COUNCIL REGULATION (EC) No 2289/2002

of 19 December 2002

terminating a 'new exporter' review of Regulation (EC) No 1600/1999 imposing definitive anti-dumping duties on imports of stainless steel wire with a diameter of 1 mm or more originating in India, re-imposing the duty with regard to imports from one exporter in this country and terminating the registration of these imports

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 Article 11(4) thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) By Regulation (EC) 1600/1999 [2], the Council imposed a definitive anti-dumping duty on imports of stainless steel wire having a diameter 1 mm or more (hereinafter referred to as 'the product concerned') falling within CN code ex 7223 00 19 originating in India. The measures took the form of duties of between 0 % and 55,6 % on individual exporters, with a residual duty of 55,6 %.

B. CURRENT PROCEDURE

1. Request for a new exporter review

(2) Subsequent to the imposition of definitive measures, the Commission received a request for the initiation of a 'new exporter' review of Regulation (EC) No 1600/1999, pursuant to Article 11(4) of the basic Regulation, from one Indian producer, Garg Sales Co. PVT Ltd ('the applicant'). The applicant claimed that it was not related to any other exporters of the product concerned in India. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (1 April 1997 to 31 March 1998), but had exported the product concerned to the Community after that period. On the basis of the above, it requested that an individual duty rate be established for it, in case dumping were to be found.

2. Initiation of a review

(3) The Commission examined the evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 1325/2002 [3], a 'new exporter' review of Regulation (EC) No 1600/1999 with regard to the applicant and commenced its investigation. At the same time, the anti-dumping duty in force was repealed for the applicant and its imports were made subject to registration pursuant to Article 11(4) and Article 14(5) of the basic Regulation.

3. Non cooperation by the exporting producer

(4) In order to obtain the information it deemed necessary for its investigation, the Commission sent a questionnaire to the applicant. However, the Commission did not receive any reply to the questionnaire within the deadline set for that purpose. Neither did the applicant request an extension of that deadline. The Commission informed the applicant that in these circumstances it was intended to proceed with the termination of the review investigation without examining further its request for establishing an individual duty rate. The applicant was given a period of 10 days to comment. No comments from the applicant were received on the disclosure of the Commission's intention to terminate the review investigation.

(5) Consequently, it must be concluded that Garg Sales Co. PVT Ltd has failed to cooperate in the investigation by not replying to the questionnaire sent by the Commission. The review should therefore be terminated and the anti-dumping duty repealed by Article 2 of Commission Regulation (EC) No 1325/2002 should be re-imposed, with retroactive effect to 24 July 2002. In addition, the registration of imports provided in Article 3 of the same Regulation should be terminated,

[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 189, 22.7.1999, p. 19.
[3] OJ L 194, 23.7.2002, p. 27.

HAS ADOPTED THIS REGULATION:

Article 1

The review of Regulation (EC) No 1600/1999 initiated by Article 1 of Commission Regulation (EC) No 1325/2002 concerning imports of stainless steel wire with a diameter of 1 mm or more, containing by weight 2,5 % or more of nickel, excluding wire containing by weight 28 % or more but no more than 31 % of nickel and 20 % or more but no more than 22 % of chromium falling within CN code ex 7223 00 19, originating in India, produced and sold for export to the Community by Garg Sales Co. PVT Ltd (TARIC additional code A404) is hereby terminated.

Article 2

The anti-dumping duty imposed by Regulation (EC) No 1600/1999 and repealed by Article 2 of Commission Regulation (EC) No 1325/2002 is hereby re-imposed with regard to the imports identified in Article 1 of this Regulation, with effect from 24 July 2002.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96, to terminate the registration of the imports identified in Article 1 of this Regulation.

Article 4

This Regulation shall enter into force on the day following 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, 19 December 2002.

For the Council

The President

L. ESPERSEN