Council Regulation (EC) No 655/2006 of 27 April 2006 extending the definitive anti-dumping duty imposed by Regulation (EC) No 964/2003 on imports of tube or pipe fittings, of iron or steel, originating in the People's Republic of China to imports of tube or pipe fittings, of iron or steel, consigned from the Philippines, whether declared as originating in the Philippines or not

COUNCIL REGULATION (EC) No 655/2006

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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 Article 13 thereof,

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

Whereas:

A. PROCEDURE

1. Existing measures

(1) Following an expiry review, by Regulation (EC) No 964/2003[(2)] (the original Regulation), the Council imposed definitive anti-dumping duties of 58,6 % on imports of 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 (tube or pipe fittings or the product concerned), originating, *inter alia*, in the People's Republic of China (the PRC) and extended the measures to imports of the same fittings consigned from Taiwan, with the exception of those produced by three specific Taiwanese companies.

(2) In December 2004, by Regulations (EC) No 2052/2004 and No 2053/2004, the Council extended the above-mentioned definitive anti-dumping duties to imports of the same tube or pipe fittings consigned from Indonesia[(3)] and Sri Lanka[(4)] respectively.

2. Request

(3) On 23 June 2005, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on imports of tube or pipe fittings originating in the PRC by means

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 655/2006. (See end of Document for details)*

of the transhipment and incorrect declaration of origin via the Philippines. The request was submitted by the Defence Committee of the Steel Butt-Welding Fittings Industry of the European Union on behalf of four Community producers, representing a major proportion of the Community production of certain tube and pipe fittings.

(4) The request alleged and submitted sufficient prima facie evidence that there had been a change in the pattern of trade following the imposition of the anti-dumping measures on imports of tube or pipe fittings originating in the PRC, as shown by a significant increase in imports of the same product from the Philippines.

(5) This change in the pattern of trade was alleged to stem from the transhipment of tube or pipe fittings originating in the PRC via the Philippines. It was further alleged that there was insufficient due cause or economic justification for these practices other than the existence of the anti-dumping duties on tube or pipe fittings originating in the PRC.

(6) Finally, the applicant alleged and submitted prima facie evidence showing that the remedial effects of the existing anti-dumping duties on tube or pipe fittings originating in the PRC were being undermined both in terms of quantities and prices and that dumping was taking place in relation to the normal values previously established for the tube or pipe fittings originating in the PRC.

3. Initiation

(7) By Regulation (EC) No 1288/2005[(5)] (the initiating Regulation), the Commission initiated an investigation into the alleged circumvention of the anti-dumping measures imposed on imports of tube or pipe fittings originating in the PRC by imports of tube or pipe fittings consigned from the Philippines, whether declared as originating in the Philippines or not and, pursuant to Articles 13(3) and 14(5) of the basic Regulation, directed the customs authorities to register imports into the Community of tube or pipe fittings consigned from the Philippines, whether declared as originating in the Philippines or not, as from 6 August 2005.

4. Investigation

(8) The Commission officially advised the authorities of the PRC and of the Philippines, the producers/exporters and the importers in the Community known to be concerned as well as the Community industry of the initiation of the investigation. Questionnaires were sent to producers/exporters in the PRC and in the Philippines as well as to importers in the Community named in the request or known to the Commission from the investigation which lead to the imposition of the existing measures on imports of tube or pipe fittings originating in the PRC (the original investigation). Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being made on the basis of facts available.

(9) No questionnaire replies were received from exporters/producers in the Philippines, even though the authorities of the Philippines had contacted several

companies possibly involved in producing tube or pipe fittings. Moreover, no questionnaire replies were received from exporters/producers in the PRC.

(10) Two importers in the Community cooperated and submitted replies to the questionnaire.

(11) Verification visits took place at the premises of the following companies:

Importers

— Valvorobica Industriale SpA, Italy,

— General Commercial & Industrial SA, Greece.

5. Investigation period

(12) The investigation period covered the period from 1 July 2004 to 30 June 2005 (the IP). Data were collected from 2001 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. RESULTS OF THE INVESTIGATION

1. General considerations/degree of cooperation

(13) As mentioned in recital 9, no producer/exporter in the PRC or the Philippines cooperated in the investigation. Three Philippine companies came forward and stated that they did not produce nor export the tube or pipe fittings as defined in the original Regulation, but only stainless steel fittings, a product which is not covered by the current investigation. Accordingly, findings in respect of tube or pipe fittings consigned from the Philippines to the Community had partially to be based on facts available in accordance with Article 18 of the basic Regulation.

