the European Commission, by A. Sauka and L. Bouyon, acting as Agents,

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

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of the Integrated Tariff of the European Communities ('TARIC'), established by Article 2 of 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), and Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996, L 56, p. 1).

2 The reference has been made in proceedings between Stils Met SIA ('Stils Met'), a company governed by Latvian law, and the Valsts ieņēmumu dienests (State Tax Authority; 'the Dienests') concerning the import of steel ropes and cables from Ukraine between May 2004 and September 2005.

Legal context

European Union ('EU') legislation

Customs legislation

3 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 "Combined Nomenclature" …, 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 combined nomenclature shall comprise:

(a) the harmonised system nomenclature [established by the International Convention on the Harmonised Commodity Description and Coding System];

(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 combined nomenclature is reproduced in Annex I. …

…'

4 Article 2 of Regulation No 2658/87 provides:

'[A TARIC] which meets the requirements of the Common Customs Tariff, external trade statistics, the commercial, agricultural and other Community policies concerning the importation or exportation of goods, shall be established by the Commission.

The tariff shall be based on the Combined Nomenclature and include:

(a) the measures contained in this Regulation;

(b) the additional Community subdivisions, referred to as "TARIC subheadings", which are needed for the implementation of specific Community measures listed in Annex II;

(c) any other information necessary for the implementation or management of the TARIC codes and additional codes as defined in Article 3(2) and (3);

(d) the rates of customs duty and other import and export charges, including duty exemptions and preferential tariff rates applicable to specific goods on importation or exportation;

(e) measures shown in Annex II applicable on the importation and exportation of specific goods.'

5 Under Article 3(1) and (2) of that regulation:

'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 harmonised system nomenclature;

(b) the seventh and eighth digits shall identify the … subheadings [of the Combined Nomenclature of goods established under Article 1].

…

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. …'

6 Article 6 of that regulation provides that the TARIC is to be established, updated, managed and disseminated by the Commission.

7 Part One of the Combined Nomenclature forming Annex I to Regulation No 2658/87, as amended by Commission Regulation (EC) No 1789/2003 of 11 September 2003 (OJ 2003 L 281, p. 1) ('the CN'), contains a number of preliminary provisions. In that annex, Subsection A, entitled 'General rules for the interpretation of the [CN]', of Section I (General Rules) of Part One, provides:

'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.

…'

8 Part Two of the CN contains Section XV concerning 'Base metals and articles of base metal'. That section includes Chapter 73, entitled 'Articles of iron or steel'.

9 CN Heading 7312 is subdivided as follows:

CN Code	Description
7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:
7312 10	– Stranded wire, ropes and cables:
7312 10 10	– – With fittings attached, or made up into articles, for use in civil aircraft
	– – Other:
7312 10 30	– – – Of stainless steel
	– – – Other, with a maximum cross-sectional dimension:
	– – – – Not exceeding 3 mm:
…	…

CN Code	Description
7312 10 59	…
	– – – – Exceeding 3 mm:
	– – – – – Stranded wire:
…	…
7312 10 79	…
	– – – – – Ropes and cables (including locked coil ropes):
	– – – – – – Not coated or only plated or coated with zinc, with a maximum cross-sectional dimension:
7312 10 82	– – – – – – – Exceeding 3 mm but not exceeding 12 mm
7312 10 84	– – – – – – – Exceeding 12 mm but not exceeding 24 mm
7312 10 86	– – – – – – – Exceeding 24 mm but not exceeding 48 mm
7312 10 88	– – – – – – – Exceeding 48 mm
7312 10 99	– – – – – – Other
…	…

10 Note 1 to Chapter 72 of the CN reads:

‘In this Chapter and, in the case of Notes (d), (e) and (f) throughout the [CN], the following expressions have the meanings hereby assigned to them:

…

(d) Steel

Ferrous materials other than those of heading 72.03 [(that is to say, ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pellets or similar forms; iron having a minimum purity by weight of 99,94 %, in lumps, pellets or similar forms)] which (with the exception of certain types produced in the form of castings) are usefully malleable and which contain by weight 2 % or less of carbon. However, chromium steels may contain higher proportions of carbon.

