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COUNCIL REGULATION (EC) No 1697/2002

of 23 September 2002

imposing definitive anti-dumping duties on imports of certain welded tubes and pipes, of iron or non-alloy steel originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine

(OJ L 259, 27.9.2002, p. 8)

Corrected by:

►**C1** Corrigendum, OJ L 351, 28.12.2002, p. 117 (1697/2002)

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imposing definitive anti-dumping duties on imports of certain welded tubes and pipes, of iron or non-alloy steel originating in the Czech Republic, Poland, Thailand, Turkey and Ukraine

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] (hereinafter referred to as the Basic Regulation), and in particular Article 9 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 540/2002 [2] (hereinafter referred to as the Provisional Regulation), imposed a provisional anti-dumping duty on imports of certain welded tubes and pipes, of iron or non-alloy steel falling within CN codes ex 7306 30 51, ex 7306 30 59, ex 7306 30 71 and ex 7306 30 78 (TARIC-codes 7306 30 51 10, 7306 30 59 10, 7306 30 71 10, 7306 30 71 20, 7306 30 78 10 and 7306 30 78 20), originating in the Czech Republic, Poland, Thailand, Turkey and the Ukraine.

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties made written submissions making their views known on the provisional findings. The parties who so requested were granted an opportunity to be heard.

(3) The Commission services continued to seek and verify all information deemed necessary for the definitive findings.

(4) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain welded tubes and pipes, of iron or non-alloy steel, originating in the Czech Republic, Poland, Thailand, Turkey and the Ukraine and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which to make representations subsequent to the disclosure of the essential facts and considerations.

(5) The oral and written comments submitted by the interested parties were considered and, where appropriate, the findings have been modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

(6) In the absence of any comment received after the disclosure of the provisional findings on the product concerned and the like product, the provisional findings as described in recitals 12 to 15 of the Provisional Regulation are hereby confirmed.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000, (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 83, 27.3.2002, p. 3.

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D. **DUMPING**

Poland and Ukraine

(7) In the absence of any new argument on dumping, the provisional findings as described in recitals 37 to 43 for Poland and 60 to 85 for Ukraine of the Provisional Regulation are hereby confirmed.

Czech Republic

(8) One Czech exporting producer, Železárny Veselí has reacted to the Commission's provisional findings, claiming that they were allegedly subject to higher technical testing standards for tube types sold on the domestic market in the Czech Republic than for the tube types exported to the Community market. It is noted that this claim was introduced only at a very advanced stage of the investigation, and could therefore not be checked during the on-the-spot-verification carried out at the exporter premises. In addition, the Czech exporting producer did not bring forward any evidence which would support his claim. Moreover, in his reply to the Commission's questionnaire the company stated that quite to the contrary to his present claim, Czech and foreign standards for the product concerned are comparable and that a price comparison does not require an adjustment in that respect. Also no other information obtained during the investigation with regard to sales of the product concerned on the Czech market would suggest that justified differences in technical standards exist. The claim had therefore to be rejected.

(9) The provisional level of dumping for this producer is hereby confirmed.

(10) For the other Czech exporting producer, Jäkl Karvina, a substantiated claim for differences in physical characteristics between the type of tube chosen for normal value and the type sold for export to the Community was made.

(11) This claim was considered justified and the final dumping margin was accordingly recalculated at 28,3 %.

Turkey

(12) With regard to Turkey, minor corrections concerning daily exchange rates and interest rates were requested by three companies and accepted where justified.

(13) After receiving the definitive disclosure calculations, companies claimed that the dumping margin should have been established on the basis of a comparison of weighted average normal values with a weighted average of all export transactions to the Community on the grounds that exports did not differ significantly among purchasers, regions or time periods. The dumping was not a 'targeted dumping' over time by these companies, but a situation created by the devaluation of the Turkish lira in February 2001, i.e. in the middle of the investigation period (IP). The allegations made by the companies have been verified and it was found that the differences in prices were, in fact, not significant. Consequently, the basis of calculation has been changed to the above method. This led to a reduction in the dumping margins of the companies concerned.

(14) The final dumping margins for the cooperating companies included in the sample are:

— Noksel Celik Boru Sanayi AS, Ankara	0 %,
— Borusan Birlesik Boru Fabrikalari AS, Istanbul ►C1 and Mannesmann Boru Endüstrisi AS, ◄ Istanbul	5,0 %,
— Cayirova Boru San Ve Tic AS, Istanbul and Yücel Boru Profil Endüstrisi AS, Istanbul	0 %,

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— Erbosan Erciyas Boru Sanayii ve Ticaret AS, Kayseri 6,0 %.

