Council Regulation (EC) No 463/2005 of 16 March 2005 terminating the partial interim review of the anti-dumping measures applicable to imports of certain tube or pipe fittings, of iron or steel, originating, inter alia, in Thailand

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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 ('the basic Regulation')[(1)], and in particular Article 11(3) thereof,

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

Whereas:

A. PROCEDURE

1. Previous procedure and existing measures

(1) The Council, by Regulation (EC) No 584/96[(2)], imposed an anti-dumping duty on imports of certain tube or pipe fittings, of iron or steel, originating, *inter alia*, in Thailand. Following an interim review, the measures applying to imports from Thai Benkan Co. Ltd, a Thai exporting producer, were repealed in July 2000 by Council Regulation (EC) 1592/2000[(3)]. Subsequently, following an expiry and an interim review, the measures in force with regard to the remaining Thai exporting producers were maintained by Council Regulation (EC) No 964/2003[(4)] and amended by Council Regulation (EC) No 1496/2004[(5)].

2. Request for a review

(2) A request for a partial interim review limited to dumping in respect of Thai Benkan Co. Ltd was lodged by the Defence Committee of the Steel Butt-Welding Fittings Industry of the European Union on behalf of four Community producers ('the applicant'). These companies represent a major proportion of the Community production of the product concerned.

(3) The applicant alleged increased dumping based on a comparison of Thai Benkan Co. Ltd domestic prices with its export prices of certain tube or pipe fittings, of iron or steel, to the Community. On this basis, the dumping margin calculated would

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 463/2005. (See end of Document for details)*

be significantly higher than the one found in the previous investigation that led to the repeal of the measures with respect to imports from Thai Benkan Co. Ltd.

3. Investigation

(4) Having determined that the request contained sufficient prima facie evidence, the Commission initiated, by notice of 21 April 2004[6], a partial interim review of dumping as far as Thai Benkan Co. Ltd was concerned, in accordance with Article 11(3) of the basic Regulation.

(5) The Commission officially advised the applicant and the exporting producer concerned, the Community industry as well as the authorities of Thailand 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.

(6) In order to obtain the information deemed necessary for its investigation, the Commission sent a questionnaire to Thai Benkan Co. Ltd. The company was informed that non-cooperation could lead to the application of Article 18 of the basic Regulation. It was also made aware of the consequences of non-cooperation.

(7) A reply to the questionnaire was received within the prescribed time limits. The Commission carried out a verification visit at the company's premises.

(8) The applicant made its views known in writing and was granted a hearing.

(9) The investigation period ('IP') covered the period from 1 April 2003 to 31 March 2004.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(10) The product concerned is, as defined in the investigation which led to the imposition of the existing measures, certain 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, originating in Thailand (the 'product concerned'), normally declared within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90.

(11) The investigation showed that the product concerned exported to the Community from Thailand and the tube or pipe fittings, of iron or steel, produced and sold domestically in Thailand have the same basic physical and technical characteristics and the same uses. They are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Normal value

(12) In accordance with Article 2(2) of the basic Regulation, it was first examined whether the company's domestic sales of the like product were representative, i.e. whether the total volume of such sales represented at least 5 % of the producer's total

export sales volume to the Community. The investigation showed that domestic sales were representative.

(13) For the purposes of determining normal value the sales on the domestic market to a company related to Thai Benkan Co. Ltd were not taken into consideration, in accordance with Article 2(1) of the basic Regulation.

(14) Subsequently, those types of the like product sold by the company to independent domestic buyers that were identical or directly comparable with the types sold for export to the Community were identified.

(15) For each type sold by the exporting producer on the domestic market and found to be directly comparable with the product type sold for export to the Community, it was established whether domestic sales to independent buyers were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of the like product 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 the product concerned exported to the Community. Domestic sales were found to be representative for the majority of product types.

(16) It was subsequently examined whether these product types identified in recital (14) above could be considered as being sold in the ordinary course of trade by establishing the proportion of profitable sales of the product type in question. Where the sales volume of a product 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 or not. Where the volume of profitable sales of the product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type. For the great majority of product types, it was possible to use the domestic prices to determine the normal value.

(17) In cases where there were no domestic sales of a comparable type to independent buyers, or where the volume of profitable sales represented less than 10 % of the total sales volume of that type, it was considered that this particular type was sold in insufficient quantities for the domestic price to provide an appropriate basis for the establishment of the normal value. In this regard, constructed normal value was used, in accordance with Article 2(3) of the basic Regulation.

(18) In accordance with Article 2(3) of the basic Regulation, normal value was constructed on the basis of the exporting producer's own cost of manufacturing plus a reasonable amount for selling, general and administrative ('SG&A') costs and for profit. Given the representativity of domestic sales of the like product, this calculation was