Council Regulation (EC) No 282/2009 of 6 April 2009 amending Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

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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'),

Having regard to Article 1(4) of Council Regulation (EC) No 1212/2005 of 25 July 2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China[(2)],

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

Whereas:

A. **MEASURES IN FORCE**

(1) By Regulation (EC) No 1212/2005, the Council imposed a definitive anti-dumping duty on imports into the Community of castings of non-malleable cast iron of a kind used to cover and/or give access to ground or sub-surface systems, and parts thereof, whether or not machined, coated or painted or fitted with other materials, excluding fire hydrants, originating in the People's Republic of China ('PRC') ('the product concerned'), normally declared within CN codes 7325 10 50, 7325 10 92 and ex 7325 10 99 (Taric code 7325 10 99 10). Given the large number of cooperating parties, a sample of Chinese exporting producers was selected during the investigation which led to the imposition of the measures.

(2) The sampled companies were attributed the individual duty rates established during the investigation. The cooperating non-sampled companies which were granted market economy treatment ('MET'), in accordance with the provisions of Article 2(7)(c) of the basic Regulation, were attributed the 0 % anti-dumping duty which was established for the sole sampled company which was granted MET. The cooperating non-sampled companies which were granted individual treatment ('IT'), in accordance with the provisions of Article 9(5) of the basic Regulation, received the weighted average duty of 28,6 % established for the sampled companies that were granted IT. A countrywide duty of 47,8 % was imposed on all other companies.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 282/2009. (See end of Document for details)*

(3) Article 1(4) of Regulation (EC) No 1212/2005 gives the possibility to Chinese exporting producers which meet the four criteria set out in that Article to be granted the same treatment as the one mentioned in recital (2) above for the cooperating companies not included in the sample ('New Exporting Producer Treatment' or 'NEPT').

B. NEW EXPORTING PRODUCERS' REQUESTS

(4) Six companies have requested to be granted NEPT. One company subsequently withdrew its request in the course of the investigation.

(5) An examination has been carried out to determine whether each of the applicants fulfils the criteria for being granted NEPT as set out in Article 1(4) of Regulation (EC) No 1212/2005, by verifying that:

1. it did not export to the Community the product concerned during the investigation period on which the measures are based (1 April 2003 to 31 March 2004) (the first criterion);

2. it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by that Regulation (the second criterion);

3. it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity of the product concerned to the Community (the third criterion);

4. it operates under market economy conditions defined in Article 2(7)(c) of the basic Regulation or alternatively that it fulfils the requirements to have an individual duty applied in accordance with Article 9(5) of the basic Regulation (the fourth criterion).

(6) Since the fourth criterion implies that the applicants submit a claim for Market Economy Treatment ('MET') and/or Individual Treatment ('IT'), the Commission sent MET and IT claim forms to all Chinese applicants. Five Chinese applicant companies requested MET pursuant to Article 2(7) of the basic Regulation. One company requested only IT pursuant to Article 9(5) of the basic Regulation.

(7) Questionnaires were sent to all applicants who were asked to supply evidence to demonstrate that they met the criteria mentioned above.

(8) Exporting producers fulfilling these criteria may, pursuant to Article 1(4) of Regulation (EC) No 1212/2005, be granted either the 0 % duty rate applicable to companies to whom MET was granted in accordance with Article 2(7)(c) of the basic Regulation, or the weighted average duty rate of 28,6 % applicable to companies to whom individual IT was granted in accordance with Article 9(5) of the basic Regulation.

(9) The Commission sought and verified all information it deemed necessary for the purpose of the determination of the fulfilment of the four criteria set out in Article 1(4) of Regulation (EC) No 1212/2005.

C. FINDINGS

(10) The examination of the requests established that two companies did not export the product concerned to the Community after the investigation period on which the measures are based, nor did they enter into an irrevocable contractual obligation to export the product concerned to the Community. These companies did not meet the third criterion mentioned in recital (5) above and therefore could not be granted NEPT.

(11) Two Chinese exporting producers could not show that they were not related to exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by Regulation (EC) No 1212/2005; indeed they could not successfully rebut evidence pointing to such a relationship. These companies did not meet the second criterion mentioned in recital (5) above and therefore could not be granted NEPT.

(12) One Chinese exporting producer, Weifang Stable Casting, that only requested IT, provided sufficient evidence to prove that it meets all the four criteria mentioned at recital (5) above. This company in fact could prove that i) it did not export to the Community the product concerned during the period 1 April 2003 to 31 March 2004, ii) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by Regulation (EC) No 1212/2005, iii) it actually exported a significant quantity of the product concerned to the Community starting from the year 2008, iv) it fulfils all the requirements for IT and can therefore be granted an individual duty in accordance with Article 9(5) of the basic Regulation. Therefore, this producer could be granted the weighted average duty rate for companies granted IT applicable to the cooperating companies not included in the sample (i.e. 28,6 %) in accordance with Article 1(4) of Regulation (EC) No 1212/2005, and be added to the list of exporting producers in Article 1(2) of that Regulation.

D. MODIFICATION OF THE LIST OF COMPANIES BENEFITING FROM INDIVIDUAL DUTY RATES

(13) In consideration of the findings of the investigation as indicated in recital (12) above, it is concluded that the company Weifang Stable Casting should be added to the list of companies individually mentioned under Article 1(2) of Regulation (EC) No 1212/2005 with a duty rate of 28,6 %.

(14) All the applicants and the Community Industry have been informed of the findings of the investigation and have had the opportunity to submit their comments. Their comments were taken into account where appropriate,

HAS ADOPTED THIS REGULATION:

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Article 1

Article 1(2) of Regulation (EC) No 1212/2005 shall be replaced by the following:

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products described in paragraph 1 and produced in the People's Republic of China by the companies listed below shall be as follows:

Company	Anti-dumping duty(%)	Taric additional code
Shijiazhuang Transun Metal Products Co. Ltd, Xinongcheng Liulintun, Luancheng County, Shijiazhuang City Hebei Province, 051430 PRC	0	A675
Shaoshan Huanqiu Castings Foundry, Fengjia Village Yingtian Township, Shaoshan, Hunan, PRC	0	A676
Fengtai Handan Alloy Casting Co. Ltd Beizhangzhuang Town, Handan County, Hebei, PRC	0	A677
Shanxi Jiaocheng Xinglong Casting Co. Ltd Jiaocheng County, Shanxi Province, PRC	0	A678
Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd Guan Pu Tou Village, Yang Cheng Zhuang Town Jinghai District, 301617 Tianjin, PRC	0	A679
Baoding City Maikesaier Casting Ltd Xin'anli Town, Tang County Hebei; Baoding 072350, PRC	0	A867
Baoding Yuehai Machine Manufacturing Co. Ltd No 333 Building A Tian E West Road Baoding, Hebei, PRC	0	A868
Shanxi Yuansheng Casting and Forging Industrial Co. Ltd No. 8 DiZangAn, Taiyuan, Shanxi, 030002, PRC	18,6	A680