Commission Regulation (EC) No 559/2005 of 12 April 2005 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 Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not and making such imports subject to registration

COMMISSION REGULATION (EC) No 559/2005

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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 Articles 13(3), 14(3) and 14(5) thereof,

After having consulted the Advisory Committee,

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 has been lodged on 28 February 2005 by Ring Alliance Ringbuchtechnik GmbH on behalf of producers representing more than 70 % of the Community production of certain ring binder mechanisms.

B. PRODUCT

(3) The product concerned by the possible circumvention is certain ring binder mechanisms normally declared under CN code ex 8305 10 00 originating in the People's Republic of China (PRC). This CN code is given only for information.

(4) The product under investigation is certain ring binder mechanisms consigned from Lao People's Democratic Republic (product under investigation) normally

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 559/2005. (See end of Document for details)*

declared under the same codes as the product concerned originating in the People's Republic of China.

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)].

D. GROUNDS

(6) The request contains sufficient *prima facie* evidence, that the anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being circumvented by means of transhipment via Lao People's Democratic Republic and/or by assembly in Lao People's Democratic Republic of the product under investigation. The evidence submitted is as follows:

— The request shows a significant change in the pattern of trade, as imports of the product under investigation have increased substantially, whereas imports of the product concerned originating in the People's Republic of China have decreased following the imposition of measures, 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 a transhipment of certain ring binder mechanisms originating in the People's Republic of China via Lao People's Democratic Republic and/or the assembly of certain ring binder mechanisms in Lao People's Democratic Republic.

— Furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being undermined in terms of quantity and prices. Significant volumes of imports of certain ring binder mechanisms from Lao People's Democratic Republic appear to have replaced imports of the product concerned originating in the People's Republic of China.

— Finally, the request contains sufficient *prima facie* evidence that the prices of the product under investigation are dumped in relation to the normal value previously established for certain ring binder mechanisms originating in the People's Republic of China.

— Should circumvention practices via Lao People's Democratic Republic covered by Article 13 of the basic Regulation, other than transhipment and assembly, be identified in the course of the investigation, the investigation may cover these practices also.

E. PROCEDURE

(7) In 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

Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not, subject to registration, in accordance with Article 14(5) of the Basic Regulation.

(a) Questionnaires

(8) 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 Lao People's Democratic Republic, 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 cooperated in the investigation that lead to the existing measures or which are listed in the request and to the authorities of the People's Republic of China and Lao People's Democratic Republic. Information, as appropriate, may also be sought from the Community industry.

(9) In any event all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 in order to find out whether they are listed in the request and, if necessary, 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.

(10) The authorities of the People's Republic of China and Lao People's Democratic Republic will be notified of the initiation of the investigation and provided with a copy of the request.

(b) Collection of information and holding of hearings

(11) 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.

(c) Exemption of registration of imports or measures

(12) 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 concerned 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

(13) Pursuant to Article 14(5) of the basic Regulation, imports of the product 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 consigned from Lao People's Democratic Republic.

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G. TIME LIMITS

(14) 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 Lao People's Democratic Republic may request exemption from registration of imports or measures,

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

(15) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time limits mentioned in Article 3 of this Regulation.

H. NON-COOPERATION

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

(17) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of facts available. If any interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to the party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of certain ring binder mechanisms, falling within CN code ex 8305 10 00 (TARIC code 8305 10 00 13 and 8305 10 00 23), consigned from Lao People's Democratic Republic, whether declared as originating in Lao People's Democratic Republic or not, are circumventing the measures imposed by Regulation (EC) No 2074/2004.

For the purpose of this Regulation, 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.

Article 2

The Customs authorities are hereby directed, pursuant to Articles 13(3) and 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.