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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1592/2000

of 17 July 2000

amending Regulation (EC) No 584/96 with regard to the imposition of anti-dumping measures applicable to certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China, Croatia and Thailand

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], and in particular Article 9 and Article 11 thereof,

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

Whereas:

A. PROCEDURE

1. Previous investigation

(1) Anti-dumping measures were imposed on imports of certain tube or pipe fittings of iron or steel, originating in the People's Republic of China, Croatia and Thailand by Regulation (EC) No 584/96 [2], with the exception of imports from certain Thai and Croatian producers including the applicant in this case from which undertakings were accepted by Commission Decision 96/252/EC [3].

2. Present investigation

2.1. *Request for review*

(2) On 24 February 1999, Thai Benkan Co. Ltd, a Thai exporting producer of the product concerned (hereinafter referred to as 'the applicant') and its related importer BKL Fittings Ltd, lodged a request for an interim review of the anti-dumping measures (i.e. undertaking) applicable to them. This was limited in scope to the examination of dumping, pursuant to Article 11(3) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation'). In the request it was alleged that circumstances had changed to an extent that dumping was no longer taking place and that therefore the measures, insofar as they apply to the applicant, should be repealed.

(3) Having determined, after consultation within the Advisory Committee, that sufficient evidence existed for the initiation of an interim review, the Commission published a notice of initiation [4] and commenced an investigation.

2.2. *Parties concerned by the investigation*

(4) The Commission officially advised the representatives of the exporting country of the initiation of the interim review and gave all the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(5) The Commission sent questionnaires and received detailed information from the Thai exporting producer concerned as well as from its related parties.

(6) The Commission sought and verified all information they deemed necessary for the purposes of a determination of dumping and carried out investigations at the premises of the following companies:

— Thai Benkan Co. Ltd, Samutprakarn, Thailand

— Benkan Corporation, Tokyo, Japan.

2.3. *Period of investigation*

(7) The period of investigation of dumping covered the period from 1 July 1998 to 30 June 1999 (hereinafter referred to as 'IP').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product description

(8) The product under consideration is, as defined in the original investigation, tube or 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 Thailand and currently classifiable within CN codes ex 7307 93 11 (TARIC code 7307 93 11*90), ex 7307 93 19 (TARIC code 7307 93 19*90), ex 7307 99 30 (TARIC code 7307 99 30*91) and ex 7307 99 90 (TARIC code 7307 99 90*91).

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).
[2] OJ L 84, 3.4.1996, p. 1.
[3] OJ L 84, 3.4.1996, p. 46.
[4] OJ C 208, 22.7.1999, p. 19.

2. **Like product**

(9) As in the previous investigation, this investigation has shown that the tube or pipe fittings, of iron and steel, produced in Thailand by Thai Benkan Co. Ltd, those sold on that market and those exported by the Thai exporting producer to the Community have the same basic physical and chemical characteristics and have the same uses, and that therefore, are to be considered a like product within the meaning of Article 1(4) of the Basic Regulation.

C. **DUMPING CALCULATION**

1. **Normal value**

(10) As far as the determination of normal value is concerned, the Commission services first established whether this exporting producer's total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the Basic Regulation, domestic sales were considered representative when the total domestic sales volume of the exporting producer was at least 5 % of its total export sales volume to the Community.

(11) For each of the types sold by the exporting producer on its domestic market and found to be directly comparable to the types sold for export to the Community, it was examined whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the Basic Regulation. This was considered to be the case when, during the IP, the total domestic sales volume of a type represented 5 % or more of the total sales volume of the same type exported to the Community.

(12) On this basis, it was found that domestic sales, overall and by type, were made in sufficient quantities.

(13) An examination was also made as to whether the domestic sales of each type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the type in question. In cases where profitable sales of a type represented 80 % or more of the total domestic sales volume of that type, normal value was based on a weighted average price of all domestic sales made during the IP. In cases where the volume of profitable sales of a type represented less than 80 % but more than 10 % of the total domestic sales volume of that type, normal value was based on a weighted average of profitable sales only.