2. Product concerned and like product

(14) The product concerned by the alleged circumvention is, as defined in the original investigation, 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, currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11 95), ex 7307 93 19 (TARIC code 7307 93 19 95), ex 7307 99 30 (TARIC code 7307 99 30 95) and ex 7307 99 90 (TARIC code 7307 99 90 95), originating in the PRC.

(15) On the basis of the information available and the data supplied by the Philippine authorities and considering the change in the pattern of trade as described in the following section, it must be inferred, in the absence of any contrary evidence, that the tube or pipe fittings exported to the Community from the PRC and those consigned from the Philippines to the Community have the same basic physical and chemical characteristics and have the same uses. They are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. Change in the pattern of trade

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(16) Due to the non-cooperation of any Philippine company, the volume and the value of exports of the like product from the Philippines to the Community had to be established on the basis of the facts available pursuant to Article 18 of the basic Regulation. Eurostat data were the most appropriate information available and were therefore used to establish the export quantities and prices from the Philippines to the Community.

Imports into the Community

(in tonnes)

	2001	**2002**	**2003**	**2004**	**IP**
Philippines	0	3	700	2 445	2 941
The PRC	1 324	772	677	1 153	1 411
Indonesia	0	983	1 294	0	0
Sri Lanka	0	332	302	39	0
Total EU imports	17 422	15 111	16 085	16 050	18 900

Source: Eurostat.

(17) As this table shows, imports of tube or pipe fittings from the Philippines into the Community increased from 0 tonnes in 2001 to almost 3 000 tonnes during the IP. The imports from the Philippines commenced in 2002, at a time when the original investigation was ongoing. In 2003, however the imports from the Philippines increased significantly to 700 tonnes. In 2004, imports from the Philippines to the Community more than tripled to 2 445 tonnes. It should be noted that following the extension of the original anti-dumping measures to imports of the like product consigned from Indonesia and Sri Lanka in December 2004, imports from these countries came to a complete stop. This complete halt of imports from Indonesia and Sri Lanka to the Community in 2004 coincided with the most substantial increase of imports from the Philippines.

(18) At the same time, exports from the PRC to the Philippines remained at a low but stable level.

Exports from the PRC to the Philippines

(in tonnes)

	2001	**2002**	**2003**	**2004**	**IP**
Philippines	466	604	402	643	694

Source: Chinese export statistics.

(19) It must be noted, however, that the data used to establish the change in the pattern of trade, with special regard to those relating to exports from the PRC to the

Philippines, should be seen in the light of the likelihood of false declarations of origin (see recital 22) and might therefore not give a complete picture of the situation.

(20) From the figures shown above, it is concluded that there has been a clear change in the pattern of trade which started after the conclusion of the original investigation and became apparent after the extension of the measures to imports of the like product from Indonesia and Sri Lanka. The pattern consisted of a sharp increase of imports of tube or pipe fittings from the Philippines into the Community, especially in 2004 and the IP, coinciding with a stop of imports from the two countries to which the original measures were extended.

(21) It is clear from the above that due to the coincidence in time the Chinese exports transhipped via Indonesia and Sri Lanka have been redirected at least partly via the Philippines when the original anti-dumping measures were extended to imports from Indonesia and Sri Lanka. This was the case in particular during the year 2004 and during the IP.

4. Insufficient due cause or economic justification

(22) As already mentioned in recital 9, no Philippine producer/exporter cooperated in the investigation. Indeed, no evidence has been found during the investigation that any such producer would actually exist. Moreover, evidence collected during the investigation shows that tubes or pipe fittings have been in some cases declared as produced by Philippine companies that have submitted never having been involved in the manufacturing of the like product. This is corroborated by the information contained in the request for the initiation of anti-circumvention investigation, e.g. offers to potential importers containing the proposal of falsifying the documents of origin.

(23) From the information referred to in recitals 17 and 20, it can be concluded that exports of tubes or pipes fittings produced in the PRC and channelled to the Community through Indonesia and Sri Lanka during the years 2002 until 2004 have been redirected to a large extent via the Philippines, starting in the year 2003 and continuing until the end of IP.

(24) Moreover, although the volume of imports of the product concerned from the PRC to the Philippines did by far not reach the increase of imports consigned from the Philippines to the Community (see recital 18), the steep increase of exports from the Philippines to the Community also has to be seen in the light of the evidence found concerning false declarations or falsification of certificates of origin (see recital 22), the lack of genuine Philippine producers of tube or pipe fittings and the decrease of exports from Sri Lanka and Indonesia to the Community. It is the totality of these elements which explain the absence of an economic justification for the change in the pattern of trade observed.

(25) In the absence of cooperation by any exporting producer in the Philippines and the PRC and of any contrary evidence, it is therefore concluded that, given the coincidence in time with the investigations which lead to the extension of the original measures to imports from Indonesia and Sri Lanka, the change in the pattern of trade