COMMISSION REGULATION (EC) No 833/2004

of 26 March 2004

amending Commission Regulation (EC) No 449/2000 imposing a provisional anti-dumping duty on imports of malleable cast iron tube or pipe fittings originating in Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand and accepting an undertaking offered by an exporting producer in the Czech Republic

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], and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

(1) On 29 May 1999, by means of a notice published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding [2] in respect of imports of malleable cast iron tube or pipe fittings (the product concerned) originating in Brazil, Croatia, the Czech Republic, the Federal Republic of Yugoslavia, Japan, the People's Republic of China, the Republic of Korea and Thailand.

(2) This proceeding resulted in provisional anti-dumping duties being imposed in February 2000 against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Commission Regulation (EC) No 449/2000 [3] in order to eliminate the injurious effects of dumping.

(3) In the same Regulation, the Commission accepted an undertaking offered by an exporting producer in the Czech Republic, Moravske Zelezárny a.s. (Moravske). Subject to the conditions set out in Regulation (EC) No 449/2000, imports of the product concerned into the Community from this company were exempted from the said provisional anti-dumping duties, pursuant to Article 2 (1) of the same Regulation.

(4) Definitive duties were later imposed against Brazil, the Czech Republic, Japan, the People's Republic of China, the Republic of Korea and Thailand by Council Regulation (EC) No 1784/2000 [4]. Subject to the conditions set out therein, this Regulation also granted goods manufactured and exported to the Community by Moravske an exemption to the definitive anti-dumping duties as an undertaking had already been accepted definitively from this company at the provisional stage of the proceeding.

B. BREACHES OF THE UNDERTAKING

1. Obligations of company with an undertaking

(5) The undertaking offered in the present case obliges the company concerned, *inter alia*, to export the product concerned to the Community at or above certain minimum import price levels (MIPs) specified therein. The company also undertakes not to circumvent the undertaking by making compensatory arrangements with any other party which causes the net price paid by the first independent customer for in the Community to be below the MIP.

(6) Furthermore, in order to allow effective monitoring of the undertaking, Moravske is obliged to send to the European Commission a quarterly report of all its export sales of the product concerned to the European Community. These reports should include details of all invoices issued during the period for sales made under the terms of the undertaking for which exemption to the anti-dumping duties is sought. The data submitted in these sales reports should be complete and correct in all particulars.

(7) For the purposes of ensuring compliance with the undertaking, Moravske also agreed to provide allow on-spot verification visits at its premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports. In this regard, a verification visit was carried out at the premises of Moravske in the Czech Republic in September 2003.

2. Results of the verification visit

(8) The visit to Moravske established that sales to a particular customer in the Community of certain types of the product concerned had, according to the export invoices and undertaking sales reports, purportedly been made at prices in conformity with the MIPs, whilst sales to the same customer of products not subject to anti-dumping

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12)
[2] OJ C 151, 29.5.1999, p. 21.
[3] OJ L 55, 29.2.2000, p. 3.
[4] OJ L 208, 18.8.2000, p. 8.