2. **Export prices**

(14) As all the export sales were made to a related importer, the export price was constructed pursuant to Article 2(9) of the Basic Regulation, namely on the basis of the price at which the imported products were first resold to an independent buyer in the Community.

(15) Adjustments were made for all costs incurred between importation and resale and for profits accruing, in order to establish a reliable export price. On the basis of the information available, this profit was set at 10 %, a level considered reasonable for the product concerned.

3. **Comparison**

(16) The comparison was made on an ex-factory basis and at the same level of trade. For the purpose of ensuring a fair comparison, account was taken, in accordance with Article 2(10) of the Basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability, i.e. transport, handling, customs duties, indirect taxes, commission and credit expenses.

4. **Dumping margin**

(17) The weighted average normal value was compared to the weighted average export price of all export transactions to the Community, in accordance with Article 2(11) of the Basic Regulation.

(18) The comparaison as described above showed the existence of no dumping for Thai Benkan Co. Ltd. In fact, all export prices were considerably higher than the domestic prices, when compared at ex works level.

D. **LASTING NATURE OF CHANGED CIRCUMSTANCES**

(19) In accordance with Article 11(3) of the Basic Regulation, the Commission also examined whether the changed circumstances could reasonably be said to be of a lasting nature. In this respect, it was found that:

— a much higher export price was computed in this investigation as compared to the previous investigation where estimated data had to be used. This combined with a general increase in export prices resulting from a rise in market prices in the Community were found to constitute very significant changed circumstances;

— the exporting producer's output had increased by approximately 50 % as compared to the original investigation period while raw material costs had fallen significantly. These led to a significant fall in production costs and a lesser but related fall in domestic prices which again, at least partly, can be considered as a lasting change;

— the Thai baht has fallen significantly in value and this had reduced the dumping margin on these imports for the IP. However, there has been some re-appreciation of the currency since which indicated that the currency movement may not prove lasting.

E. **CONCLUSION**

(20) The investigation of dumping for the IP has found dumping to have stopped for a number of reasons, including a fall in normal values and an increase in export prices and some of these changes are considered to be of a lasting nature. This is particularly the case in respect of the re-calculation of the export price using actual data and to a degree the fall in normal value, changes which on their own result in no dumping.

F. **REPEAL OF MEASURES**

(21) In view of the findings of no dumping as well as the lasting nature of changed circumstances, measures imposed by Council Regulation (EC) No 584/96 on exports of the Thai company Thai Benkan Co. Ltd, — from which an undertaking was accepted by Commission Decision 96/252/EC — should be repealed by amending that Regulation accordingly.

(22) However, since the repeal of the measures proposed only concerns one individual exporter, and not Thailand as a whole, the export as a whole, the export Thai Benkan Co. Ltd remains subject to the proceeding and may be reinvestigated in any subsequent review carried out for Thailand pursuant to Article 11 of the Basic Regulation.

(23) The Commission informed the Thai company concerned as well as the other parties concerned of the facts and considerations on the basis of which it was intended to propose the repeal of the measures. No comments were received,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 584/96 shall be replaced by the following:

'The rate of duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows:

	Rate of duty	TARIC additional code
People's Republic of China	58,6 %	—
Croatia	38,4 %	8881
Thailand	58,9 %	8851
Except:		
Thai Benkan Co. Ltd, Prapadaeng Samutprakarn	0 %	A118

with the exception of imports of the products concerned which are manufactured and sold for export to the Community by the following companies from which undertakings have been accepted:

— Croatia (TARIC additional code 8 880)
  — Zeljezara Sisak, Zagreb
— Thailand (TARIC additional code 8850)
  — Awaji Sangyo (Thailand) Co. Ltd., Samutprakarn
  — TTU Industrial Corp. Ltd., Bangkok.'

Article 2

This Regulation shall enter into force on the day following that of 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, 17 July 2000.

For the Council
The President
J. GLAVANY