COUNCIL REGULATION (EC) No 2212/2003

of 17 December 2003

amending Regulation (EC) No 964/2003 imposing definitive anti-dumping duties on imports of certain tube or pipe fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to Council Regulation (EC) No 452/2003 of 6 March 2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures ([1]),

Having regard to the proposal submitted by the Commission, after consultations with the Advisory Committee established by Article 15 of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([2]) (the 'basic Regulation'),

Whereas:

(1) By Regulation (EC) No 778/2003 ([3]), the Council amended, amongst others, Council Regulations (EC) No 584/96 and (EC) No 763/2000 with regard to the anti-dumping measures applicable to certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not. The purpose was to make provision for the situation where those imports also become subject to the payment of a safeguard duty, as adopted by Commission Regulation (EC) No 1694/2002 of 27 September 2002 imposing definitive safeguard measures against imports of certain steel products ([4]).

(2) In such circumstances, and where the anti-dumping duty is less than, or equal to, the amount of the safeguard duty, it was considered appropriate that no anti-dumping duty should be payable. Where the anti-dumping duty is greater than the amount of the safeguard duty, it was considered appropriate that only that part of the anti-dumping duty which is in excess of the amount of the safeguard should be payable.

(3) Pursuant to Article 11(2) of the basic Regulation, the measures imposed by Regulation (EC) No 584/96 and (EC) No 763/2000 were prolonged by Council Regulation (EC) No 964/2003 ([5]). However, no provision similar to the one described in recital 2 hereto was made by Regulation (EC) No 964/2003 for the situation where imports also become subject to the payment of a safeguard duty.

(4) Consequently, Regulation (EC) No 964/2003 should be amended so as to make provision for the situation where imports also become subject to the payment of a safeguard duty, in the same way as the amendments introduced into Council Regulations (EC) No 584/96 and (EC) No 763/2000 by Regulation (EC) No 778/2003.

(5) This Regulation should apply retroactively from the date of the entry into force of Regulation (EC) No 964/2003,

([1]) OJ L 69, 13.3.2003, p. 8.
([2]) 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).
([3]) OJ L 114, 8.5.2003, p. 1.
([4]) OJ L 261, 28.9.2002, p. 1.
([5]) OJ L 139, 6.6.2003, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 964/2003 is hereby amended as follows:

(a) in Article 1, the following paragraph shall be inserted:

'2a Notwithstanding paragraph 2, where imports of the product concerned from Thailand are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Commission Regulation (EC) No 1694/2002 (*), the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		To 28.3.2003	29.3.2003 to 28.9.2003	29.9.2003 to 28.3.2004	29.3.2004 to 28.9.2004	29.9.2004 to 28.3.2005	
Thailand	All (Except: Thai Benkan Co. Ltd, Prapadaeng Samutprakarn)	35,2 %	37,6 %	37,6 %	39,7 %	39,7 %	8851

(*) OJ L 261, 28.9.2002, p. 1.';

(b) in Article 3, the first paragraph shall be numbered '1' and the following paragraph shall be inserted:

'2. Notwithstanding paragraph 1, with the exception of those fittings produced by the said Chup Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Niang Hong Pipe Fittings Co. Ltd, where imports of fittings consigned from Taiwan are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002, the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		To 28.3.2003	29.3.2003 to 28.9.2003	29.9.2003 to 28.3.2004	29.3.2004 to 28.9.2004	29.9.2004 to 28.3.2005	
Taiwan	All (except Chup Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Niang Hong Pipe Fittings Co. Ltd)	34,9 %	37,3 %	37,3 %	39,4 %	39,4 %	A999'

Article 2

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

It shall apply with effect from 7 June 2003.

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

Done at Brussels, 17 December 2003.

For the Council

The President

G. ALEMANNO