COUNCIL REGULATION (EC) No 695/2003

of 14 April 2003

amending Regulation (EC) No 393/98 imposing a definitive anti-dumping duty on imports of stainless steel fasteners and parts thereof originating in the People's Republic of China, India, the Republic of Korea, Malaysia, Taiwan and Thailand

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 233 thereof,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from the countries not members of the European Community [1].

Whereas:

A. **EXISTING MEASURES**

(1) By Regulation (EC) No 393/98 [2], the Council imposed a definitive anti-dumping duty on imports of stainless steel fasteners and parts thereof originating in the People's Republic of China, India, the Republic of Korea, Malaysia, Taiwan and Thailand falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30.

B. **SUBSEQUENT PROCEDURE**

(2) Following the imposition of these definitive anti-dumping measures, the Indian companies Kundan Industries Limited and Tata International Limited, whose exports were subject to a definitive anti-dumping duty of 47,4 %, lodged an application for the annulment of Article 1 of Regulation (EC) No 393/98 before the Court of First Instance of the European Communities. This application was entered in the Register of the Court of First Instance of the European Communities on 7 June 1998 as Case T-88/98.

(3) By its Judgment of 21 November 2002 [3], the Court of First Instance of the European Communities annulled Article 1 of Council Regulation (EC) No 393/98 insofar as it imposes a definitive anti-dumping duty on exports to the Community of stainless steel fasteners and parts thereof manufactured by Kundan Industries Limited and exported by Tata International Limited which exceeds that which would apply but for the adjustment to the export price made in respect of a commission. Since the original duty of 47,4 % was based on a dumping margin which included an adjustment of 2 % in respect of a commission, the anti-dumping duty is therefore annulled to the extent that it exceeds 45,4 %.

(4) Consequently, in accordance with Article 233 of the Treaty, it is appropriate to amend the rate of duty established for Kundan Industries Limited and Tata International Limited in Article 1 of Regulation (EC) No 393/98 with retroactive effect. Amounts of anti-dumping duty paid in excess of a duty rate of 45,4 % on exports of stainless steel fasteners and parts thereof manufactured by Kundan Industries Limited and exported by Tata International to the European Community should be reimbursed,

HAS ADOPTED THIS REGULATION:

Article 1

In the table in Article 1(2) of Regulation (EC) No 393/98, the entry for Kundan Industries Ltd/Tata Export Ltd, Mumbai shall be replaced by:

Country	Company	Rate of duty	Taric additional code
'India	Kundan Industries Ltd/Tata International Ltd, Mumbai	45,4 %	8416'

Article 2

The amounts collected in excess of the rate of anti-dumping duty specified in Article 1 shall be reimbursed. The requests for reimbursement shall be submitted to the customs authorities of the Member State of the territory in which the products were released for free circulation.

Article 3

This Regulation shall enter into force on third day following that of its publication in the *Official Journal of the European Union*.

Article 1 shall apply with effect from 21 February 1998.

[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 50, 20.2.1998, p. 1. Regulation as last amended by Regulation (EC) No 2570/2000 (OJ L 297, 24.11.2000, p. 1).
[3] OJ C 19, 25.1.2003, p. 27.