

## COMMISSION REGULATION (EC) No 2231/2004

of 23 December 2004

**terminating the 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 terminating the registration of such imports imposed by Regulation (EC) No 844/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(3) By Council Regulation (EC) No 2074/2004<sup>(3)</sup>, the existing anti-dumping measures were extended for four years.

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<sup>(1)</sup> ('the basic Regulation') and in particular Article 13 thereof,

(4) On 29 April 2004, by Regulation (EC) No 844/2004<sup>(4)</sup> ('the initiating Regulation'), the Commission initiated on its own initiative an investigation pursuant to Article 13(3) of the basic Regulation 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 had at its disposal sufficient prima facie evidence that there had been a significant change in the pattern of trade involving exports of RBMs from the PRC and Thailand to the EU, following the imposition of measures on imports of RBMs originating in the PRC. This change in the pattern of trade was alleged to stem from the transshipment of RBMs originating in the PRC via Thailand. Moreover, there was sufficient prima facie evidence showing that the remedial effects of the existing anti-dumping duties on certain ring binder mechanisms originating in the PRC were being undermined both in terms of quantities and prices and that dumping took place in relation to the normal values previously established.

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

(1) By Regulation (EC) No 119/97<sup>(2)</sup> ('the original Regulation'), the Council imposed definitive anti-dumping duties ranging from 32.5% to 39.4% on imports of certain ring binder mechanisms ('RBMs') originating in the People's Republic of China ('PRC'). These rates of duty were applicable to RBMs other than those with 17 or 23 rings, while RBMs with 17 and 23 rings were subject to a duty equal to the difference between the minimum import price (MIP) of EUR 325 per 1 000 pieces and the free-at-Community-frontier not cleared through customs price whenever the latter was lower than the MIP.

(2) By Regulation (EC) No 2100/2000 the Council amended and increased the abovementioned duties for certain RBMs other than 17 or 23 rings, following an investigation pursuant to Article 12 of the basic Regulation. The amended duties ranged from 51.2% to 78.8%.

(5) The product concerned is, as defined in the original Regulation, certain RBMs currently classifiable within CN code ex 8305 10 00. These RBMs 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 by using a small steel-made trigger mechanism fixed to the RBM.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ L 22, 24.1.1997, p. 1. Regulation as amended by (EC) No 2100/2000 (OJ L 250, 5.10.2000, p. 1).

<sup>(3)</sup> OJ L 359, 4.12.2004, p. 11.

<sup>(4)</sup> OJ L 127, 29.4.2004, p. 67.

## B. INVESTIGATION

(6) The Commission officially advised the authorities of the PRC and Thailand, the producers/exporters in Thailand and the PRC as well as the importers in the Community known to the Commission from the initiation of the investigation. Questionnaires were sent to the producers/exporters in Thailand and the PRC, and to the importers in the Community. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. The Commission also held a meeting with representatives of the Thai Government.

(7) One producer/exporter in Thailand and its related Chinese producing exporter submitted a complete reply to the questionnaire, whilst two other Chinese producing exporters argued that they had no or very few sales to Thailand and therefore submitted either no reply or insufficient information. Replies to the questionnaire were also submitted by three importers in the Community. The Commission carried out verification visits at the premises of the following producers/exporters:

— Thai Stationery Industry Co. Ltd, Thailand ('TSI'),

— Wah Hing Stationery Manufactory Limited, Hong Kong ('WHS').

(8) The investigation period covered the period of 1 January 2003 to 31 December 2003 ('IP'). Data was collected from 2000 to the end of the IP to investigate the change in the pattern of trade.

## C. RESULTS OF THE INVESTIGATION

(9) TSI, the sole exporter of RBMs in Thailand, was set up in 1998, i.e. one year after the imposition of anti-dumping duties on certain RBMs from the PRC. The company is a subsidiary of WHS, a Hong Kong-based trading company for RBMs that also owns a RBMs production plant in the PRC. TSI's exports to the Community in the IP accounted for 100% of Community imports from Thailand as shown by Eurostat. On this basis, and in the absence

of any evidence to the contrary, it was concluded that TSI was the sole exporter of RBMs in Thailand.

(10) The investigation showed that in the initial phases, after TSI had set up operations in Thailand, the Thai company only assembled components of RBMs that were imported from WHS's Chinese production plant and exported the finished RBMs to the Community.

(11) However, there is evidence that WHS gradually shifted the entire production of RBMs subject to the existing anti-dumping measures to TSI. WHS transferred both manpower and all necessary machinery, including electroplating facilities, from their Chinese production plant. In 2002, all necessary machinery for producing RBMs was already available to TSI.

(12) In addition, no evidence could be found that TSI further imported components of RBMs from the PRC during the IP.

(13) Moreover, it was found that the quantity of raw materials (as distinct from components) imported by TSI was sufficient to produce the quantity of RBMs exported to the Community during the IP. Parallel to the increase of TSI's own production of RBMs, the quantity of raw material imported into Thailand by TSI increased from 2000 to 2002 and remained stable in 2002 and 2003. Also, the data available for the imports of raw materials in the first six months of 2004 indicates a stable production for this period as compared to 2003.

(14) The investigation showed that at least from 1 January 2003 onwards, i.e. the beginning of the IP, TSI was indeed able to produce the quantity of RBMs exported to the EU on its own. Therefore, it was concluded that TSI has to be considered as a genuine producer of certain RBMs. In these circumstances, it is considered that trans-shipment of RBMs via Thailand has not taken place in the IP.

(15) Based on these findings, it is also considered that the companies investigated did not fulfil the criteria set out in Article 13(2) of the basic Regulation as TSI is not an assembly operation. This conclusion is based on the interpretation of Article 13(2) as being *lex specialis* for assembly operations.

**D. TERMINATION OF THE INVESTIGATION**

- (16) In light of the above findings and considerations, it appears appropriate that the current circumvention investigation should be terminated. The registration of imports of certain ring binder mechanisms introduced by the initiating Regulation should therefore be discontinued and that Regulation should be repealed.
- (17) The interested parties were consulted on the proposed course of action and raised no objections thereto.

HAS ADOPTED THIS REGULATION:

*Article 1*

The investigation initiated by Regulation (EC) No 844/2004 concerning the possible circumvention of the anti-dumping measures imposed by 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 is hereby terminated.

*Article 2*

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 2 of Regulation (EC) No 844/2004.

*Article 3*

Regulation (EC) No 844/2004 is hereby repealed.

*Article 4*

This Regulation shall enter into force on the day following that of 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, 23 December 2004.

*For the Commission*  
Peter MANDELSON  
*Member of the Commission*

---