Council Regulation (EC) No 33/2006 of 9 January 2006 extending the definitive anti-dumping duty imposed by Regulation (EC) No 2074/2004 on imports of certain ring-binder mechanisms originating in the People's Republic of China to imports of the same product consigned from the Lao People's Democratic Republic

COUNCIL REGULATION (EC) No 33/2006

of 9 January 2006

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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)] (the basic Regulation), and in particular Articles 9 and 13 thereof,

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

Whereas:

A. PROCEDURE

1. Existing measures

(1) By Regulation (EC) No 119/97[(2)] (the original Regulation), the Council imposed definitive anti-dumping duties on imports of certain ring-binder mechanisms (RBMs or the product concerned) originating in the People's Republic of China (China), equal to the difference between the minimum import price of EUR 325 per 1 000 pieces for mechanisms with 17 and 23 rings and the net, free-at-Community-frontier price, before duty, ranging from 32,5 % to 39,4 % for mechanisms other than with 17 and 23 rings.

(2) Following an investigation pursuant to Article 12 of Regulation (EC) No 384/96, the Council amended and increased the above duties for mechanisms other than with 17 or 23 rings through Regulation (EC) No 2100/2000[(3)] (the anti-absorption investigation). The amended definitive anti-dumping duties ranged from 51,2 % to 78,8 %.

(3) By Council Regulation (EC) No 1208/2004[(4)], the Council extended the measures imposed by the original Regulation to imports of RBMs consigned from the socialist Republic of Vietnam (Vietnam).

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(4) Following an expiry review, the duties were re-imposed by Council Regulation (EC) No 2074/2004[(5)].

2. Request

(5) On 28 February 2005, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on imports of certain RBMs originating in China. The request was submitted by Ring Alliance Ringbuchtechnik GmbH on behalf of producers representing a major proportion of the Community production of certain RBMs (the applicants). The request alleged that the anti-dumping measures in force on imports of certain RBMs originating in China were being circumvented by means of transhipment via Lao People's Democratic Republic (Laos).

(6) The request further alleged that there was insufficient due cause or justification other than the imposition of anti-dumping measures for such change in the pattern of trade and that the remedial effects of the existing anti-dumping measures were being undermined both in terms of quantity and price. Significant volumes of imports of certain RBMs from Laos appeared to have replaced imports of certain RBMs from China and Vietnam. In addition, there was sufficient evidence that this increase in imports was made at prices below the non-injurious price established in the investigation that led to the existing measures.

(7) Finally, the applicants alleged that the prices of certain RBMs consigned from Laos were dumped in relation to the normal value previously established for the product concerned.

3. Initiation

(8) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission initiated an investigation according to Regulation (EC) No 559/2005[(6)] (the initiating Regulation). Pursuant to Articles 13(3), 14(3) and 14(5) of the basic Regulation, the Commission, by the initiating Regulation, also directed the customs authorities to register imports of certain RBMs consigned from Laos, whether declared as originating in Laos or not, as from 14 April 2005.

4. Investigation

(9) The Commission officially advised the authorities of China and Laos, the producers/exporters and the importers in the Community known to be concerned as well as the applicant Community industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in China and Laos as well as to the importers in the Community named in the request or known to the Commission from the original investigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the

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application of Article 18 of the basic Regulation and to findings being made on the basis of the facts available.

(10) No replies to the questionnaires were received from exporters/producers in China or in Laos, nor did the Commission receive any comments from the Chinese or the Laotian authorities.

(11) One Community importer replied by declaring that it had not imported any type of RBMs from Laos during the investigation period but did not submit any other information.

5. Investigation period

(12) The investigation period covered the period from 1 January 2004 to 31 December 2004 (the IP). Data were collected from 2001 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. RESULTS OF THE INVESTIGATION

1. General considerations/degree of cooperation

(13) As mentioned above in recitals 10 and 11, no producers/exporters of RBMs in China or in Laos cooperated in the investigation nor did any Community importers submit information relevant for the investigation. Accordingly, findings in respect of RBMs consigned from Laos to the Community had to be made on the basis of the facts available in accordance with Article 18 of the basic Regulation.

2. Product concerned and like product

(14) The product concerned is, as defined in the original investigation, certain ring-binder mechanisms currently classifiable within CN code ex 8305 10 00. These RBMs consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half-rings or by using a small steel-made trigger mechanism fixed to the product concerned. Generally, RBMs are composed of elements such as ring, blade, cover, eyelet and, where applicable, trigger.

(15) From the information available, it was concluded that RBMs exported to the Community from China and those consigned from Laos to the Community have the same basic physical characteristics and the same uses. Therefore, they are considered as like products within the meaning of Article 1(4) of the basic Regulation and Eurostat. No submissions to the contrary were made during the investigation.

3. Change in the pattern of trade between third countries and the Community

(16) Due to the non-cooperation of any Laotian company, the volume and value of Laotian exports of the product concerned to the Community were determined on the basis of the information available, which in this case was statistical data collected by Member States and compiled by the Commission pursuant to Article 14(6) of the basic Regulation and Eurostat.

