Council Regulation (EC) No 803/2009 of 27 August 2009 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan, or not, and repealing the exemption granted to Chup Hsin Enterprise Co. Ltd. and Nian Hong Pipe Fittings Co. Ltd.

COUNCIL REGULATION (EC) No 803/2009

of 27 August 2009

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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 Articles 11(2) and (3) and 13(4) thereof,

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

Whereas:

A. **PROCEDURE**

1. **Measures in force and previous investigations**

(1) By Council Regulation (EC) No 584/96[(2)], a definitive anti-dumping duty was imposed on imports of certain tube and pipe fittings of iron or steel ('TPFs' or 'the product concerned'), originating in, inter alia, the People's Republic of China (the 'PRC') and Thailand (the original investigation). Pursuant to Article 13(3) of the basic Regulation, these measures have been extended by Council Regulation (EC) No 763/2000[(3)] to cover certain imports of the product concerned which are consigned from Taiwan, based on the findings of the anti-circumvention investigation.

(2) The measures currently in force are definitive anti-dumping duties imposed by Council Regulation (EC) No 964/2003[(4)] on imports of certain tube and pipe fittings of iron or steel originating in the People's Republic of China and Thailand (countries concerned), and those consigned from Taiwan, whether declared as originating in Taiwan or not, pursuant to an expiry review in accordance with Article 11(2) of the basic Regulation (the 'first expiry review'). The anti-dumping duty in force is 58,6 % for the People's Republic of China and 58,9 % for Thailand except for Thai Benkan Co. Ltd. (0 %) and Awaji Materia Co. Ltd.[(5)] (7,4 %). Three Taiwanese companies, Chup

Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Nian Hong Pipe Fittings Co. Ltd., are exempted from the extension of the measures to Taiwan.

(3) By Commission Decision 96/252/EC[6] undertakings were accepted from certain Thai producers. In 2004, these undertakings were withdrawn by Council Regulation (EC) No 1496/2004[7] amending Regulation (EC) No 964/2003.

(4) Pursuant to Article 13(3) of the basic Regulation, the measures for the product concerned originating in the PRC were extended to imports consigned from Indonesia by Council Regulation (EC) No 2052/2004[8], Sri Lanka by Regulation (EC) No 2053/2004[9] and the Philippines by Regulation (EC) No 655/2006[10], whether declared as originating in the Philippines, Indonesia, Sri Lanka or not.

(5) Anti-dumping measures imposed by Council Regulation (EC) No 1001/2008[11] are currently also in force on imports of the product concerned from the Republic of Korea and Malaysia.

2. **Request for reviews**

(6) Following the publication of a notice of impending expiry[12] of the anti-dumping measures in force on imports of TPFs originating in the PRC and Thailand, the Commission received a request for reviews pursuant to Article 11(2) and (3) of the basic Regulation.

(7) The request was lodged on 5 March 2008 by the Defence Committee of the Steel Butt-Welding Fittings Industry of the European Union (the applicant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of TPFs.

(8) The request pursuant to Article 11(2) was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

(9) The request pursuant to Article 11(3) was based on information provided by the applicant that, with regard to imports of the product concerned from the PRC, the measure is no longer sufficient to counteract the injurious dumping, in particular as far as the extension of the measure to imports consigned from Taiwan is concerned. The applicant has provided prima facie evidence that the exemption of imports produced by Chup Hsin Enterprise Co. Ltd, and Nian Hong Pipe Fittings Co. Ltd. from the extended measure is no longer justified as these companies appear to be engaged in circumvention practices such as transhipment of TPFs originating in the PRC via Taiwan.

(10) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review and a partial interim review, limited to the exemption of TPFs produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) and Nian Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) from the extension of the anti-dumping measures imposed on imports originating in the PRC to imports consigned from Taiwan, the Commission initiated reviews[13] pursuant to Article 11(2) and (3) of the basic Regulation (the present reviews).

3. Investigation

3.1. *Parties concerned by the investigation*

(11) The Commission officially advised the applicant Community producers, the other Community producers, the exporting producers in the countries concerned including Taiwan, the importers/traders, users and their associations known to be concerned, as well as the representatives of the governments of the exporting countries, of the initiation of the reviews.

(12) The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set out 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 within the time limit set out in the notice of initiation.

(13) As a result, questionnaire replies were received from both exporting producers in Taiwan and the three sampled Community producers as well as the three sampled unrelated importers in the Community (see recitals (14) to (17) below).

