COMMISSION REGULATION (EC) No 909/2003

of 23 May 2003

amending Regulation (EC) No 1693/2002 as regards registration of imports of certain malleable cast iron tube or pipe fittings produced by one Argentinian exporting producer

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], as last amended by Regulation (EC) No 1972/2002 [2], and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) In accordance with Regulation (EC) No 1784/2000 [3] (the 'definitive Regulation'), the Council imposed an anti-dumping duty of 34,8 % on imports of threaded malleable cast iron tube or pipe fittings (malleable fittings) originating in Brazil.

(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. The request alleged the existence of circumvention of the anti-dumping duties imposed by the definitive Regulation on imports of malleable fittings originating in Brazil. According to the request, the circumvention practice consisted of transhipment of malleable fittings originating in Brazil via Argentina to the Community. This request was submitted on behalf of producers representing a major proportion of the Community production of malleable fittings and contained sufficient evidence regarding the factors set out in Article 13(1) of the basic Regulation.

(3) The Commission initiated an investigation into the alleged circumvention pursuant to Regulation (EC) No 1693/2002 [4] (the 'initiating Regulation').

(4) Pursuant to Articles 13(3) and 14(5) of the basic Regulation, Article 2 of the initiating Regulation instructed 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.

(5) Article 2(3) of the initiating Regulation provided that imports should be exempted from registration if the exporters having applied for an exemption of registration were found not to be circumventing the anti-dumping duties.

B. REQUESTS FOR EXEMPTION

(6) Within the deadlines laid down in Article 3 of the initiating Regulation, the Commission received a request for exemption from the registration and measures from one exporting producer, DEMA SA, San Justo, Buenos Aires.

(7) 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), claiming 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.

(8) Any decision concerning exporters should be limited to exemption from registration at this stage. If the Council subsequently adopts a regulation extending the anti-dumping measures pursuant to Article 13 of the basic Regulation, it may also decide to exempt certain exporters from such extended measures.

C. INVESTIGATION PERIOD

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

D. FINDINGS IN RESPECT OF DEMA SA

(10) DEMA SA replied to the questionnaire sent by the Commission in the course of the investigation. The Commission did carry out a verification visit at the premises of DEMA SA.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 208, 18.8.2000, p. 8.
[4] OJ L 258, 26.9.2002, p. 27.