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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 778/2003

of 6 May 2003

amending Commission Decision No 283/2000/ECSC and Council Regulations (EC) No 584/96, (EC) No 763/2000 and (EC) No 1514/2002 with regard to the anti-dumping measures applicable to certain hot-rolled coils and to certain tube and pipe fittings, of iron or steel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 452/2003 of 6 March 2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures ([1]),

Having regard to the proposal made by the Commission after consultation of the Advisory Committee established by Article 15 of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([2]),

Whereas:

A. **EXISTING MEASURES**

(1) By Decision No 283/2000/ECSC ([3]), the Commission imposed a definitive anti-dumping duty on certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled (currently classifiable under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10, 7208 39 90 and hereinafter referred to as 'hot–rolled coils') originating in Bulgaria, India, South Africa, Taiwan ([4]), and the Federal Republic of Yugoslavia (hereinafter referred to as Serbia and Montenegro), and accepted certain undertakings. Pursuant to Article 1(1) of Regulation (EC) No 963/2002 ([5]), such anti-dumping measures adopted under Decision No 2277/96/ECSC remain in force notwithstanding the expiry of the ECSC Treaty and shall be governed by the provisions of Regulation (EC) No 384/96 with effect from 24 July 2002.

(2) By Regulation (EC) No 584/96 ([6]), the Council imposed anti-dumping measures on certain tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, currently classifiable under CN codes ex 7307 93 11 (TARIC code 7307 93 11 91 and 7307 93 11 99), ex 7307 93 19 (TARIC code 7307 93 19 91 and 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 92 and 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 92 and 7307 99 90 98) (hereinafter referred to as 'tube and pipe fittings') originating in Croatia, Thailand and the People's Republic of China. The measures on imports of tube and pipe fittings originating in China were extended to certain imports of tube and pipe fittings consigned from Taiwan (hereinafter referred to as Chinese Taipei) pursuant to Regulation (EC) No 763/2000 ([7]). The measures in relation to imports originating in Croatia have since expired ([8]), but those in relation to imports originating in Thailand and China, as extended to imports consigned from Chinese Taipei, remain in force by virtue of the initiation of an expiry review ([9]), pursuant to Article 11(2) of Regulation (EC) No 384/96. The Council, by Regulation (EC) No 1514/2002 ([10]), also imposed anti-dumping measures on imports of tube and pipe fittings originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia.

(3) By Commission Regulation (EC) No 1694/2002 ([11]), the Commission adopted safeguard tariff measures with respect to certain steel products, including hot-rolled coils and tube and pipe fittings which were already subject to the aforementioned anti-dumping measures.

([1]) OJ L 69, 13.3.2003, p. 8.
([2]) 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).
([3]) OJ L 31, 5.2.2000, p. 15. Decision as last amended by Decision No 1043/2002/ECSC (OJ L 157, 15.6.2002, p. 45).
([4]) Chinese Taipei is referred to as Taiwan in that Decision.
([5]) OJ L 149, 7.6.2002, p. 3. Regulation as amended by Regulation (EC) No 1310/2002 (OJ L 192, 20.7.2002, p. 9).
([6]) OJ L 84, 3.4.1996, p. 1. Regulation as amended by Regulation (EC) No 1592/2000 (OJ L 182, 21.7.2000, p. 1).
([7]) OJ L 94, 14.4.2000, p. 1. Regulation as amended by Regulation (EC) No 2314/2000 (OJ L 267, 20.10.2000, p. 15).
([8]) OJ C 104, 4.4.2001, p. 7.
([9]) OJ C 103, 3.4.2001, p. 5.
([10]) OJ L 228, 24.8.2002, p. 1.
([11]) OJ L 261, 28.9.2002, p. 1.

In accordance with Article 5 of that Regulation, the tariff quotas and safeguard additional duty ('safeguard duty') in relation to hot-rolled coils do not apply to India or Chinese Taipei, whilst the tariff quotas and safeguard duty in relation to tube and pipe fittings do not apply to China.

(4) The abovementioned anti-dumping measures take the form of either a duty or an undertaking. The safeguard measures take the form of tariff quotas applicable for specified periods, in excess of which a safeguard duty must be paid.

(5) Once the tariff quotas established under the safeguard measures are exceeded, both the safeguard duty and the anti-dumping duty would become payable on the same imports, or, where price undertakings have been accepted, the safeguard duty would become payable in addition to the obligation to observe such price undertakings.

(6) By Regulation (EC) No 452/2003 [1], the Council considered that the combination of anti-dumping or anti-subsidy measures with safeguard measures on the same product could have an effect greater than that intended in terms of the Community's trade defence policy and objectives and could place an undesirably onerous burden on certain exporting producers seeking to export to the Community. As a result, the Council introduced specific provisions to enable the Community institutions, where they consider it appropriate, to take action to ensure that a combination of anti-dumping or anti-subsidy measures with safeguard tariff measures on the same product does not have such an effect.

B. **MODALITIES**

(7) In the present case, whilst there is some uncertainty as to if and when each of the safeguard tariff quotas imposed by Regulation (EC) No 1694/2002 will be exhausted, it is possible that imports of hot-rolled coils or tube and pipe fittings which are subject to anti-dumping duties or undertakings will also become subject to the payment of a safeguard duty.

(8) In this instance, it is considered that the combination of anti-dumping measures with the safeguard duty could have an effect greater than that intended or desirable in terms of the Community's trade defence policy and objectives. In particular, such a combination could place an undesirably onerous burden on certain exporting producers seeking to export to the Community, which may have the effect of denying them access to the Community market. The Council therefore considers that it is appropriate to amend the existing anti-dumping measures on imports of hot-rolled coils and on imports of tube and pipe fittings.

(9) In these circumstances, and in order to ensure legal certainty for the economic operators concerned, it is considered appropriate to specify for these cases the anti-dumping measures which should apply in the event that the safeguard tariff quotas are exhausted or in case the benefit of the quota is not requested or is not granted.

(10) In those cases where both an anti-dumping duty and a safeguard duty would normally be payable and where the anti-dumping duty is less than, or equal to, the amount of the safeguard duty, it is considered appropriate that no anti-dumping duty should be payable. Where the anti-dumping duty is greater than the amount of the safeguard duty, it is considered appropriate that only that part of the anti-dumping duty which is in excess of the amount of the safeguard duty should be payable.

(11) In those cases in which a price undertaking has been accepted, the Commission and the companies concerned have agreed equivalent reductions in those price undertakings or, as the case may be, they have agreed that the obligation to observe a minimum price will not apply when the safeguard duty is payable.

C. **PROCEDURE**

(12) All parties directly concerned, namely the national authorities of Bulgaria, South Africa, Serbia and Montenegro, Thailand, Chinese Taipei, the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia, relevant exporting producers in those countries and the Community industry received disclosure of the proposed course of action described above, and were given an opportunity to comment.

(13) Responses were received from a number of interested parties. All their arguments have been duly considered. Certain parties fully supported the Community institutions' intended course of action. Other parties argued that for those imports to which the safeguard measures apply, anti-dumping measures should not be imposed, or, if already imposed, they should be suspended or repealed. Others argued that for those imports to which anti-dumping measures apply, the safeguard measures should not apply.

(14) In relation to the first argument, it is considered that it is only when there is a combination of anti-dumping measures with the safeguard duty that an effect greater than that intended or desirable could arise. Indeed, it is only in that circumstance that certain exporting producers are subject to the burden of both anti-dumping measures and safeguard duty on the same import. Therefore, it is considered that it would only be appropriate to take action where safeguard duties become payable.

[1] OJ L 69, 13.3.2003, p. 8.