COUNCIL REGULATION (EC) No 824/2004

of 26 April 2004

amending Regulation (EC) No 1784/2000 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain 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

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], and in particular Articles 8 and 9 thereof,

Having regard to the proposal submitted by the Commission 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 certain malleable cast iron tube or pipe fittings 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 (the product concerned).

(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 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 manufactured by 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 Regulation (EC) No 1784/2000 [4]. Subject to the conditions set out therein, that Regulation also granted 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. FAILURE TO COMPLY WITH THE 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 in the Community to be below the MIPs. Furthermore, In addition, Moravske is obliged to send to the Commission a quarterly report of all its export sales of the product concerned to the Community.

(6) During a recent on-spot verification visit to the premises of Moravske to verify the accuracy and veracity of data submitted in the said quarterly reports, it was found that the company had breached its undertaking by establishing a compensation scheme which enabled some of its products subject to the undertaking to be sold in the Community at prices below the MIPs. In addition, the company had omitted to report to the Commission seventeen sales invoices for exports of the product subject to the undertaking.

(7) Commission Regulation (EC) No 833/2004 [5] sets out in more detail the nature of the breaches found.

(8) In view of these breaches, acceptance of the undertaking offered by Moravske (UT10, Taric additional code A097) has been withdrawn by Commission Regulation (EC) No 833/2004 and a definitive anti-dumping duty should be imposed forthwith on imports of the products concerned manufactured by Moravske.

[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. Regulation as amended by Regulation (EC) No 436/2004 (OJ L 72, 11.3.2004, p. 15.
[5] See page 37 of this Official Journal.