Commission Regulation (EC) No 1434/2007 of 5 December 2007 on initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2074/2004 on imports of certain ring binder mechanisms originating in the People's Republic of China by imports of certain ring binder mechanisms consigned from Thailand, whether slightly modified or not and whether declared as originating in Thailand or not, and by imports of certain slightly modified ring binder mechanisms originating in the People's Republic of China, and making such imports subject to registration

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 ('the basic Regulation')[1], and in particular Articles 13(3), 14(3) and 14(5) thereof,

Whereas:

A. REQUEST

(1) The Commission has received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain ring binder mechanisms originating in the People's Republic of China.

(2) The request was lodged on 22 October 2007 by Ring Alliance Ringbuchtechnik GmbH, a Community producer of certain ring binder mechanisms.

B. PRODUCT

(3) The product concerned by the possible circumvention is certain ring binder mechanisms originating in the People's Republic of China, normally declared under CN code ex 8305 10 00 ('the product concerned'). For the purpose of this Regulation, certain ring binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel-made trigger mechanism fixed to the ring binder mechanism.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1434/2007. (See end of Document for details)*

(4) The products under investigation are certain ring binder mechanisms which are slightly modified originating in the People's Republic of China, normally declared under CN code ex 8305 10 00 (classified previous to the entry into force of this Regulation under TARIC code 8305 10 00 90), and certain ring binder mechanisms, whether slightly modified or not, consigned from Thailand, normally declared under CN code ex 8305 10 00 (classified previous to the entry into force of this Regulation under TARIC codes 8305 10 00 19, 8305 10 00 29 and 8305 10 00 90) ('the products under investigation').

C. EXISTING MEASURES

(5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 2074/2004[(2)] as extended to imports of the same product consigned from Vietnam[(3)] and from Lao People's Democratic Republic[(4)].

D. GROUNDS

(6) The request contains sufficient *prima facie* evidence that the anti-dumping measures on imports of certain ring binder mechanisms originating in the People's Republic of China are being circumvented by means of a slight modification of the product concerned to make it fall under custom codes which are normally not subject to the measures, in particular CN code ex 8305 10 00 (classified previous to the entry into force of this Regulation under TARIC code 8305 10 00 90), and that the modification does not alter the essential characteristics of the product concerned. Examples of such slightly modified types are ring binder mechanisms with more than two rectangular steel sheets or wires and/or with chamfered sheets, ring binder mechanisms with two steel sheets the edges of which have been cut off and/or which have indentations so that their shape is no longer rectangular. Furthermore, the request contains sufficient *prima facie* evidence that the anti-dumping measures on imports of certain ring binder mechanisms originating in the People's Republic of China are being circumvented by means of transhipment via Thailand of the product concerned, whether slightly modified (in the way described above) or not.

(7) The evidence submitted is as follows:

— The request shows that a significant change in the pattern of trade involving exports from the People's Republic of China and Thailand to the Community has taken place following the imposition of measures on the product concerned and that there is insufficient due cause or justification other than the imposition of the duty for such a change.

— This change in the pattern of trade appears to stem from the slight modification of the product concerned and from the transhipment via Thailand of certain ring binder mechanisms originating in the People's Republic of China, whether slightly modified or not.

— Furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price.

Significant volumes of imports of the products under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that this increase in imports is made at prices well below the non-injurious price established in the investigation that led to the existing measures.

— Finally, the request contains sufficient *prima facie* evidence that the prices of the products under investigation are dumped in relation to the normal value previously established for the product concerned.

— Should circumvention practices covered by Article 13 of the basic Regulation, other than the ones mentioned above, be identified in the course of the investigation, the investigation may cover these practices also.

E. PROCEDURE

(8) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of certain ring binder mechanisms consigned from Thailand, whether slightly modified or not and whether declared as originating in Thailand or not, and imports of certain slightly modified ring binder mechanisms originating in the People's Republic of China, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) **Questionnaires**

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in Thailand, to the exporters/producers and to the associations of exporters/producers in the People's Republic of China, to the importers and to the associations of importers in the Community which co-operated in the investigation that led to the existing measures and to the authorities of the People's Republic of China and Thailand. Information, as appropriate, may also be sought from the Community industry.

In any event, all interested parties should contact the Commission forthwith, but not later than the time limit set out in Article 3 of this Regulation in order to find out whether they are listed in the request, and request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

The authorities of the People's Republic of China and Thailand will be notified of the initiation of the investigation.

(b) **Collection of information and holding of hearings**

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1434/2007. (See end of Document for details)*

(c) **Exemption of registration of imports or measures**

In accordance with Article 13(4) of the basic Regulation, imports of the products under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

Since the possible circumvention takes place outside the Community, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

(9) Pursuant to Article 14(5) of the basic Regulation, imports of the products under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of registration of such imports.

G. TIME LIMITS

(10) In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— producers in the People's Republic of China and Thailand may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the parties making themselves known within the time limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

(11) In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(12) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available. If an interested party does not cooperate or cooperates only partially and