Council Regulation (EC) No 1372/2005 of 19 August 2005 terminating the anti-dumping proceeding concerning imports of styrene-butadiene-styrene thermoplastic rubber originating in the Republic of Korea and Russia, terminating the interim review of the anti-dumping measures applicable to imports of styrene-butadiene-styrene thermoplastic rubber originating in Taiwan and repealing these measures

COUNCIL REGULATION (EC) No 1372/2005

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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 9 thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In September 2000, by Regulations (EC) No 1994/2000[(2)] and No 1993/2000[(3)], the Council imposed definitive countervailing duties ranging from 1 % to 8,2 % and definitive anti-dumping duties on imports of styrene-butadiene-styrene thermoplastic rubber (‘SBS’) originating in Taiwan.

(2) The level of definitive anti-dumping duties established for the exporting producers in Taiwan, expressed as a percentage of the CIF frontier value, was as follows:

— Lee Chang Yung Chemical Industry Corp., Taipei 5,3 %

— Chi Mei Corp., Tainan 9,1 %

— Non cooperating exporting producers 20,0 %

2. Present investigations

(3) On 28 May 2004, pursuant to Article 5 of the basic Regulation, the Commission announced by a notice (‘notice of initiation’) published in the *Official Journal of the European Union*[(4)], the initiation of an anti-dumping proceeding with

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regard to imports into the Community of SBS originating in the Republic of Korea ('Korea') and Russia.

(4) On the same day, the Commission announced by a notice published in the *Official Journal of the European Union*[(5)], the initiation of an interim review, pursuant to Article 11(3) of the basic Regulation, of the definitive anti-dumping duties imposed by Council Regulation (EC) No 1993/2000 on imports of SBS originating in Taiwan.

(5) The anti-dumping investigation was initiated following a complaint lodged on 13 April 2004 by the European Chemical Industry Council ('CEFIC' or 'the complainant') on behalf of producers representing 100 % of the Community production of SBS. The complaint contained evidence of dumping of the said product and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.

(6) The interim review was based on a request lodged by CEFIC and contained evidence that dumping and injury had recurred and that the existing measures were no longer sufficient to counteract the injurious dumping.

3. Parties concerned by the proceeding

(7) The Commission's services officially advised the exporting producers in Korea, Russia and Taiwan, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting countries concerned, and the complainant Community producers of the initiation of the proceedings. 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 notices of initiation.

(8) In view of the large number of importers of SBS into the Community listed in the complaint and the request, the notices of initiation envisaged the use of sampling for importers for the determination of injury, in accordance with Article 17 of the basic Regulation.

(9) In order to enable the Commission's services to decide whether sampling would be necessary and, if so, to select a sample, all importers were asked to make themselves known to the Commission and to provide, as specified in the notices of initiation, basic information on their activities related to SBS during the sampling period (1 April 2003 to 31 March 2004). After examination of the information submitted by the importers and due to the small number of replies to the sampling questions, it was decided that sampling was not necessary.

(10) Questionnaires were sent to all parties known to be concerned and to all other companies that made themselves known within the deadlines set out in the notices of initiation.

(11) Replies were received from one Korean exporting producer, one Russian producer, together with its two related Russian companies, four Taiwanese producers, four Community producers and four unrelated importers. No replies were received from users.

(12) The Commission's services sought and verified all the information deemed necessary for the purpose of a determination of dumping, resulting injury and Community interest. In accordance with Article 16(1) of the basic Regulation, verification visits were carried out at the premises of the following companies:

(a) Community industry producers
- — Dynasol Elastomeros S.A., Madrid, Spain
- — Kraton Polymers International Ltd., London, United Kingdom
- — Polimeri Europa S.p.A., Milan, Italy
- — SA Petrofina NV Brussels, Belgium (formerly Atofina Elastomers N.V.)

(b) Exporting producer in Korea
- — Korea Kumho Petrochemicals Co., Ltd., Seoul

(c) Exporting producer in Russia
- — SIBUR group:
  - — Public Joint Stock Company 'Sibirsko-Uralskaya Neftegazohimicheskaya Companiya' ('SIBUR'), Moscow
  - — Gazexport, Limited Liability Company, Moscow
  - — Joint Stock Company Voronezhsyntezkauchuk, Voronezh

(13) The investigation showed that only one Russian company, JSC Voronezhsyntezkauchuk, produced the product concerned, while JSC SIBUR was mainly responsible for the domestic sales and the delivery of raw materials. Gazexport was responsible for the export sales during most of the investigation period. Thus, for the purposes of this investigation, the three related Russian companies will be considered as one company, namely the 'SIBUR group'.

