COMMISSION REGULATION (EC) No 692/2009

of 30 July 2009

initiating a 'new exporter' review of Council Regulation (EC) No 1001/2008 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings, of iron or steel originating, inter alia, in Malaysia, repealing the duty with regard to imports from one exporter in this country and making these 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] (the basic Regulation) and in particular Article 11(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST FOR A REVIEW

(1) The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The application was lodged by Pantech Steel Industries SDN BHD (the applicant), an exporting producer in Malaysia (the country concerned).

B. PRODUCT

(2) The product under review is tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, originating in Malaysia (the product concerned), currently falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90.

C. EXISTING MEASURES

(3) The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1001/2008 [2] under which imports into the Community of the product concerned originating in Malaysia, including the product concerned produced by the applicant, are subject to a definitive antidumping duty of 75 % with the exception of one company expressly mentioned which is subject to an individual duty rate.

D. GROUNDS FOR THE REVIEW

(4) The applicant alleges that it did not export the product concerned to the Community during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 April 2000 to 31 March 2001 (the original investigation period) and that it is not related to any of the exporting producers of the product concerned which are subject to the abovementioned anti-dumping measures.

(5) The applicant further alleges that it has entered into irrevocable contractual obligations to export the product concerned to the Community in the near future.

E. PROCEDURE

(6) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment. No comments have been received.

(7) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the basic Regulation, with a view to determine the applicant's individual margin of dumping and, should dumping be found, the level of the duty to which their imports of the product concerned into the Community should be subject.

(8) If it is determined that the applicant fulfils the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from companies not individually mentioned in Article 1 of Regulation (EC) No 1001/2008.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

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 showing that there are particular reasons why they should be heard.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 275, 16.10.2008, p. 1.

Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the parties making themselves known within the period provided for by the present Regulation.

F. **REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS**

(9) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the Community by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicant, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. **TIME LIMITS**

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

(a) interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 8(a) of this Regulation or provide any other information to be taken into account during the investigation;

(b) interested parties may make a written request to be heard by the Commission.

H. **NON-COOPERATION**

(11) In cases in which any interested party refuses access to or does not provide the necessary information within the time limits or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(12) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. **PROCESSING OF PERSONAL DATA**

(13) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [1].

J. **HEARING OFFICER**

(14) It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this investigation, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, interested parties may consult the Hearing Officer's web pages on the website of DG Trade (http://ec.europa.eu/trade),

HAS ADOPTED THIS REGULATION:

Article 1

A review of Regulation (EC) No 1001/2008 is hereby initiated pursuant to Article 11(4) of Regulation (EC) No 384/96 in order to determine if and to what extent the imports of tube and pipe fittings (other than cast fittings, flanges and threaded fittings), of iron or steel (not including stainless steel), with a greatest external diameter not exceeding 609,6 mm, of a kind used for butt-welding or other purposes, originating in Malaysia, currently falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90, produced and sold for export to the Community by Pantech Steel Industries SDN BHD (TARIC additional code A961) should be subject to the antidumping duty imposed by Regulation (EC) No 1001/2008.

Article 2

The anti-dumping duty imposed by Regulation (EC) No 1001/2008 is hereby repealed with regard to the imports identified in Article 1.

[1] OJ L 8, 12.1.2001, p. 1.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 8(a) of this Regulation or any other information, unless otherwise specified, within 40 days of the entry into force of this Regulation. Interested parties may also apply in writing to be heard by the Commission within the same 40-day time limit.

2. All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited*' [1] and, in accordance with Article 19(2) of Regulation (EC) No 384/96, shall be accompanied by a non-confidential version, which will be labelled *'For inspection by interested parties'*.

Any information relating to the matter and/or any request for a hearing should be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 4/92
1049 Brussels
BELGIUM
Fax: +32 2295 65 05

Article 5

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

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

Done at Brussels, 30 July 2009.

For the Commission
Catherine ASHTON
Member of the Commission

[1] This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p. 1) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).