(e) Stainless steel

Alloy steels containing, by weight, 1,2 % or less of carbon and 10,5 % or more of chromium, with or without other elements.

(f) Other alloy steel

Steels not complying with the definition of stainless steel and containing by weight one or more of the following elements in the proportion shown:

— 0,3 % or more of aluminium,

— 0,0008 % or more of boron,

— 0,3 % or more of chromium,

— 0,3 % or more of cobalt,

— 0,4 % or more of copper,

— 0,4 % or more of lead,

— 1,65 % or more of manganese,

— 0,08 % or more of molybdenum,

— 0,3 % or more of nickel,

— 0,06 % or more of niobium,

— 0,6 % or more of silicon,

— 0,05 % or more of titanium,

— 0,3 % or more of tungsten (wolfram),

— 0,1 % or more of vanadium,

— 0,05 % or more of zirconium,

— 0,1 % or more of other elements (except sulphur, phosphorus, carbon and nitrogen), taken separately.

…’

11 In 2004 and 2005, the TARIC contained the following subheadings for CN subheadings 7312 10 82, 7312 10 84 and 7312 10 86:

7312 10 82	- - - - - - - Exceeding 3 mm but not exceeding 12 mm
7312 10 82 11	- - - - - - - - Of steel
7312 10 82 11	- - - - - - - - - Consigned from Moldova
7312 10 82 12	- - - - - - - - - Consigned from Morocco
7312 10 82 19	- - - - - - - - - Other
7312 10 82 90	- - - - - - - - Other
7312 10 84	- - - - - - - Exceeding 12 mm but not exceeding 24 mm
7312 10 84 11	- - - - - - - - Of steel
7312 10 84 11	- - - - - - - - - Consigned from Moldova
7312 10 84 12	- - - - - - - - - Consigned from Morocco
7312 10 84 19	- - - - - - - - - Other
7312 10 84 90	- - - - - - - - Other
7312 10 86	- - - - - - - Exceeding 24 mm but not exceeding 48 mm
7312 10 86 11	- - - - - - - - Of steel
7312 10 86 11	- - - - - - - - - Consigned from Moldova
7312 10 86 12	- - - - - - - - - Consigned from Morocco
7312 10 86 19	- - - - - - - - - Other
7312 10 86 90	- - - - - - - - Other

12 The Combined Nomenclature forming Annex I to Regulation No 2658/87, in the version incorporating the amendments to that annex introduced by Commission Regulation (EC) No 1810/2004 of 7 September 2004 (OJ 2004 L 327, p. 1), is identical to the CN as regards all the provisions referred to in paragraphs 7 to 11 of this judgment.

Legislation concerning anti-dumping measures

13 At the material time, the provisions governing the application of anti-dumping measures by the European Union were contained in Regulation No 384/96.

14 Article 14(1) of that regulation provides:

'Provisional or definitive anti-dumping duties shall be imposed by regulation, and collected by Member States in the form, at the rate specified and according to the other criteria laid down in the regulation imposing such duties. Such duties shall also be collected independently of the customs duties, taxes and other charges normally imposed on imports. No product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation.'

15 Under Article 1(1) and (3) of Council Regulation (EC) No 1796/1999 of 12 August 1999 imposing a definitive anti-dumping duty, and collecting definitively the provisional duty imposed, on imports of steel ropes and cables originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine and

terminating the anti-dumping proceeding in respect of imports originating in the Republic of Korea (OJ 1999 L 217, p. 1):

'1. A definitive anti-dumping duty is hereby imposed on imports of steel ropes and cables, currently classifiable within CN codes ex 7312 10 82 (TARIC code 7312 10 82*10), ex 7312 10 84 (TARIC code 7312 10 84*10), ex 7312 10 86 (TARIC code 7312 10 86*10), ex 7312 10 88 (TARIC code 7312 10 88*10) and ex 7312 10 99 (TARIC code 7312 10 99*10) and originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa, Ukraine.