(15) This exercise led to a revised weighted average dumping margin of 5,2 % for the following cooperating companies not included in the sample:

— Borutas Boru Sanayii ve Ticaret AS, Adapazari,

— Cinar Boru Profil San. Tic. Ltd STI, Eregli,

— Guven Boru ve Profil Sanayi ve Ticaret Ltd Sti, Istanbul,

— Özdemir Boru Profil San.ve Ticaret AS, Eregli,

— Sevil Boru-Profil Sanayii ve Ticaret AS, Istanbul,

— Toscelik Profil ve Sac. Endüstrisi AS, Iskenderun,

— Özborsan Boru San.ve Ticaret AS, Istanbul.

(16) The level of cooperation for Turkey was high, and the residual definitive dumping margin was set at the same level as for the highest margin level of a cooperating company, i.e. 6,0 %.

Thailand

(17) An on-the-spot investigation was carried out after publication of the Provisional Regulation at the premises of Saha Thai Steel Pipe Co. Ltd, the sole Thai cooperating exporting producer. This Thai producer initially replied to the questionnaire but had not been in a position to accept an on-the-spot verification in due time.

Normal value

(18) As far as normal value is concerned, the general methodology set out in recitals 17 to 24 of the Provisional Regulation for all market economy countries concerned has been applied for this sole cooperating Thai producer.

(19) The following describes only the findings that are specific to that company.

(20) Normal value was established on the basis of domestic sales for those types of the product concerned which were directly comparable to the types of tubes exported to the Community. Only in those cases where there were no sales of comparable types of tubes on the domestic market was normal value constructed in accordance with Article 2(3) of the Basic Regulation. For that purpose the cooperating exporting producer's own cost of production and the company's own SG&A expenses and profits were used.

Export price

(21) The procedures and methodologies followed to assess the export price of products originating in Thailand were the same as those explained in recital 25 of the Provisional Regulation, i.e. export sales made directly to an independent customer in the Community were established pursuant to Article 2(8) of the Basic Regulation.

Comparison

(22) In accordance with the methodologies followed in recital 26 of the Provisional Regulation, adjustments were made for transport, ancillary costs (bank charges), insurance and credit costs, for differences in physical characteristics and for duty drawback.

Dumping margin

(23) In accordance with the methodologies followed in recital 27 of the Provisional Regulation, the comparison between the normal value and the export price on a weighted to weighted average

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basis was applied and this method showed the existence of dumping in respect of the sole cooperating exporting producer.

(24) The definitive dumping margin expressed as a percentage of the cif import price at the Community border for this company is:

Saha Thai Steel Pipe Co. Ltd	21,7 %

(25) With regard to the determination of the residual duty, as the level of cooperation for Thailand was very low, the methodology described in recitals 28 and 48 of the Provisional Regulation is hereby confirmed. The residual dumping margin expressed as a percentage of the cif import price at the Community border is 37,6 %.

E. **COMMUNITY INDUSTRY**

(26) In the absence of any new argument on the Community production and on the definition of the Community industry, the provisional findings as described in recitals 83 to 85 of the Provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Community consumption**

(27) In the absence of any comment received after the disclosure of the provisional findings on the Community consumption, the provisional findings as described in recitals 86 to 88 of the Provisional Regulation are hereby confirmed.

2. **Cumulative assessment of the effects of the imports concerned**

(28) It was argued that in line with previous practice ([1]), imports from the Czech Republic should not be cumulated with imports originating in the other countries concerned as the evolution of imports and prices of the Czech Republic during the period considered diverged from the evolutions observed for the other countries concerned. Secondly, it was argued that Czech imports do not undercut Community industry's prices and are not in competition with imports from the other investigated countries as, unlike them, they are destined for Germany.

(29) It should be noted that in the cases referred to, the diverging trends of imports and prices were not in themselves decisive but only one element which was considered. The conclusions to cumulate or decumulate were based on a number of other factors. What is important are the conditions listed in Article 3(4) of the Basic Regulation (margin of dumping more than *de minimis*, volume of imports not negligible and same conditions of competition between imported products and the conditions of competition between the imported products and the like Community product).

(30) Firstly, it should be noted that the dumping margin of Czech imports was above *de minimis*.

(31) Secondly, although imports originating in the Czech Republic decreased constantly since 1998, the volume of imports during the IP was not negligible. Moreover, it should be noted that although according to Eurostat average prices of imports originating in the Czech Republic increased constantly since 1999, they were found substantially to undercut Community industry's prices in the IP, as were imports originating in the other investi-

([1]) Council Regulation (EC) No 3319/94 concerning urea ammonium nitrate solution originating in Bulgaria and Poland (OJ L 350, 31.12.1994, p. 20) and Council Regulation (EC) No 2022/95 concerning ammonium nitrate originating in Russia (OJ L 198, 23.8.1995, p. 1).