Council Regulation (EC) No 913/2009 of 24 September 2009 terminating the new exporter review of Regulation (EC) No 1174/2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports

COUNCIL REGULATION (EC) No 913/2009

of 24 September 2009

terminating the new exporter review of Regulation (EC) No 1174/2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports

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) and in particular Article 11(4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

1. MEASURES IN FORCE

(1) By Regulation (EC) No 1174/2005[(2)], the Council imposed a definitive anti-dumping duty and definitively collected the provisional duty imposed on imports of hand pallet trucks and their essential parts originating in the People's Republic of China. For the four companies with individual duties, the duties in force range from 7,6 % to 39,9 %. The duty applicable to all other companies is 46,7 %. Regulation (EC) No 684/2008[(3)] clarified the scope of the anti-dumping measures imposed by Regulation (EC) No 1174/2005.

2. CURRENT INVESTIGATION

2.1. Request for review

(2) The Commission received a request for a new exporter review of Regulation (EC) No 1174/2005, pursuant to Article 11(4) of the basic Regulation, from one exporting producer of hand pallet trucks and their essential parts originating in the People's Republic of China.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 913/2009. (See end of Document for details)*

(3) The request was lodged by Crown Equipment (Suzhou) Company Limited (Crown Suzhou or the applicant).

(4) The applicant alleged that it operated under market economy conditions and that it did not export the product concerned to the European Community during the period of investigation on which the anti-dumping measures were based i.e. from 1 April 2003 to 31 March 2004 (the original investigation period) and that it was not related to any of the exporting producers of the product concerned which are subject to the measures in force. Furthermore, it claimed that it had started to export hand pallet trucks and their essential parts to the Community after the end of the original investigation period.

2.2. **Initiation of a new exporter review**

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed to justify the initiation of a new exporter review in accordance with Article 11(4) of the basic Regulation and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 52/2009[(4)], a review of Regulation (EC) No 1174/2005 with regard to the applicant (the review).

(6) Pursuant to Article 2 of Regulation (EC) No 52/2009, the anti-dumping duty of 46,7 % imposed by Regulation (EC) No 1174/2005 on imports of hand pallet trucks and their essential parts produced by the applicant was repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

2.3. **Product concerned**

(7) The product concerned is the same as that set out in Regulation (EC) No 1174/2005 as amended by Regulation (EC) No 684/2008, being hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the People's Republic of China, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00. Hand pallet trucks are defined as trucks with wheels supporting lifting fork arms for handling pallets, designed to be manually pushed, pulled and steered, on smooth, level, hard surfaces, by a pedestrian operator using an articulated tiller. The hand pallet trucks are only designed to raise a load, by pumping the tiller, to a height sufficient for transporting and do not have any other additional functions or uses such as for example (i) to move and to lift the loads in order to place them higher or assist in storage of loads (highlifters); (ii) to stack one pallet above the other (stackers); (iii) to lift the load to a working level (scissor lifts); or (iv) to lift and to weigh the loads (weighing trucks).

2.4. **Parties concerned**

(8) The Commission officially advised the applicant, representatives of the Community industry and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in Regulation (EC) No 52/2009.

(9) The Commission services also sent a market economy treatment (MET) claim form and a questionnaire to the applicant and received the replies within the deadlines set for that purpose.

2.5. **Review investigation period**

(10) The investigation of dumping covered the period from 1 January 2008 to 31 December 2008.

3. WITHDRAWAL OF THE REQUEST FOR A NEW EXPORTER REVIEW

(11) By letter to the Commission dated 22 May 2009, Crown Suzhou formally withdrew its request for a new exporter review under Article 11(4) of the basic Regulation.

(12) It was considered whether it would be warranted to continue the investigation *ex officio*. The Commission considered that the termination of the investigation would not affect the anti-dumping measure in force, that the duty rate applicable to all other companies would be re-imposed retroactively on Crown Suzhou and that such termination would not be against the Community interest. On this basis, the investigation should be terminated.

(13) Interested parties were informed of the intention to terminate the investigation and re-impose a definitive anti-dumping duty on imports of the product concerned produced and sold for export to the Community by Crown Suzhou and were given the opportunity to comment. However, no comments which could alter this decision were received.

(14) It was therefore concluded that imports into the Community of hand pallet trucks and their essential parts, i.e. chassis and hydraulics, originating in the People's Republic of China, currently falling within CN codes ex 8427 90 00 and ex 8431 20 00 and produced and sold for export to the Community by Crown Suzhou should be subject to the country-wide duty applicable to all other companies (46,7 %) imposed by Regulation (EC) No 1174/2005 and that that rate of duty should therefore be re-imposed.

4. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

(15) In the light of the above findings, the anti-dumping duty applicable to Crown Suzhou should be levied retroactively, from the date of entry into force of Regulation (EC) No 52/2009, on imports of the product concerned which have been made subject to registration pursuant to Article 3 of that Regulation.

5. DURATION OF THE MEASURES

(16) The review does not affect the date on which the measures imposed by Regulation (EC) No 1174/2005 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION: