Commission Implementing Regulation (EU) No 830/2014 of 30 July 2014 amending Council Regulation (EC) No 1890/2005, Council Implementing Regulation (EU) No 2/2012 and Council Implementing Regulation (EU) No 205/2013 as regards the product scope of the current anti-dumping measures concerning stainless steel fasteners and parts thereof, and as regards newcomer review requests, and providing for the possibility of repayment or remission of duties in certain cases

COMMISSION IMPLEMENTING REGULATION (EU) No 830/2014

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)], and in particular Articles 9(4) and 11(3), (5) and (6) thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) By Council Regulation (EC) No 1890/2005[(2)] (‘the original Regulation’) the Council imposed a definitive anti-dumping duty (‘the original measures’) on imports of certain stainless steel fasteners and parts thereof (‘SSF’) originating in the People's Republic of China (‘PRC’), Indonesia, Taiwan, Thailand and Vietnam.

(2) Following an expiry review (‘the expiry review’) based on Article 11(2) of Regulation (EC) No 1225/2009 (‘the basic Regulation’), which was limited to the measures imposed on imports originating in the PRC and Taiwan, the original measures ranging from 11,4 % to 27,4 % for the PRC and 8,8 % to 23,6 % for Taiwan were prolonged by Council Implementing Regulation (EU) No 2/2012[(3)] (‘the expiry review Regulation’).

(3) Following an anti-circumvention investigation based on Article 13(3) of the basic Regulation (‘the anti-circumvention investigation’) the definitive anti-dumping duty applicable to ‘all other companies’ from the PRC was extended on imports of SSF consigned from the Philippines, whether declared as originating in the Philippines or not, by Council Implementing Regulation (EU) No 205/2013[(4)].

2. **Initiation of interim review**

(4) A Taiwanese exporting producer, Sheh Kai Precision Co., Ltd, ('the applicant'), lodged a request for a partial interim review pursuant to Article 11(3) of the basic Regulation. The applicant requested the exclusion of certain types of fasteners, namely bi-metal fasteners ('BMF'), from the scope of the current measures due to their allegedly different physical, chemical and technical characteristics.

(5) Having determined that sufficient evidence existed for the initiation of a partial interim review, and after consulting the Advisory Committee, on 6 June 2013 the European Commission ('the Commission') announced by a notice ('the Notice of Initiation') published in the *Official Journal of the European Union*[(5)], the initiation of a partial interim review of the anti-dumping measures applicable to imports of certain stainless steel fasteners and parts thereof originating in the PRC and Taiwan[(6)].

(6) The current review is limited to the examination of the product scope in order to clarify whether certain product types of stainless steel screws, in particular BMF, fall within the scope of the original measures, as prolonged and extended.

3. Parties concerned by the investigation

(7) The known Union producers and their associations, importers and users, the representatives of the exporting countries as well as all known producers in the PRC and Taiwan were advised by the Commission of the initiation of the review.

(8) The Commission requested information from all the abovementioned parties and from those other parties who made themselves known within the time limit set in the Notice of Initiation. The Commission also gave interested parties the opportunity to make their views known in writing and to request a hearing.

(9) Thirteen Taiwanese exporting producers, one Chinese exporting producer, one Union producer, seven importers and one user submitted a questionnaire reply.

(10) Additionally, the association representing the Union producers — complainants in the original investigation and in the expiry review — confirmed that none of the Union companies produce BMF and therefore have no opinion on the characteristics of BMF.

(11) None of the additional six European producer associations known from the original investigation came forward with any information.

(12) No hearings were requested during the investigation.

4. Verification visits

(13) The Commission sought and verified all the information it deemed necessary. Verification visits were carried out at the premises of the following companies:

Union producer

— Reisser Schraubentechnik GmbH, Ingelfingen-Criesbach, Germany

Union importer

— Till and Whitehead Ltd, Cheltenham, United Kingdom

Exporting producers in Taiwan

— Sheh Kai Precision Co., Ltd, Kaohsiung, Taiwan

— Metalink Precision Industries Co., Ltd, Kaohsiung, Taiwan

— Sun Through Industrial Co., Ltd, Hemei Township, Taiwan

B. PRODUCT CONCERNED AND PRODUCT UNDER REVIEW

(14) The product concerned, as defined in Article 1(1) of the expiry review Regulation is certain stainless steel fasteners and parts thereof, currently falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61 and 7318 15 70 originating in the PRC and Taiwan.

(15) In the review request the applicant requested the exclusion of certain stainless steel fasteners from the scope of the current anti-dumping measure. The product to be excluded in the review request was defined by the applicant as 'bi-metal self-tapping and self-drilling screws having a shank and head of stainless steel and a point of carbon steel which allows the screw to self-drill its own pilot hole and cut its own thread into hard steel metal, currently falling within CN code ex 7318 14 10'.

(16) One of the cooperating importers claimed that the Commission should have made a distinction not between BMF and SSF but between self-drilling and self-tapping fasteners with the aim to exclude self-drilling fasteners from the product scope of the anti-dumping measures regardless whether they are BMF or SSF.

(17) The purpose of this review as indicated in the request submitted by the applicant and as specifically mentioned in the first paragraph of point 4 of the Notice of Initiation is to examine whether precisely bi-metal self-tapping and self-drilling screws should be excluded from the scope of the products which currently are subject to anti-dumping measures. The claim thus had to be rejected.