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(17) Following the imposition of definitive measures on imports of the product concerned from China into the Community, imports from China decreased significantly, i.e. from 1 684 tonnes in 1999 to 302 tonnes in 2001 and 2002 and started to increase slightly to 330 tonnes in 2003 and 354 tonnes in 2004. It should be noted, however, that in the second half of 2004 imports from China started to show again a decreasing trend, as shown in the table below. At the same time, imports into the Community of RBMs from Laos have increased from a situation of zero imports between 2001 and 2003 up to 492 tonnes in 2004 (= IP). Statistics show that imports from Laos continue to increase in 2005.

(18) It is also noted that the pattern found, consisting of a coinciding decrease of imports from China and parallel significant increase of imports from Laos in 2004, shows a direct link with the pattern found in the anti-circumvention investigation leading to the extension of the measures imposed by the original investigation to imports of RBMs from Vietnam. Indeed, from 1999 on, imports of RBMs from Vietnam increased significantly, i.e. from zero tonnes between 1999 and 2001 to 1 105 tonnes in 2002 and to 1 778 tonnes in 2003. Following the extension of the measures imposed by the original investigation to imports of RBMs from Vietnam, imports from Vietnam into the Community decreased substantially to 353 tonnes in 2004 (= IP). Statistics show no imports in 2005. In fact, when analysed on a per-six-months basis, imports from Vietnam almost stopped in the first semester 2004, when measures in place in respect of imports of RBMs from China were extended to imports consigned from Vietnam (publication on 1 July 2004, see recital 3). As from the same time, imports from Laos started from nil in the preceding periods to 100 tonnes in the first semester 2004 and to 392 tonnes in the second semester 2004; it is clear therefore that imports from Laos replaced, at least partially imports from Vietnam and China. The reported imports from Laos thus confirm a pattern of trade that commenced from 1999, since before the extension of the measures to Vietnam, there were no imports from Laos into the Community.

Country	2001	2002	2003	2004 (IP)1st semester	2004 (IP)2nd semester
China[a]	302	302	330	212	142
Vietnam[b]	0	1 105	1 778	353	0
Laos[c]	0	0	0	100	392

a Starting from 1 684 tonnes in 1999.

b Starting from nil in 1999.

c Starting from nil in 1999.

Source: Statistical data collected by Member States and compiled by the Commission pursuant to Article 14(6) of the basic Regulation and Eurostat.

4. Insufficient due cause or economic justification

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(19) The imports into the Community from Laos started in 2004 after the initiation of the investigation on imports of RBMs from Vietnam in August 2003 coinciding with the change of pattern of trade between China, Vietnam and Laos on the one hand, and the Community on the other hand, as shown in recital 18.

(20) There is a coincidence in time between the significant decrease of imports of RBMs from Vietnam, which occurred at the time of the extension of the measures following the anti-circumvention investigation, and the parallel increase of imports of RBMs from Laos. It is recalled that the authorithies in Laos as well as potential producers/exporters in this country were informed of the ongoing investigation. However, no evidence was received that there was a genuine production of this product in Laos nor in fact, did any Laotian company cooperate with the investigation. On the basis of the available information, it is therefore concluded that, in the absence of any other sufficient due cause or economic justification within the meaning of the second sentence of Article 13(1) of the basic Regulation, the change in the pattern of trade stemmed from the extension of the anti-dumping duty to goods consigned from Vietnam.

5. Undermining of the remedial effects of the duty in terms of the prices and/or the quantities of the like product

(21) It is evident from the data mentioned in recital 18 that a clear quantitative change in the pattern of Community imports of the product concerned occurred since the extension of measures on RBMs from China to Vietnam in 2004. Following this extension, Vietnamese imports into the Community decreased significantly in 2004 and have stopped in 2005, while there was a parallel surge of exports of the product concerned to the Community from Laos. According to the Eurostat data, in 2004 the total amount of the Laotian exports to the Community was 492 tonnes, while the first quarter of 2005 shows the same trend. It is therefore clear that the marked change in trade flows undermined the remedial effects of the measures in terms of the quantities imported into the Community market.

(22) With regard to prices of the products concerned consigned from Laos, in the absence of cooperation, it was necessary to refer to Eurostat data, which was the best evidence available. It was found that the average export price of the Laotian exports to the Community were below the injury elimination level of Community prices as established in the original investigation. Hence, the remedial effects of the duty imposed in terms of prices are undermined.

(23) It is therefore concluded that the imports of the product concerned from Laos undermine the remedial effects of the duty both in terms of quantities and prices.

6. Evidence of dumping in relation to the normal values previously established for like or similar products

(24) As explained in recital 13, given the absence of cooperation, in order to determine whether evidence of dumping could be found with respect to the exports of the product concerned to the Community from Laos during the IP, Eurostat data