COMMISSION REGULATION (EC) No 2261/2002

of 18 December 2002

on initiating an investigation concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 408/2002 on imports of certain zinc oxides originating in the People's Republic of China by imports of certain other zinc oxides originating in the People's Republic of China and by imports of certain zinc oxides consigned from Vietnam, and making such imports subject to registration

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 Council Regulation (EC) No 1972/2002 [2], and in particular Article 13(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 zinc oxides originating in the People's Republic of China.

(2) The request has been lodged on 18 November 2002 by Eurometaux on behalf of producers representing a major proportion, i.e. over 50 % of the Community production of certain zinc oxides.

B. **PRODUCT**

(3) The product concerned by the allegation of circumvention is zinc oxide (chemical formula ZnO) with a purity of not less than 93 % zinc oxide, currently classifiable within CN code ex 2817 00 00 (Taric code 2817 00 00 11). This code is given for information only.

C. **EXISTING MEASURES**

(4) The measures currently in force and allegedly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 408/2002 [3].

D. **GROUNDS**

(5) The request contains sufficient prima facie evidence, that the anti-dumping measures on imports of certain zinc oxides originating in the People's Republic of China are being circumvented by means of transhipment of certain zinc oxides via Vietnam and by means of mixing certain zinc oxides originating in the People's Republic of China with other substances, such as silica, thus lowering the purity of zinc oxide below 93 % ('the mixed zinc oxide products'). Hereinafter, the products which are being imported via these practices are referred to as 'products under investigation'.

(6) The evidence submitted is as follows:

The request shows a significant change in the pattern of trade, as imports of products under investigation have increased substantially, whereas imports of the product concerned originating in the People's Republic of China have decreased. This change in the pattern of trade appears to stem from a transhipment of certain zinc oxides originating in the People's Republic of China via Vietnam and from the fact that certain zinc oxides originating in the People's Republic of China are being mixed with other substances, thereby falling outside the relevant Taric code, notwithstanding the fact that the basic characteristics and uses of the product remain unchanged. There is insufficient due cause or economic justification for these practices other than the imposition of the duty.

(7) 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 the People's Republic of China. In addition, there is sufficient evidence that the imports of circumventing products are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(8) 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 zinc oxides.

E. **PROCEDURE**

(9) 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 certain zinc oxides consigned from Vietnam, whether declared as originating in Vietnam or not, and imports of the mixed zinc oxide products originating in the People's Republic of China falling under CN code Taric 2817 00 00 19, subject to registration, in accordance with Article 14(5) of the Basic Regulation.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 62, 5.3.2002, p. 7.