

**COMMISSION REGULATION (EC) No 909/2003**

**of 23 May 2003**

**amending Regulation (EC) No 1693/2002 as regards registration of imports of certain malleable cast iron tube or pipe fittings produced by one Argentinian exporting producer**

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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1972/2002 <sup>(2)</sup>, and in particular Articles 13 and 14 thereof,

After consulting the Advisory Committee,

Whereas:

**A. PROCEDURE**

- (1) In accordance with Regulation (EC) No 1784/2000 <sup>(3)</sup> (the 'definitive Regulation'), the Council imposed an anti-dumping duty of 34,8 % on imports of threaded malleable cast iron tube or pipe fittings (malleable fittings) originating in Brazil.
- (2) On 12 August 2002, the Commission received a request, pursuant to Article 13(3) of Regulation (EC) No 384/96 (the 'basic Regulation'), from the Defence Committee of the Malleable Cast Iron Pipe Fittings Industry of the European Union. The request alleged the existence of circumvention of the anti-dumping duties imposed by the definitive Regulation on imports of malleable fittings originating in Brazil. According to the request, the circumvention practice consisted of transshipment of malleable fittings originating in Brazil via Argentina to the Community. This request was submitted on behalf of producers representing a major proportion of the Community production of malleable fittings and contained sufficient evidence regarding the factors set out in Article 13(1) of the basic Regulation.
- (3) The Commission initiated an investigation into the alleged circumvention pursuant to Regulation (EC) No 1693/2002 <sup>(4)</sup> (the 'initiating Regulation').
- (4) Pursuant to Articles 13(3) and 14(5) of the basic Regulation, Article 2 of the initiating Regulation instructed the customs authorities to register imports of malleable fittings consigned from Argentina, whether declared as originating in Argentina or not, as of 26 September 2002.

- (5) Article 2(3) of the initiating Regulation provided that imports should be exempted from registration if the exporters having applied for an exemption of registration were found not to be circumventing the anti-dumping duties.

**B. REQUESTS FOR EXEMPTION**

- (6) Within the deadlines laid down in Article 3 of the initiating Regulation, the Commission received a request for exemption from the registration and measures from one exporting producer, DEMA SA, San Justo, Buenos Aires.
- (7) In December 2002, one month after the expiry of the deadline for receipt of replies to the questionnaire, the Commission received a submission on behalf of Industrias Aguila Blanca SA (Argentina), claiming to be a producer of malleable fittings in Argentina. The submission contained a request by this company to be considered as an interested party in the investigation and a request to be exempted from extension of measures. Given that the submission was received at such an advanced stage of the investigation and well beyond the deadlines laid down in Article 3 of the initiating Regulation and, in addition, would have required further explanations and verification, the company was informed that it could not be considered as cooperating in the investigation. Accordingly, the company was informed that findings in respect of it had to be made on the basis of the facts available in accordance with Article 18(1) of the basic Regulation.
- (8) Any decision concerning exporters should be limited to exemption from registration at this stage. If the Council subsequently adopts a regulation extending the anti-dumping measures pursuant to Article 13 of the basic Regulation, it may also decide to exempt certain exporters from such extended measures.

**C. INVESTIGATION PERIOD**

- (9) The investigation period covered the period 1 July 2001 to 30 June 2002 (the 'IP'). Data were collected from 1998 up to the IP to investigate the change in the pattern of trade.

**D. FINDINGS IN RESPECT OF DEMA SA**

- (10) DEMA SA replied to the questionnaire sent by the Commission in the course of the investigation. The Commission did carry out a verification visit at the premises of DEMA SA.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(2)</sup> OJ L 305, 7.11.2002, p. 1.

<sup>(3)</sup> OJ L 208, 18.8.2000, p. 8.

<sup>(4)</sup> OJ L 258, 26.9.2002, p. 27.

- (11) It is noted that, during the IP, DEMA SA only exported one container to the Community. No other exports to the Community took place during the IP or in the period for which data were collected. In fact, the only export preceding the one during the IP took place in 1992. Therefore, there was no clear pattern of trade prior to or after the imposition of measures concerning Brazilian exports to the Community, and consequently no change thereof. Moreover it has also been established that DEMA SA is a manufacturer and exporter of malleable fittings operating its own production facilities for the complete production process of the product concerned. It only sells its own products and never purchased any malleable fittings from Brazil during the IP. It is therefore considered that DEMA SA demonstrated to the satisfaction of the Commission that it did not circumvent the measures imposed on malleable fittings originating in Brazil.
- (12) In the light of the above findings, registration of imports of malleable fittings consigned from Argentina and produced by DEMA SA should cease.
- (13) The Commission therefore considers it appropriate to amend its initiating Regulation in so far as it provides for the registration of imports of malleable fittings consigned from Argentina (whether declared as originating in Argentina or not).
- (14) This Regulation is based on findings specific to DEMA SA and does not prejudice any decision which the Council may take to extend the existing anti-dumping

measures on malleable fittings originating in Brazil to the same product consigned from Argentina (whether declared as originating in Argentina or not).

- (15) Interested parties were informed of the essential facts and considerations on the basis of which the Commission intended to cease the registration of imports of malleable fittings produced by DEMA SA and were given the opportunity to comment. No objections were received,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following paragraph shall be added to Article 2 of Regulation (EC) No 1693/2002:

'4. Notwithstanding paragraph 1, imports of the product identified in Article 1 which are produced by the following companies shall not be subject to registration:

Producer	TARIC additional code
DEMA SA, Av. Pte Perón 3750, San Justo, Buenos Aires, Argentina	A438'

*Article 2*

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, 23 May 2003.

For the Commission  
Pascal LAMY  
Member of the Commission