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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.3.2009
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Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ("the basic Regulation"), in the proceeding concerning imports of certain castings originating in the People's Republic of China.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

Council Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

The applicants and the Community industry have been informed of the findings of the examination and have had the opportunity to submit their comments.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not make provision for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

By Regulation (EC) No 1212/2005, the Council imposed a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China.

During the investigation which led to the imposition of measures, given the large number of exporting producers of the product concerned in the People's Republic of China, sampling was applied.

Article 1(4) of Council Regulation (EC) No 1212/2005 gives the possibility to Chinese exporting producers which meet certain criteria to be granted the same treatment as the co-operating companies not included in the sample ('new exporting producer treatment' or 'NEPT').

Six companies have requested new exporting producer treatment and their claims have been examined.

It is therefore proposed that the Council adopts the attached proposal for a Regulation, which sets out the name and duty rate of the company to which new exporting producer treatment is granted. The Regulation should be published in the *Official Journal of the European Union*.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ("the basic Regulation").

Council Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

- Council Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China leaves no scope for national decision.
- indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason:

– the above-mentioned basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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amending Regulation (EC) No 1212/2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China

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 Community¹ (the 'basic Regulation'),

Having regard to Article 1(4) of Council Regulation (EC) No 1212/2005 of 25 July 2005 imposing a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China²,

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

Whereas:

A. MEASURES IN FORCE

- (1) By Regulation (EC) No 1212/2005, the Council imposed a definitive anti-dumping duty on imports into the Community of castings of non-malleable cast iron of a kind used to cover and/or give access to ground or sub-surface systems, and parts thereof, whether or not machined, coated or painted or fitted with other materials, excluding fire hydrants, originating in the People's Republic of China ('PRC') ('the product concerned'), normally declared within CN codes 7325 10 50, 7325 10 92 and ex 7325 10 99 (Taric code 7325 10 99 10). Given the large number of co-operating parties, a sample of Chinese exporting producers was selected during the investigation which led to the imposition of the measures.
- (2) The sampled companies were attributed the individual duty rates established during the investigation. The cooperating non-sampled companies which were granted market economy treatment ('MET'), in accordance with the provisions of Article 2(7)(c) of the basic Regulation, were attributed the 0% anti-dumping duty which was established for the sole sampled company which was granted MET. The cooperating non-sampled companies which were granted individual treatment ('IT'), in accordance with the

¹ OJ L 56, 6.3.1996, p. 1.

² OJ L 199, 29.7.2005, p. 1.

provisions of Article 9(5) of the basic Regulation, received the weighted average duty of 28,6% established for the sampled companies that were granted IT. A countrywide duty of 47,8% was imposed on all other companies.

- (3) Article 1(4) of Regulation (EC) No 1212/2005 gives the possibility to Chinese exporting producers which meet the four criteria set out in that Article to be granted the same treatment as the one mentioned in recital (2) above for the co-operating companies not included in the sample ('New Exporting Producer Treatment' or 'NEPT').

B. NEW EXPORTING PRODUCERS' REQUESTS

- (4) Six companies have requested to be granted NEPT. One company subsequently withdrew its request in the course of the investigation.
- (5) An examination has been carried out to determine whether each of the applicants fulfils the criteria for being granted NEPT as set out in Article 1(4) of Council Regulation (EC) No 1212/2005, by verifying that:
- (1) it did not export to the Community the product concerned during the investigation period on which the measures are based (1 April 2003 to 31 March 2004) (the first criterion);
 - (2) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by that Regulation (the second criterion);
 - (3) it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity of the product concerned to the Community (the third criterion);
 - (4) it operates under market economy conditions defined in Article 2(7)(c) of the basic Regulation or alternatively that it fulfils the requirements to have an individual duty applied in accordance with Article 9(5) of the basic Regulation (the fourth criterion).
- (6) Since the fourth criterion implies that the applicants submit a claim for Market Economy Treatment ('MET') and/or Individual Treatment ('IT'), the Commission sent MET and IT claim forms to all Chinese applicants. Five Chinese applicant companies requested MET pursuant to Article 2(7) of the basic Regulation. One company requested only IT pursuant to Article 9(5) of the basic Regulation.
- (7) Questionnaires were sent to all applicants who were asked to supply evidence to demonstrate that they met the criteria mentioned above.
- (8) Exporting producers fulfilling these criteria may, pursuant to Article 1(4) of Council Regulation (EC) No 1212/2005, be granted either the 0% duty rate applicable to companies to whom MET was granted in accordance with Article 2(7)(c) of the basic Regulation, or the weighted average duty rate of 28,6% applicable to companies to

whom individual IT was granted in accordance with Article 9(5) of the basic Regulation.

- (9) The Commission sought and verified all information it deemed necessary for the purpose of the determination of the fulfilment of the four criteria set out in Article 1(4) of Council Regulation (EC) No 1212/2005.