3.2. *Sampling*

(14) In view of the apparent high number of exporting producers in the PRC, unrelated importers of the product concerned in the Community and Community producers supporting the request, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission requested these parties to provide the information listed in the notice of initiation in section 5.1.(a) (i) to (iii) and sent out sampling forms requesting specific information on the sales volume and prices of each Community producer, exporting producer and importer concerned.

(15) No reply was received from any Chinese or Thai exporting producers, therefore sampling was not applicable.

(16) Nine Community producers replied to the sampling form. A sample of four Community producers was selected based on the volume of their sales on the Community market during the review investigation period. These producers were requested to fill in the full questionnaire. One of the selected companies did subsequently not fill in the full questionnaire and was therefore excluded from the sample. The final sample of three companies accounted for more than 59 % of the total production of the Community industry and represented 62 % of the sales volume of the Community industry on the Community market.

(17) As far as importers of the product concerned are concerned, nine replied to the sampling form. A sample of four importers was selected based on the volume of their imports of the products concerned to the Community from the countries concerned during the review investigation period. However, one of the companies did

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subsequently not complete the full questionnaire and was therefore excluded from the sample.

3.3. *Investigation and verification visits*

(18) The Commission sought and verified all information deemed necessary for the purposes of determining the likely continuation or recurrence of dumping and injury and the Community interest and to verify whether the exemption of certain TPFs produced by the in recital (9) above mentioned companies from the extension of the anti-dumping measures in force against the PRC is still justified to counteract the injurious dumping. Verification visits were carried out at the premises of the following companies:

(a) *Sampled Community producers*

— Erne Fittings GmbH, Schlins, Austria, including the related company Siekmann Fittings, GmbH, Lohne, Germany,

— Interfit S.A., Maubeuge, France,

— Virgilio Cena & Figli S.p.A, Brescia, Italy,

(b) *Sampled unrelated importers*

— BSS Group plc, Leicester, UK,

— Eurobridas Fittings, S.A., Zaragoza, Spain,

— Manfred Geldbach GmbH & Co., Gelsenkirchen, Germany,

(c) *Exporting producers in Taiwan*

— Chup Hsin Enterprise Co. Ltd, Kaohsiung,

— Nian Hong Pipe Fittings Co. Ltd, Kaohsiung,

(d) *Producer in the analogue country, the USA*

— Weldbend Corporation, Argo, Illinois, USA,

3.4. *The review investigation period*

(19) The investigation of continuation or recurrence of dumping covered the period from 1 April 2007 to 31 March 2008 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2004 up to the end of the RIP (the period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product under consideration

(20) The product under review is the same as in the original investigation and the first expiry review: certain tube or pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, originating in the People's Republic of China and Thailand.

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(21) TPFs are manufactured essentially by cutting and forming tubes and pipes. They are used to join tubes and pipes and come in different shapes: elbows, reducers, tees and caps, as well as different sizes and material grades. They are used mainly in the petrochemical industry, construction, energy generation, shipbuilding and industrial installations. When sold for use in the petrochemical industry, the global standard used is the ANSI standard. For other purposes, the most common standard used in the Community is the DIN standard.

2. **Like product**

(22) As in the original investigation and the first expiry review, it was found that the TPFs produced in the countries concerned, sold domestically and/or exported to the Community, have the same basic physical, technical and chemical characteristics and end uses as the products sold in the Community by the applicant Community producers and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING**

(23) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

1. **Preliminary remarks**

(24) As mentioned above, in the absence of cooperation from any exporting producers in the PRC and Thailand, this examination had to be based on information available to the Commission from other sources, such as the review request, Eurostat, Chinese Customs statistics, and the information gathered in the analogue country.

2. **Thailand**

(a) *Normal value*

(25) In accordance with Article 18 of the basic Regulation, and in the absence of any cooperation from Thai exporting producers, the normal value was based on the data provided in the request, i.e. estimated cost of manufacturing in Thailand to which was added 15 % for SGA and 11 % for profit. There was no indication that this level of profit would exceed the profit normally realised by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin as provided for in Article 2(6)(c).

(b) *Export price*

(26) In accordance with Article 18 of the basic Regulation, and in the absence of cooperation from Thai exporting producers, the export price was calculated by using Eurostat data. These figures were adjusted by product types in proportion to the tonnage of each product type based on information provided in the request.

(c) *Comparison*