

COMMISSION REGULATION (EC) No 844/2004
of 28 April 2004

initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 119/97 on imports of certain ring binder mechanisms originating in the People's Republic of China by imports of certain ring binder mechanisms consigned from Thailand, whether declared as originating in Thailand or not 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 Council Regulation (EC) No 461/2004⁽²⁾ ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having consulted the Advisory Committee,

Whereas:

The Commission has decided, pursuant to Article 13(3) of the basic Regulation to investigate on its own initiative the possible circumvention of the anti-dumping measures imposed on imports of certain ring binder mechanisms originating in the People's Republic of China ('China').

A. PRODUCT

The product concerned by the possible circumvention is certain ring binder mechanisms, normally declared under CN code ex 8305 10 00 ('the product concerned') originating in China. This CN code is given for information only.

The product under investigation is certain ring binder mechanisms consigned from Thailand (the product under investigation) normally declared under the same codes as the product concerned originating in China.

B. EXISTING MEASURES

The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Regulation (EC) No 119/97⁽³⁾ as last amended by Regulation (EC) No 2100/2000⁽⁴⁾.

C. GROUNDS

The Commission has at its disposal sufficient prima facie evidence that the anti-dumping measures on imports of certain ring binder mechanisms originating in China are being circumvented by means of transshipment via Thailand of certain ring binder mechanisms.

The evidence available is as follows:

A significant change in the pattern of trade involving exports from China and Thailand to the Community has taken place following the imposition of measures on imports of certain ring binder mechanisms originating in China. Imports of the product under investigation have increased substantially, whereas imports of certain ring binder mechanisms originating in China have decreased following the imposition of measures, and there appears to be insufficient due cause or justification other than the imposition of the duty for such a change. This change in the pattern of trade appears to stem from a transshipment via Thailand of certain ring binder mechanisms originating in China.

Furthermore, the evidence points to the fact that the remedial effects of the existing anti-dumping measures on imports of certain ring binder mechanisms originating in China are being undermined in terms of quantity. Significant volumes of imports of the product concerned from Thailand appear to have replaced imports of certain ring binder mechanisms originating in China.

Finally, the Commission has sufficient prima facie evidence at its disposal that the prices of the product under investigation are dumped in relation to the normal value previously established for certain ring binder mechanisms originating in China.

Should circumvention practices via Thailand covered by Article 13 of the basic Regulation other than transshipment be identified in the course of the investigation, the investigation may cover these practices also.

D. PROCEDURE

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 of certain ring binder mechanisms consigned from Thailand, whether declared as originating in Thailand or not, 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 77, 13.3.2004, p. 12.

⁽³⁾ OJ L 22, 24.1.1997, p. 1.

⁽⁴⁾ OJ L 250, 5.10.2000, p. 1.

a) Questionnaires

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 Thailand, the exporters/producers and to the associations of exporters/producers in China, 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 China and Thailand. Information, as appropriate, may also be sought from the Community industry.

In any event all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3 of this Regulation and, if necessary, 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.

The authorities of China and Thailand will be notified of the initiation of the investigation.

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 and show that there are particular reasons why they should be heard.

c) Exemption from registration of imports or measures

In accordance with Article 13(4) of the basic Regulation, since the possible circumvention takes place outside the Community, exemptions may be granted to producers of the product concerned in Thailand that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Article 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time limit indicated in Article 3(3) of this Regulation.

E. REGISTRATION

Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of the registration of such imports consigned from Thailand.

F. TIME LIMITS

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 in writing and submit questionnaire replies or any other information to be taken into account during the investigation;

- producers in Thailand may request exemption from registration of imports or measures;
- interested parties may make a written request to be heard by the Commission.

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 time limits mentioned in Article 3 of this Regulation.

G. NON-COOPERATION

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, in accordance with Article 18 of the basic Regulation, of facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to the party than if it had cooperated,

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 certain ring binder mechanisms, falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00 12 and 8305 10 00 22), consigned from Thailand, whether originating in Thailand or not, are circumventing the measures imposed by Council Regulation (EC) No 119/97 as last amended by Regulation (EC) No 2100/2000.

For the purpose of this Regulation, ring binder mechanisms shall 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 with a small steel-made trigger mechanism fixed to the ring binder mechanism.

Article 2

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.

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

The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products manufactured by producers 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 Union*.
2. If their representations are to be taken into account during the investigation, interested parties 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 Union*, unless otherwise specified.
3. Producers in Thailand requesting exemption from registration of imports or measures should submit a request duly supported by evidence within the same 40 day time limit.
4. Interested parties may also apply to be heard by the Commission within the same 40 day time limit.

5. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for authorisation of certificates of non-circumvention must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone, fax and/or telex 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 the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

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B-1049 Brussels
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Telex COMEU B 21877

Article 4

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, 28 April 2004.

For the Commission
Pascal LAMY
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).