...

3. Unless otherwise specified, the provisions in force concerning the customs duties shall apply.'

National legislation

16 At the material time, in the Law on taxes and duties (likums 'Par nodokļiem un nodevām', *Latvijas Vēstnesis*, 1995, No 26), paragraphs 1 and 2 of Article 1, which was entitled 'Liability in the event of reduction of the taxable amount', provided:

'(1) Where, in breach of tax law, a person liable for payment of a tax reduces the taxable amount when making a declaration to the tax authority, the tax authority is to make an assessment of the underpaid amount of tax and impose a fine equivalent to that amount, if the legislation governing the specific tax does not impose a fine in any other amount.

(2) No fine shall be imposed where the following two conditions are met:

(1) The person liable for payment of the tax has supplied an amending or supplementary statement (supported by evidence) before the authority begins its investigations;

(2) Within five working days of the amending statement, the person in question has paid the outstanding tax and the increased amount of the principal debt, together with the default interest payable up until the date of the amending or supplementary statement (supported by evidence).'

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

17 Between May 2004 and September 2005, Stils Met imported steel ropes and cables from Ukraine for free circulation in Latvia. The goods were declared under TARIC subheadings 7312 10 82 90, 7312 10 84 90 and 7312 10 86 90.

18 In the course of an inspection, the Dienests determined that the goods concerned were of steel and that, accordingly, given the dimension of their cross-section and their geographical provenance, they came under TARIC subheadings 7312 10 82 19, 7312 10 84 19 and 7312 10 86 19, respectively.

19 Consequently, by decision of 20 June 2006, the Dienests ordered Stils Met to make a payment to the exchequer of LVL 485 286,58 (approximately EUR 697 356), of which LVL 205 629,87 related to anti-dumping duties, LVL 37 013,42 to value added tax and LVL 242 643,29 to a fine equivalent to the total amount outstanding.

20 Stils Met brought an action for annulment of that decision. It claimed in particular that, when declaring the goods, it had presented certificates supplied by the manufacturer's laboratories containing information for the declarant and the customs authorities concerning the chemical composition of those goods and, in particular, evidence that they fell within the description 'other alloy steel' within the meaning of Note 1(f) to Chapter 72 of the CN.

21 Stils Met also maintained that, although the Dienests had classified the goods in question correctly, that authority was not entitled to impose a fine on it under the national legislation.

22 The Administratīvā rajona tiesa (District Administrative Court) upheld the action brought by Stils Met and annulled the decision of the Dienests by judgment of 4 October 2007. After checking the data concerning the chemical composition of the goods concerned, that court held that the Dienests did not possess sufficient evidence to show that those goods should be considered to be steel within the meaning of Note 1(d) to Chapter 72 of the CN.

23 The Dienests appealed against that judgment before the Administratīvā apgabaltiesa (Regional Administrative Court), which reversed the judgment under appeal. In view of the subdivision in the CN between products of stainless steel, on the one hand, and other products of iron or of steel, on the other hand, that court held that, within the TARIC subheadings deriving from CN subheadings 7312 10 82, 7312 10 84 and 7312 10 86, the category 'steel' covers articles of steel, except those of stainless steel, irrespective of their chemical composition, whilst the category 'other' covers products which are not of steel, that is to say, products of iron.

24 Stils Met lodged an appeal on a point of law before the Augstākās Tiesas Senāts (Supreme Court) against the decision on appeal.

25 According to Stils Met, it is necessary to determine, by reference to Note 1 to Chapter 72 of the CN, in which category – (d) 'steel', (e) 'stainless steel' or (f) 'other alloy steel' – the goods at issue in the main proceedings belong. It submits that, if the information concerning the chemical composition of those goods is insufficient to establish that they are made of 'other alloy steel', they should be classified – as the Dienests has done – under the TARIC subheadings for products of steel, that is to say, under those with codes ending with the digits 11. If, however, that information is sufficient to establish that they are made of 'other alloy steel', they should be classified in the relevant TARIC subheadings for products other than of steel, that is to say, those with codes ending with the digits 90.