(18) At the same time, the Commission took into account the differences between self-drilling and self-tapping fasteners. This is reflected in the amendment of the definition provided by the applicant, quoted in recital 15, as indicated in recital 19.

(19) For the purpose of this review 'BMF' should be defined as: bi-metal self-drilling screws, having a shank and head of stainless steel and a point and leading threads of carbon steel, which are welded together allowing the screw to self-drill its own pilot hole and cut its own thread into hard steel metal; and bi-metal self-tapping screws, having a shank and head of stainless steel and leading threads of carbon steel which are welded together, allowing the screw to cut its own thread into hard steel metal; both currently falling within CN code ex 7318 14 10.

(20) BMF are a relatively new product on the market which was developed in order to combine in one fastener the most important features of the carbon and the stainless steel fasteners namely the hardness of the carbon steel and the corrosion resistance of the stainless steel. BMF are produced by welding a carbon steel part to a stainless steel part and as a consequence obtaining a self-drilling and/or self-tapping fastener which has a point and leading threads (in case of self-tapping fasteners only the leading threads

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 830/2014. (See end of Document for details)*

as no point exists) made of carbon steel, while the shank with further threads and the head are composed of stainless steel.

(21) Such BMF are able to penetrate metal sheets of even up to 25 mm thickness without the necessity of pre-drilling whereas normal SSF can only penetrate metal sheets of a maximum of 3 mm thickness. At the same time BMF maintain their corrosion resistance and are therefore suitable for out-door applications, such as windows and roofs and in chemically aggressive environments, such as swimming-pools and certain factories.

C. FINDINGS OF THE INVESTIGATION

Methodology

(22) During both the original investigation and the expiry review investigation BMF were not distinguished from SSF. In other words, information was only collected on different types of stainless steel used as raw material for the fasteners but not on fasteners containing both stainless and carbon steel as raw material.

(23) After the final disclosure in the expiry review, one interested party claimed that bi-metal fasteners should not be included in the product scope due to significant differences in relation to stainless steel fasteners in terms of unit sales price, cost of production, basic physical and technical characteristics (its raw material), as well as applications[7]. However, as explained in recital 21 of the expiry review Regulation, the product scope cannot be modified in the context of an expiry review.

(24) In order to assess whether BMF are covered by the original measures it was examined whether BMF and SSF shared the same basic physical, chemical and technical characteristics and end-uses. In this regard the interchangeability and competition between the two types of fasteners was also assessed.

Basic physical, chemical and technical characteristics

Physical characteristics

(25) The main physical difference between BMF and SSF is the fact that BMF are made of two different types of steel welded together while standard SSF are cut and formed from single stainless steel wire. In the case of BMF, three to four leading threads and the drill point are composed of carbon steel, while the head and shank are made of stainless steel.

(26) Unless special coating is applied, the stainless steel and the carbon steel part of the BMF can be visually distinguished. It has to be noted that in most cases the fasteners undergo a coating process further enhancing their corrosion resistance and therefore SSF and BMF might not be distinguishable by the naked eye.

(27) Nevertheless, BMF have magnetic properties in their carbon steel part, which is an important feature used to distinguish them from SSF.

Technical characteristics

(28) BMF have the capability to drill and tap into hard and thick metal sheets due to their carbon steel component. SSF do not have this ability due to characteristics of stainless steel.

Chemical characteristics

(29) Due to their carbon steel content, the chemical element composition of BMF is different compared to SSF which consist purely of stainless steel.

Conclusion

(30) Based on the above, it is concluded that even if BMF may look physically alike SSF (when coated), they have different basic physical, technical and chemical characteristics from those of SSF.

End use and interchangeability

(31) The Commission assessed whether the identified differences in physical, chemical and technical characteristics translated into different end use and market perception of BMF and SSF.

(32) It was established that BMF are primarily used in outdoor metal roofing, metal cladding, window cladding applications and in-door fixings in chemically aggressive environments such as swimming-pools and certain factories. All these applications usually require metal sheets of various thicknesses to be fastened together or fastened to other materials such as insulation layers of various compositions. In all these applications using fasteners which are corrosion resistant is very important from the client perspective and in some cases/countries it is even a legal requirement.

(33) BMF are specifically developed to fulfil the requirements of such applications by being able to drill through all types of surfaces including thick metal sheets (like carbon steel fasteners) and at the same time be corrosion resistant (like stainless steel fasteners).

(34) The sole cooperating Union producer claimed that the same result, that is to say fastening different surfaces together, can be achieved by both BMF and SSF. According to that company the only difference is the way the screw is inserted, that is with or without pre-drilling. Pre-drilling means that as an initial step holes are drilled with drills that vary with the material. The screws are then inserted as a separate step. Pre-drilling is necessary when SSF are applied and metal sheets are involved. For that reason the said company considers the choice between SSF and BMF to be simply an economic decision between accepting higher labour or higher material costs.

(35) However, the investigation revealed that in practice the pre-drilling method is not only time and labour consuming but in certain applications (notably in window cladding) not even feasible. The reason is that this method would require three or even more different surfaces to be pre-drilled, each with a different type of drill, and then lined perfectly together in order for the SSF to be inserted. Consequently, in such cases pure carbon steel fasteners are used as an alternative to BMF, rather than pure SSF. The pure carbon steel fastener solution does not fulfil the requirement of anti-corrosive resistance.