C. FINDINGS

- (10) The examination of the requests established that two companies did not export the product concerned to the Community after the investigation period on which the measures are based, nor did they enter into an irrevocable contractual obligation to export the product concerned to the Community. These companies did not meet the third criterion mentioned in recital (5) above and therefore could not be granted NEPT.
- (11) Two Chinese exporting producers could not show that they were not related to exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by Council Regulation (EC) No 1212/2005; indeed they could not successfully rebut evidence pointing to such a relationship. These companies did not meet the second criterion mentioned in recital (5) above and therefore could not be granted NEPT.
- (12) One Chinese exporting producer, Weifang Stable Casting, that only requested IT, provided sufficient evidence to prove that it meets all the four criteria mentioned at recital (5) above. This company in fact could prove that i) it did not export to the Community the product concerned during the period 1 April 2003 to 31 March 2004, ii) it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by Regulation (EC) No 1212/2005, iii) it actually exported a significant quantity of the product concerned to the Community starting from the year 2008, iv) it fulfils all the requirements for IT and can therefore be granted an individual duty in accordance with Article 9(5) of the basic Regulation. Therefore, this producer could be granted the weighted average duty rate for companies granted IT applicable to the co-operating companies not included in the sample (i.e. 28,6%) in accordance with Article 1(4) of Council Regulation (EC) No 1212/2005, and be added to the list of exporting producers in Article 1(2) of that Regulation.

D. MODIFICATION OF THE LIST OF COMPANIES BENEFITING FROM INDIVIDUAL DUTY RATES

- (13) In consideration of the findings of the investigation as indicated in recital (12) above, it is concluded that the company Weifang Stable Casting should be added to the list of companies individually mentioned under Article 1(2) of Council Regulation (EC) No 1212/2005 with a duty rate of 28,6%.
- (14) All the applicants and the Community Industry have been informed of the findings of the investigation and have had the opportunity to submit their comments. Their comments were taken into account where appropriate,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Council Regulation (EC) No 1212/2005 shall be replaced by the following:

' 2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, for products described in paragraph 1 and produced in the People's Republic of China by the companies listed below shall be as follows:

Company	Anti-dumping duty (%)	Taric additional code
Shijiazhuang Transun Metal Products Co. Ltd., Xinongcheng Liulintun, Luancheng County, Shijiazhuang City Hebei Province, 051430 PRC	0	A675
Shaoshan Huanqiu Castings Foundry, Fengjia Village Yingtian Township, Shaoshan, Hunan, PRC	0	A676
Fengtai Handan Alloy Casting Co. Ltd. Beizhangzhuang Town, Handan County, Hebei, PRC	0	A677
Shanxi Jiaocheng Xinglong Casting Co. Ltd. Jiaocheng County, Shanxi Province, PRC	0	A678
Tianjin Jinghai Chaoyue Industrial and Commercial Co. Ltd. Guan Pu Tou Village, Yang Cheng Zhuang Town Jinghai District, 301617 Tianjin, PRC	0	A679
Baoding City Maikesaier Casting Ltd. Xin'anli Town, Tang County Hebei; Baoding 072350, PRC	0	A867
Baoding Yuehai Machine Manufacturing Co., Ltd., No 333 Building A Tian E West Road, Baoding, Hebei, PRC	0	A868
Shanxi Yuansheng Casting and Forging Industrial Co. Ltd No. 8 DiZangAn, Taiyuan, Shanxi, 030002, PRC	18,6	A680
Botou City Simencum Town Bai fo Tang Casting Factory Bai Fo Tang Village, Si Men Cum Town, Bo Tou City 062159, Hebei Province, PRC	28,6	A681
Hebei Shunda Foundry Co. Ltd., Qufu Road, Quyang 073100, PRC	28,6	A682
Xianxian Guozhuang Precision Casting Co., Ltd. Guli Village, Xian County, Hebei, Gouzhuang, PRC	28,6	A869
Wuxi Norlong Foundry Co., Ltd. Wuxi New District Jiangsu, PRC	28,6	A870
HanDan County Yan Yuan Smelting and Casting Co., Ltd South of Hu Cun Village, Hu Cun Town, Han Dan County, Hebei, PRC	28,6	A871

Tianjin Loiselet Art Casting Co., Ltd Dongzhuangke, Yangchenzhuang, Jinghai, Tianjin, PRC	28,6	A872
Weifang Stable Casting Co., Ltd Fangzi District, Weifang City, Shandong Province, PRC	28,6	A931
Changan Cast Limited Company of Yixian Hebei Taiyuan main street, Yi County, Hebei Province 074200, PRC	31,8	A683
Shandong Huijin Stock Co. Ltd., North of Kouzhen Town Laiwu City, Shandong Province, 271114, PRC.	37,9	A684
All other companies	47,8	A999'

Article 2

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,

*For the Council
The President*