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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1023/2003

of 13 June 2003

extending the definitive anti-dumping duty imposed by Regulation (EC) No 1784/2000 on imports of certain malleable cast iron tube or pipe fittings originating in Brazil and on imports of certain malleable cast iron tube or pipe fittings consigned from Argentina, whether declared as originating in Argentina or not, and terminating the investigation in respect of imports from one Argentinian exporter

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 Article 13 thereof,

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

Whereas:

A. **PROCEDURE**

1. **Existing measures**

(1) By Regulation (EC) No 1784/2000 [2], the Council imposed in August 2000 an anti-dumping duty of 34,8 % on imports of threaded malleable cast iron tube or pipe fittings (malleable fittings) originating in Brazil.

2. **Request**

(2) On 12 August 2002, the Commission received a request, pursuant to Article 13(3) of Regulation (EC) No 384/96 (the basic Regulation), from the Defence Committee of the Malleable Cast Iron Pipe Fittings Industry of the European Union. This request was submitted on behalf of producers representing a major proportion of the Community production of malleable fittings.

(3) The request alleged that following the imposition of measures on imports of malleable fittings originating in Brazil, there had been a significant change in the pattern of trade involving exports from Brazil and Argentina to the Community. This change in the pattern of trade was alleged to stem from a transhipment via Argentina of malleable fittings originating in Brazil. There had been a significant increase in imports from Argentina while imports from Brazil had decreased in roughly equivalent proportions in the meantime.

(4) The request concluded that there was insufficient due cause or economic justification for the aforementioned changes other than the existence of the anti-dumping duty on malleable fittings originating in Brazil.

(5) Finally, the Community industry also submitted sufficient evidence to initiate the anti-circumvention investigation, that the remedial effects of this duty were being undermined both in terms of quantities and prices and that the prices of malleable fittings from Argentina were dumped in relation to the normal values previously established for the malleable fittings originating in Brazil.

3. **Initiation**

(6) By Regulation (EC) No 1693/2002 [3] (the initiating Regulation), the Commission initiated an investigation and directed, pursuant to Articles 13(3) and 14(5) of the basic Regulation, the customs authorities to register imports of malleable fittings consigned from Argentina, whether declared as originating in Argentina or not, as of 26 September 2002. The Commission advised the authorities of Brazil and Argentina of the initiation of the investigation.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 208, 18.8.2000, p. 8.
[3] OJ L 258, 26.9.2002, p. 27. Regulation as amended by Regulation (EC) No 909/2003 (OJ L 128, 24.5.2003, p. 7).

4. **Investigation**

(7) Questionnaires were sent to Community importers as well as exporters of malleable fittings located in Brazil and Argentina which were mentioned in the request, exporters known from the original investigation and other interested parties who came forward within the prescribed time limits. It was made clear to the importers and exporters that non-cooperation may lead to the application of Article 18 of the basic Regulation.

(8) A number of Community importers made their views known in writing declaring that they had not imported any malleable fittings from Argentina.

(9) Replies to the questionnaires were received from one Argentinian exporting producer, DEMA SA, San Justo, Buenos Aires. The Commission carried out a verification visit at the premises of this company.

5. **Investigation period**

(10) The investigation period covered the period from 1 July 2001 to 30 June 2002 (the IP). Data were collected from 1998 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. **RESULTS OF THE INVESTIGATION**

1. **General considerations/degree of cooperation**

(11) No cooperation was received from producers or exporters of malleable fittings in Brazil. However, information was obtained from one cooperating exporting producer in Argentina, DEMA SA, which produced malleable fittings and exported them to the Community during the IP. This Argentinian company accounted for a negligible part both in volume and in value of the total imports of malleable fittings from Argentina to the Community during the IP, as reported by Eurostat.

(12) Furthermore, in the course of the investigation the Argentinian authorities requested within the time limits set in the initiating Regulation to be treated as an interested party. Information and statistical data concerning Argentinian imports and exports were obtained from the Argentinian authorities.

(13) In December 2002, one month after the expiry of the deadline for receipt of replies to the questionnaire, the Commission received a submission on behalf of Industrias Aguila Blanca SA (Argentina), who alleged to be a producer of malleable fittings in Argentina. The submission contained a request by this company to be considered as an interested party in the investigation and a request to be exempted from extension of measures. Given that the submission was received at such an advanced stage of the investigation and well beyond the deadlines laid down in Article 3 of the initiating Regulation and, in addition, would have required further explanations and verification, the company was informed that it could not be considered as cooperating in the investigation. Accordingly, the company was informed that findings in respect of it had to be made on the basis of the facts available in accordance with Article 18(1) of the basic Regulation.

2. **Product concerned and like product**

(14) The product concerned, as defined in the original investigation, is threaded malleable cast iron tube or pipe fittings currently classifiable within CN code ex 7307 19 10.

(15) The investigation showed that the malleable fittings exported to the Community from Brazil and those consigned from Argentina to the Community have the same basic characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. **Change in the pattern of trade**

Cooperating Argentinian exporter

(16) During the IP, DEMA SA, the cooperating exporter exported only one container to the Community. No other exports to the Community took place during the IP or in the period for which data were collected. In fact, the only export preceding the one during the IP took place in 1992. Consequently there was no clear pattern of trade prior or after the imposition of the measures concerning Brazilian exports to the Community, and consequently no change of it. Moreover it has also been established that DEMA SA is both a manufacturer and exporter of malleable fittings operating production facilities for the complete production process of the product concerned. It only sells its own production and never purchased any malleable fittings from Brazil during the IP.

(17) Given the above, DEMA SA has shown that there was no change in the pattern of trade regarding their exports to the Community. Consequently, the investigation with regard to malleable fittings exported by DEMA SA should be terminated.