26 Stils Met also maintains that anti-dumping duties cannot be regarded as a tax or duty within the meaning of the Latvian Law on taxes and duties, which means that the fines provided for by that law are not applicable in the dispute in the main proceedings.

27 Taking the view that the outcome of the dispute before it required an interpretation of the relevant Community legislation, the Augstākās tiesas Senāts decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Are TARIC codes 7312 10 82 19, 7312 10 84 19 and 7312 10 86 19 to be interpreted as meaning that steel articles of the stated cross-sectional dimensions – stranded wire, ropes and cables, not coated or only plated or coated with zinc, in particular, of alloy steel (but not of stainless steel) – which were not imported from Moldova

or Morocco, should have been classified under those codes in 2004 and 2005, irrespective of their chemical composition?

2. Is Article 14(1) of … Regulation (EC) No 384/96 … to be interpreted as precluding imposition of a … fine equal to the total amount of the anti-dumping duties provided for by the legislation of the [Member] State concerned (Article 32(2) of the Latvian Law on taxes and duties) in the event of a breach of tax law?'

Consideration of the questions referred

The first question

28 By its first question the referring court asks, in essence, whether the TARIC must be interpreted as meaning that, in 2004 and 2005, ropes and cables of steel, other than stainless steel, such as those at issue in the main proceedings, not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm and not consigned either from Moldova or from Morocco, should have been classified in TARIC subheadings 7312 10 82 19, 7312 10 84 19 or 7312 10 86 19, or in TARIC subheadings 7312 10 82 90, 7312 10 84 90 or 7312 10 86 90.

29 As a preliminary point, it should be noted that it is settled case-law that, in the interests of legal certainty and for 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 the

CN and the notes to the sections or chapters (see, inter alia, Case C-173/08 *Kloosterboer Sevices* [2009] ECR I-5347, paragraph 24).

30 In the present case, it is common ground that the goods at issue in the main proceedings fall within CN subheadings 7312 10 82, 7312 10 84 and 7312 10 86, respectively, depending on their cross-sectional dimension. According to the wording of those subheadings, they cover ropes and cables, not coated or only plated or coated with zinc, of iron or steel, other than stainless steel, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm. Within the TARIC, such products are subdivided into products 'of steel' (TARIC subheadings 7312 10 82 11, 7312 10 84 11 or 7312 10 86 11) and 'other' (TARIC subheadings 7312 10 82 90, 7312 10 84 90 or 7312 10 86 90).

31 Stils Met maintains that it is necessary to determine, by reference to Note 1 to Chapter 72 of the CN, whether the steel ropes and cables at issue in the main proceedings fall within the category of 'steel', 'stainless steel' or 'other alloy steel'. Thus, if the information on the chemical composition of the goods at issue is sufficient to establish that they are made of 'other alloy steel', they must be classified under TARIC subheadings 7312 10 82 90, 7312 10 84 90 or 7312 10 86 90, depending on their maximum cross-sectional dimension.

32 The Dienests, the Latvian Government and the European Commission, on the other hand, contend that ropes and cables of alloy steel such as those at issue in the main proceedings must be classified under TARIC subheadings 7312 10 82 19, 7312 10 84 19 or 7312 10 86 19. They maintain in that regard that, although articles of stainless steel are assigned a separate CN code, TARIC subheadings 7312 10 82 19, 7312 10 84 19 and 7312 10 86 19 do not differentiate between the types of steel, so they cover both alloy and non-alloy steel. However, in view of the description and structure of heading 7312, goods of iron, that is to say, those which are not of steel, should be classified under TARIC subheadings 7312 10 82 90, 7312 10 84 90 and 7312 10 86 90.