(d) Exporting producers in Taiwan
- — Chi Mei Corp., Tainan
- — Lee Chang Yung Chemical Industry Corp., Taipei

(e) Unrelated importers
- — Guzman Cauchos S.L., Valencia, Spain
- — Monumenta Import Export GmbH, Troisdorf, Germany
- — Tecnopolimeri S.p.A., Seregno, Italy

4. Provisional measures

(14) Given the need to further examine certain aspects of injury, causality and Community interest, in particular in view of the interrelation with the parallel interim review of the anti-dumping duties applicable to imports of SBS originating in Taiwan, no provisional anti-dumping measures were imposed on imports of SBS originating in Korea and Russia. All parties were nevertheless informed of the preliminary findings of the investigation and were granted a period within which they could

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submit representations subsequent to the disclosure and the oral and written comments submitted by the parties were taken into consideration.

5. Subsequent procedure

(15) The Commission's services continued to seek and verify all information deemed necessary for definitive findings, in particular with regard to imports of SBS from Taiwan.

(16) Subsequently, all parties were informed about the essential facts and considerations on the basis of which it was intended to recommend:

— the termination of the proceeding against imports of SBS originating in Korea and Russia; and

— the repeal of Regulation (EC) No 1993/2000 imposing definitive anti-dumping duties on imports of SBS originating in Taiwan.

(17) They were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered, and where appropriate, the findings have been modified accordingly.

6. Investigation period

(18) The investigation of dumping and injury covered the period from 1 April 2003 to 31 March 2004 (‘investigation period’ or ‘IP’). The examination of trends in the context of the injury analysis covered the period from 1 January 2000 to the end of the IP (‘period considered’).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(19) The product concerned is styrene-butadiene-styrene thermoplastic rubber, currently classifiable within CN codes ex 4002 19 00, ex 4002 99 10 and ex 4002 99 90.

(20) SBS is a triblock copolymer mainly made from monomer styrene and butadiene. It can be either dry or, with the addition of oil at the manufacturing stage, oil-extended. Furthermore, it can be produced in different types which can be identified through different specifications, such as the ratio of styrene to butadiene, the oil content or the chemical symmetry. Although the potential range of types of SBS is considerable, they share the same basic physical characteristics and no clear dividing lines exist between the various types. Moreover, all types of SBS are used for the same purposes, such as the thermo-modification of bitumen for road asphalt and roofing membranes, for technical and footwear compounding, plastic modification, and adhesives. Therefore, they are considered as one single product for the purpose of this investigation.

(21) During the verification visits it was found that one company exported styrene# isoprene-styrene block polymer (‘SIS’) to the Community during the IP. It was considered that this product cannot be regarded as the product concerned. Indeed, SIS has a different physical composition to SBS as the monomer in the mid-block of the

polymer is isoprene instead of butadiene. It therefore did not share the same physical characteristics and is consequently not covered by the present proceeding.

2. Like product

(22) The product concerned and the SBS manufactured and sold domestically in Korea, Russia and Taiwan, as well as the SBS manufactured and sold in the Community by the Community industry were found to have the same basic physical and chemical characteristics and the same basic uses. Therefore, these products are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General methodology

(23) The general methodology set out below was applied to all exporting producers in Korea, Russia and Taiwan. The subsequent presentation of findings on dumping for the countries concerned therefore only describes issues specific to each exporting country.

2. Normal value

(24) In accordance with Article 2(2) of the basic Regulation, the Commission's services first examined for each cooperating exporting producer whether its total domestic sales of SBS were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community. The Commission's services subsequently identified those types of SBS sold on the domestic market by the companies having overall representative domestic sales and that were identical to or directly comparable with the types sold for export to the Community.

(25) For each type sold by the exporting producers on their domestic markets and found to be directly comparable with the types of SBS sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of SBS were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type of SBS exported to the Community.

(26) The Commission's services subsequently examined whether each type of SBS sold domestically in representative quantities could be considered as being sold in the ordinary course of trade in accordance with Article 2(4) of the basic Regulation, by establishing the proportion of profitable sales to independent customers of the SBS type in question. In cases where the sales volume of the relevant SBS type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable