Commission Regulation (EC) No 771/2005 of 20 May 2005 imposing a provisional anti-dumping duty on imports of certain stainless steel fasteners and parts thereof originating in the People's Republic of China, Indonesia, Taiwan, Thailand and Vietnam

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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[(1)] (the 'basic Regulation'), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation of the present proceeding

(1) In August 2004, the Commission announced, by a notice published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding with regard to imports into the Community of stainless steel fasteners and parts thereof originating in the People's Republic of China (the PRC), Indonesia, Malaysia, the Philippines, Taiwan, Thailand and Vietnam and commenced an investigation.

(2) The proceeding was initiated as a result of a complaint lodged by the European Industrial Fasteners Institute (EIFI), on behalf of Community producers representing a major proportion, in this case more than 50 %, of the total Community production of stainless steel fasteners and parts thereof. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned and verification visits

(3) The Commission officially advised the applicant Community producers, their association, other Community producers, the exporting producers, importers, suppliers and users known to be concerned and the representatives of the exporting countries of the initiation of the proceeding. 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 notice of initiation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 771/2005. (See end of Document for details)*

(4) Given the large number of known exporting producers in the PRC and Taiwan, Community producers and importers, sampling for the determination of dumping and injury was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(5) In order to allow exporting producers in the PRC and Vietnam to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and the authorities of the two countries.

(6) The Commission sent questionnaires to all parties known to be concerned and received replies from five sampled exporters in Taiwan, four sampled Community producers, two Community producers not selected in the sample, from two exporting producers in the PRC, two in Indonesia, two in Malaysia, two in the Philippines, four in Thailand, one in Vietnam, from four sampled importers, one Community user and from one upstream supplier in the Community.

(7) A German importer/distributor association (Fachverband des Schrauben-Großhandels e.V.) also made their views known in writing. All parties who so requested within the set time limit and indicated that there were particular reasons why they should be heard, were granted a hearing.

(8) The Commission sought and verified all the information it deemed necessary for the purpose of the preliminary determination of dumping, resulting injury and Community interest and carried out investigations at the premises of the following companies:

Community producers

— Bontempi Vibo SpA, Brescia, Italy

— Bulnava Srl, Milano/Suello, Italy

— Inox Viti Snc, Grumello Del Monte, Italy

— Reisser Schraubentechnik GmbH, Ingelfingen-Criesbach, Germany.

Exporting producers and related companies in the exporting countries

PRC

— Tong Ming Enterprise (Jiaxing) Co. Ltd, Zhejiang.

Indonesia

— PT. Shye Chang Batam Indonesia, Batam.

Malaysia

— Tigges Stainless Steel Fasteners (M) Sdn. Bhd, Ipoh, Chemor

— Tong Heer Fasteners Co. Sdn., Bhd, Penang.

The Philippines

— Rosario Fasteners Corporation, Cavite

— Philshin Works Corporation, Cavite.

Taiwan

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— Arrow Fasteners Co. Ltd and its related company Header Plan Co. Inc., Taipei
— Jin Shing Stainless Ind. Co. Ltd, Tao Yuen
— Min Hwei Enterprise Co. Ltd, Pingtung
— Tong Hwei Enterprise, Co. Ltd and its related companies Tong Jou Enterprise Co. Ltd and Winlink Fasteners Co., Ltd, Kaohsiung
— Yi Tai Shen Co. Ltd, Tainan.

Thailand

— A.B.P. Stainless Fasteners Co. Ltd, Ayutthaya
— Bunyat Industries 1998 Co. Ltd, Samutsakorn
— Dura Fasteners Company Ltd, Samutprakarn
— Siam Screws (1994) Co. Ltd, Samutsakorn.

Related importer in the Community

— Tigges GmbH & Co. KG, Wuppertal, Germany.

(9) The investigation of dumping covered the period from 1 July 2003 to 30 June 2004 (investigation period or IP). The examination of injury covered the period from 1 January 2001 to 30 June 2004 (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

(10) Stainless steel fasteners and parts thereof (SSF) are bolts, nuts and screws of stainless steel which are used to mechanically join two or more elements. Screws are fastener products with an external threading on the shank. They can either be used without any other part and fixed into the wood (wood screws) or metal sheets (self-tapping screws) or be combined with a nut and washers to form a bolt. Screws may have a variety of head shapes (cup, socket, flat, hexagonal, etc.), shank lengths and diameters. The shank may be totally or partially threaded. SSF are used by a variety of consumer industries and in a wide range of final applications where resistance to both atmospheric and chemical corrosion is necessary and where hygiene may also be essential, such as equipment for processing and storing food products, plants in the chemical industry, manufacture of medical equipment, public lighting equipment, shipbuilding, etc.

2. The product concerned

(11) SSF, i.e. bolts, nuts and screws of stainless steel which are used to mechanically join two or more elements, are normally declared within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30. There are many types of SSF, each one being defined by its specific physical and technical characteristics and by the grade of stainless steel from which it is made.

(12) In the course of the investigation, it was alleged by importers and by a German importer/distributor association that nuts should be excluded from the scope of the investigation, because of an alleged lack of production in the Community.

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(13) This issue was considered. In the course of the provisional investigation, doubts arose as to whether nuts could indeed be regarded as a single product with other SSF. In this respect, a number of aspects need to be explored further, e.g. whether and to what extent bolts and nuts are marketed together as a system, to what extent these types are developed together etc. Further examination will also be needed to what extent the producers in the Community are able to offer these systems. On this basis, it was provisionally decided not to include nuts normally declared within CN code 7318 16 30 in the definition of the product concerned.

(14) In this respect, it is pertinent to note that virtually all imports from the Philippines appear to consist of nuts. Therefore, should it be decided at the definitive stage of the investigation that nuts are to be excluded from the product scope, the proceeding will have to be terminated with regard to the Philippines.

(15) It was further claimed by importers and the German importer/distributor association that the product scope should be limited to CN codes 7318 15 61 and 7318 15 70, i.e. hexagon socket head screws of stainless steel and hexagon bolts of stainless steel, because there is no sufficient production of all other kinds of SSF in the Community. However, the investigation confirmed that these other types of SSF are produced in the Community. Thus, the claim could not be accepted.

(16) It was found that all types, other than nuts, fall under the broad definition of fasteners and have the same basic physical and technical characteristics, the same basic uses and the same distribution channels.

(17) Consequently, all different types of SSF, with the exception of nuts, normally declared within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61 and 7318 15 70 originating in the PRC, Indonesia, Malaysia, Taiwan, Thailand and Vietnam form provisionally one product for the purpose of the present investigation (the product concerned).

3. Like product

(18) The Commission found that any SSF produced and sold on the respective domestic markets in the PRC, Indonesia, Malaysia, Taiwan, Thailand and Vietnam and those exported to the Community from the countries concerned as well as those produced and sold in the Community by the Community industry have the same physical, chemical and technical characteristics and uses. It is therefore provisionally concluded that all are like products within the meaning of Article 1(4) of the basic Regulation.

C. SAMPLING

1. Sampling for exporting producers in the PRC and Taiwan

(19) In view of the large number of exporting producers in the PRC and Taiwan, sampling was envisaged in the notice of initiation, in accordance with Article 17(1) of the basic Regulation.

(20) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers were requested to make themselves known within 15 days from the date of the initiation of the investigation and to provide basic information on their export and domestic sales, their precise activities with regard to the production of the product concerned and the names and activities of all their related companies involved in the production and/or selling of the product concerned. The authorities in the PRC and Taiwan were also consulted.

1.1. Pre-selection of cooperating exporting producers

(21) Only two exporting producers in the PRC came forward and provided the requested information within the three weeks period set by Article 17(2) of the basic Regulation. In these circumstances, the Commission decided that sampling was not necessary for exporting producers in the PRC.

(22) Forty nine companies in Taiwan came forward and provided the requested information within the given deadline set by Article 17(2) of the basic Regulation. However, only 37 exporting producers reported exports to the Community during the investigation period. Those exporting producers that exported the product concerned to the Community during the investigation period and expressed a wish to participate in the sample, were initially considered as cooperating companies and were taken into account in the selection of the sample. Eleven out of the 12 remaining companies were either traders or exporting producers without exports to the Community during the investigation period. Therefore, these companies cannot be taken into account for the purposes of a dumping calculation. It should finally be noted that one of the remaining 12 companies was an exclusive exporting producer of nuts and is consequently not concerned by the provisional measures.

(23) The cooperating exporting producers represented around 78 % of total exports of the product concerned from Taiwan to the Community.

(24) Exporting producers which did not make themselves known within the aforesaid period were considered as non-cooperating with the investigation.

1.2. Selection of the sample

(25) According to Article 17(1) of the basic Regulation, the selection was based on the largest representative volume of exports, which could reasonably be investigated within the time available. On this basis, five Taiwanese exporting producers were selected for the sample. The selected companies represented around 47 % of Taiwanese exports to the Community and around 57 % of domestic sales in Taiwan. In accordance with Article 17(2) of the basic Regulation, the Taiwanese authorities were consulted and raised no objection.

(26) The thirty two cooperating exporting producers, which were not finally retained in the sample, were informed through the Taiwanese authorities that any anti-dumping duty on their exports would be calculated in accordance with the provisions of Article 9(6) of the basic Regulation.