COMMISSION REGULATION (EC) No 1693/2002

of 25 September 2002

initiating an investigation concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 1784/2000 on imports of certain malleable cast iron tube or pipe fittings originating in Brazil by imports of certain malleable cast iron tube or pipe fittings consigned from Argentina, 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 Regulation (EC) No 2238/2000 [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 threaded malleable cast iron tube or pipe fittings originating in Brazil.

(2) The request has been lodged on 12 August 2002 by the Defence Committee of Malleable Cast Iron pipe Fittings Industry of the European Union on behalf of producers representing a major proportion of the Community production of certain malleable cast iron tube or pipe fittings.

B. PRODUCT

(3) The product concerned by the allegation of circumvention is threaded malleable cast iron tube or pipe fittings, currently classifiable within CN code ex 7307 19 10. 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 1784/2000 [3].

D. GROUNDS

(5) The request contains sufficient prima facie evidence, that the anti-dumping measures on imports of certain malleable cast iron tube or pipe fittings originating in Brazil are being circumvented by means of transhipment via Argentina of certain malleable cast iron tube or pipe fittings.

(6) The evidence submitted is as follows:

(a) the request shows that a significant change in the pattern of trade involving exports from Brazil and Argentina to the Community has taken place following the imposition of measures on the product concerned and for which there is insufficient due cause or justification other than the imposition of the duty.

This change in the pattern of trade appears to stem from a transhipment of certain malleable cast iron tube or pipe fittings originating in Brazil via Argentina;

(b) furthermore, the request contains sufficient evidence that the remedial effects of the existing anti-dumping measures on imports of the product concerned originating in Brazil are being undermined both in terms of quantity and price. Significant volumes of imports of certain malleable cast iron tube or pipe fittings consigned from Argentina appear to have replaced imports of the product concerned from Brazil. In addition, there is sufficient evidence that this increase in imports is made at prices well below the non-injurious price established in the investigation that led to the existing measures;

(c) finally, the request contains sufficient evidence that the prices of certain malleable cast iron tube or pipe fittings are dumped in relation to the normal values previously established for the certain malleable cast iron tube or pipe fittings originating in Brazil.

E. PROCEDURE

(7) 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 consigned from Argentina, whether declared as originating in Argentina or not, of certain malleable cast iron tube or pipe fittings 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 257, 11.10.2000, p. 2.
[3] OJ L 208, 18.8.2000, p. 8.

(i) **Questionnaires**

(8) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in Argentina, to the exporters/producers and to the associations of exporters/producers in Brazil and to the importers and to the associations of importers in the Community which cooperated in the investigation that lead to the existing measures, and to the authorities of Brazil and Argentina. Information, as appropriate, may also be sought from the Community industry.

(9) In any event, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 in order to find out whether they are listed in the request and if not, to request a questionnaire within the time limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

(10) The authorities of Brazil and Argentina will be notified of the initiation of the investigation and provided with a copy of the request.

(ii) **Collection of information and holding of hearings**

(11) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(iii) **Exemption of registration of imports or measures**

(12) In accordance with Article 13(4) of the basic Regulation, imports of the product concerned may be exempted from registration or measures if the importation does not constitute circumvention.

(13) Given that the alleged circumvention takes place outside the Community, exemption of imports from registration or measures would depend entirely on the findings in respect of the exporters in Argentina. Therefore exporters wishing to obtain an exemption of registration of imports or measures should apply for the exemption and submit the questionnaire reply (in order to establish that they are not circumventing the anti-dumping duties within the meaning of Article 13(1) of the basic Regulation) within the time limits set in Article 3(2) of this Regulation. Although no exemption could be granted purely on the basis of information from importers, these could still benefit from exemption from registration or measures to the extent that their imports are from exporters which are granted such an exemption.

F. **REGISTRATION**

(14) Pursuant to Article 14(5) of the basic Regulation, imports of the product concerned should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties can be levied retroactively from the date of the initiation of this investigation on certain malleable cast iron tube or pipe fittings consigned from Argentina.

G. **TIME LIMITS**

(15) In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views known in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

H. **NON-COOPERATION**

(16) In cases in which any interested party refuses access to or otherwise does not provide necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of threaded malleable cast iron tube or pipe fittings consigned from Argentina, whether declared as originating in Argentina or not, falling within CN code ex 7307 19 10, are circumventing the measures imposed by Council Regulation (EC) No 1784/2000.

Article 2

1. The Customs authorities are hereby directed, pursuant to Articles 13(3) and 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

2. Registration shall expire nine months following the date of entry into force of this Regulation.

3. The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products exported by exporters having applied for an exemption of registration and having been found not to be circumventing the anti-dumping duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days from publication of this Regulation in the *Official Journal of the European Communities*.

2. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Communities*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

3. Interested parties may also apply to be heard by the Commission within the same 40 day time limit.

4. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for exemption of registration must be made in writing (not in electronic format, unless otherwise specified), must indicate the name, address, e-mail address, telephone, fax and/or telephone numbers and should be sent to the following address:

European Commission
Directorate-General for Trade
Directorate B
Office: J-79 05/17
B-1049 Brussels
Fax (32 2) 295 65 05
Telex COMEU B 21877.

Article 4

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 25 September 2002.

For the Commission
Pascal LAMY
Member of the Commission