33 It should be observed first of all that, according to the wording of CN heading 7312, that heading covers 'stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated'. The CN classifies stranded wire, ropes and cables 'of stainless steel' under subheading 7312 10 30 and 'other' stranded wire, ropes and cables under the subsequent subheadings. It follows that stranded wire, ropes and cables of stainless steel fall within CN subheading 7312 10 30, whilst stranded wire, ropes and cables of iron or steel, other than stainless steel, fall within the subsequent subheadings.

34 Thus, ropes and cables of iron or steel, other than stainless steel, not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm, fall within subheadings 7312 10 82, 7312 10 84 or 7312 10 86.

35 It follows that TARIC codes 7312 10 82 11, 7312 10 84 11 and 7312 10 86 11 cover ropes and cables of steel, other than stainless steel. It is also apparent from the structure and wording of the relevant TARIC subheadings that TARIC codes 7312 10 82 11 (consigned from Moldova), 7312 10 82 12 (consigned from Morocco) and 7312 10 82 19 (other) depend on the geographical provenance of the ropes and cables of steel, other than stainless steel. The same is true of the TARIC codes applying to ropes and cables covered by CN subheadings 7312 10 84 and 7312 10 86. Consequently, ropes and cables of steel, other than stainless steel, not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm, consigned from countries other than Moldova or Morocco, fall within TARIC codes 7312 10 82 19, 7312 10 84 19 and 7312 10 86 19.

36 It is also apparent from the structure of the TARIC that TARIC codes 7312 10 82 90, 7312 10 84 90 and 7312 10 86 90 cover ropes and cables – not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm – other than of steel, that is to say, those of iron.

37 It should also be noted that the Court has consistently held that both the notes to the chapters of the Common Customs Tariff and the Explanatory Notes to the Nomenclature of the Customs Cooperation Council are important means for ensuring the uniform application of the Tariff and as such may be regarded as useful aids to its interpretation (see, inter alia, Case C-338/95 *Wiener SI* [1997] ECR I-6495, paragraph 11, and Case C-276/00 *Turbon International* [2002] ECR I-1389, paragraph 22).

38 In the present case, Note 1 to Chapter 72 of the CN explains what is meant by steel, stainless steel and other alloy steel. It is apparent from the wording of that note that those definitions are relevant throughout the CN, hence including Chapter 73 of the latter. Point (d) of that note gives a definition of 'steel' in general. 'Stainless steel', defined in point (e), and 'other alloy steel', defined in point (f), are particular categories of steel and must therefore be regarded as falling within the general category of 'steel'.

39 Account being taken of those definitions for the purposes of classifying ropes and cables of steel such as those at issue in the main proceedings, ropes and cables of stainless steel, within the meaning of point (e) of Note 1 to Chapter 72 of the CN, fall within CN subheading 7312 10 30. However, since heading 7312 of the CN does not differentiate between ropes and cables of steel and those of 'other alloy steel', within the meaning of point (f) of that note, it must be held that ropes and cables of steel, other than stainless steel, not coated or only plated or coated with zinc, consigned from countries other than Moldova or Morocco, fall within TARIC subheadings 7312 10 82 19, 7312 10 84 19 or 7312 10 86 19, depending on their cross-sectional dimension.

40 In the light of all the foregoing, the answer to the first question is that the TARIC, in the version applying in 2004 and 2005, must be interpreted as meaning that ropes and cables of steel, other than stainless steel, not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm, not consigned either from Moldova or from Morocco, fall within TARIC

codes 7312 10 82 19, 7312 10 84 19 or 7312 10 86 19, depending on their cross-sectional dimension.

The second question

41 By its second question, the referring court asks in essence whether Article 14(1) of Regulation No 384/96 must be interpreted as precluding legislation of a Member State which provides for the imposition, in the event of an error in the tariff classification of goods imported into the customs territory of the European Union, of a fine equal to the total amount of the anti-dumping duties applicable to those goods according to their correct tariff classification.

42 As a preliminary point, it should be noted that, under Article 14(1) of Regulation No 384/96, anti-dumping duties are to be imposed by regulation and collected by Member States in the form, at the rate specified and according to the other criteria laid down in the regulation imposing such duties. In the present case, Regulation No 1796/1999 makes no provision for penalties in the event of a breach of its provisions.

