COMMISSION REGULATION (EC) No 1264/2003

of 16 July 2003

initiating an investigation concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2320/97 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and of anti-dumping measures imposed by Council Regulation (EC) No 348/2000 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Ukraine by wrong declaration of imports of the same product and by imports of certain seamless pipes and tubes of alloy steel, other than stainless steel, originating in Russia and Ukraine, and making such imports subject to registration

THE COMMISSION 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], as last amended by Regulation (EC) No 1972/2002 [2], and in particular Article 13(3), Article 14(3) and Article 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 Regulation (EC) No 384/96 (the basic Regulation) to investigate the alleged circumvention of the anti-dumping measures imposed on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.

(2) The request has been lodged on 2 June 2003 by the Defence Committee of the Seamless Steel Tube Industry of the European Union on behalf of producers representing a major proportion, i.e. over 50 % of the Community production of certain seamless pipes and tubes of iron or non-alloy steel.

B. PRODUCT

(3) The products concerned by the allegation of circumvention are:

— seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm,

— seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes,

— other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm,

currently classifiable within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93.

(4) The products under investigation are the product concerned and certain seamless pipes and tubes of alloy steel other than stainless steel, originating in Russia and Ukraine and declared under CN codes 7304 59 91 and 7304 59 93.

(5) The CN codes are given for information only.

C. EXISTING MEASURES

(6) The measures currently in force and allegedly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 2320/97 [3], as last amended by Council Regulation (EC) No 190/2000 [4], and by Council Regulation (EC) No 348/2000 [5], as last amended by Council Regulation (EC) No 1515/2002 [6].

D. GROUNDS

(7) The request contains sufficient evidence, that the anti-dumping measures on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine are being circumvented by means of adding minimal quantities of other substances to the product concerned, thus allowing these products to be classifiable under other CN codes not subject to anti-dumping measures, in particular CN codes 7304 59 91 and 7304 59 93, or by importing under these CN codes the product concerned. Hereinafter, the products which are being imported via these practices are referred to as 'products under investigation'.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 322, 25.11.1997, p. 1.
[4] OJ L 23, 28.1.2000, p. 1.
[5] OJ L 45, 17.2.2000, p. 1.
[6] OJ L 228, 24.8.2002, p. 8.

(8) The evidence submitted is as follows:

The request shows a significant change in the pattern of trade, as imports of the products under investigation originating in Russia and Ukraine have increased substantially following the imposition of measures on the products concerned. This change in the pattern of trade appears to stem from the practice that minimal quantities of other substances are being added to the product concerned, so that they fall outside the relevant CN codes affected by the measures, notwithstanding the fact that the basic characteristics and uses of the products remain unchanged, or from the practice of wrong declaration under other CN codes. There is insufficient due cause or economic justification for these practices other than the imposition of the measures.

(9) Furthermore, the request contains sufficient evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of products under investigation appear to have replaced imports of the product concerned originating in Russia and Ukraine. In addition, there is sufficient evidence that this increase in imports is made at prices below the non-injurious or remedial prices established in the investigations that led to the existing measures.

(10) Finally, the request contains sufficient evidence that the prices of products under investigation are dumped in relation to the normal values previously established for certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.

E. **PROCEDURE**

(11) In the 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 all goods declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) *Questionnaires*

(12) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers named in the request and to the known associations of exporters/producers in Russia and Ukraine and to the importers named in the request and to the known associations of importers in the Community and to the authorities of Russia and Ukraine. Information, as appropriate, may also be sought from the Community industry.

(13) 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.

(14) The authorities of Russia and Ukraine 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*

(15) 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*

(16) In accordance with Article 13(4) of the basic Regulation, imports of the product concerned may be exempted from registration or measures if the importation does not constitute circumvention.

(17) Given that the alleged circumvention takes place outside the Community and pursuant to Article 14(3) of the basic Regulation, exemption of imports from registration or measures would depend entirely on the findings in respect of the exporters in Russia and Ukraine. Therefore exporters wishing to obtain an exemption of registration of imports or measures should apply for the exemption and submit the questionnaire reply (in order to establish that they are not circumventing the anti-dumping duties within the meaning of Article 13(1) of the basic Regulation) within the time limits set in Article 3(2) of this Regulation. Although no exemption could be granted purely on the basis of information from importers, these could still benefit from exemption from registration or measures to the extent that their imports are from exporters which are granted such an exemption.