43 On the other hand, Article 1(3) of that regulation provides that, unless otherwise specified, the provisions in force concerning customs duties are to apply. However, it is clear that those provisions do not impose any penalty for an error in the tariff classification of goods imported into the customs territory of the European Union.

44 In that regard, it should be noted that, according to settled case-law, where EU legislation does not specifically provide any penalty for an infringement or refers for that purpose to national legislation, Article 10 EC requires the Member States to take all the measures necessary to guarantee the application and effectiveness of EU law. For that purpose, while the choice of penalty remains within their discretion, they must ensure in particular that infringements of EU law are penalised under conditions, both procedural and substantive, which are analogous to those applicable to infringements of national law of a similar nature and importance and which, in any event, make the penalty effective, proportionate and dissuasive (see Case C-36/94 *Siesse* [1995] ECR I-3573, paragraph 20, and Case C-91/02 *Hannl-Hofstetter* [2003] ECR I-12077, paragraph 17).

45 It follows from the above that the Member States are empowered to choose the measures which seem appropriate to them in the event of infringement of the provisions of Regulation No 1796/1999. They must, however, exercise that power in accordance with EU law and its general principles and, consequently, in accordance with the principle of proportionality (see, by analogy, *Siesse*, paragraph 21; Case C-213/99 *De Andrade* [2000] ECR I-11083, paragraph 20; and *Hannl-Hofstetter*, paragraph 18).

46 The actual principle underlying the imposition of a fine such as that at issue in the main proceedings, which is designed to ensure that persons liable for payment of a tax comply with their obligations regarding declarations for tax purposes, does not appear to conflict with EU law. A provision such as that at issue in the main proceedings has the effect of encouraging economic operators to submit to the competent national authorities declarations which are in conformity with the relevant legislation, including the EU customs legislation and the anti-dumping measures stemming from EU legislation. Without such a measure, errors in the tariff classification of goods subject to anti-dumping duties would not ultimately have any consequences for the economic operators concerned.

47 As regards the amount of the fine, the conditions in accordance with which this is to be set must – according to the case-law referred to in paragraph 44 above – be analogous to those applicable to infringements of national law of a similar nature and importance. Although, at first sight, that appears, in the light of the wording of that provision, to be so in the case of a national provision such as that at issue in the main proceedings, it is nevertheless for the referring court to determine whether the fine at issue in the main proceedings is actually consistent with those principles.

48 In the light of the above, the answer to the second question is that Article 14(1) of Regulation No 384/96 must be interpreted as not precluding legislation of a Member State which provides for the imposition, in the event of an error in the tariff classification of goods imported into the customs territory of the European Union, of a fine equal to the total amount of the anti-dumping duties applicable to those goods, provided that the conditions in accordance with which the amount of the fine is to be set are analogous to those applicable to infringements of national law of a similar nature and importance and which make the penalty effective, proportionate and dissuasive, a matter which it is for the referring court to determine.

Costs

49 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 (Fifth Chamber) hereby rules:

1. **The Integrated Tariff of the European Communities established by Article 2 of 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 applying in 2004 and 2005, must be interpreted as meaning that ropes and cables of steel, other than stainless steel, not coated or only plated or coated with zinc, with a maximum cross-sectional dimension exceeding 3 mm but not exceeding 48 mm, not consigned either from Moldova or from Morocco, fall within TARIC codes 7312 10 82 19, 7312 10 84 19 or 7312 10 86 19, depending on their cross-sectional dimension.**

2. **Article 14(1) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community must be interpreted as not precluding legislation of a Member State which provides for the imposition, in the event of an error in the tariff classification of goods imported into the customs territory of the European Union, of a fine equal to the total amount of the anti-dumping duties applicable to those goods, provided that the conditions in accordance with which the amount of the fine is to be set are analogous to those applicable to infringements of national law of a similar nature and importance and which make the penalty effective, proportionate and dissuasive, a matter which it is for the referring court to determine.**

[Signatures]