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2013/0318 (NLE)

Proposal for a

COUNCIL IMPLEMENTING REGULATION

terminating the partial interim review concerning the anti-dumping measures on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports consigned from Malaysia, whether declared as originating in Malaysia or not

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation'), in the partial interim review concerning the anti-dumping duties in force on imports of certain iron or steel fasteners originating in the People's Republic of China as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not.

General context

This proposal is made in the context of the implementation of the basic Regulation.

Existing provisions in the area of the proposal

A definitive anti-dumping duty on imports of certain iron or steel fasteners currently falling within CN codes ex 7318 12 90, ex 7318 14 91, ex 7318 14 99, ex 7318 15 59, ex 7318 15 69, ex 7318 15 81, ex 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00 originating in the People's Republic of China was imposed by Council Regulation (EC) No 91/2009 (OJ L 29, 31.1.2009, p.1), as amended by Council Implementing Regulation (EC) No 924/2012 (OJ L 275, 10.10.2012, p.1).

By Council Implementing Regulation (EU) No 723/2011 (OJ L 194, 26.7.2011, p.6) the anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China were extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not.

Consistency with other policies and objectives of the Union

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

Interested parties concerned by the proceeding were given the possibility to defend their interests during the proceeding, in line with the provisions of the basic Regulation.

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 provide 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

On 14 May 2013, the Commission initiated a partial interim review concerning the anti-dumping duties on imports of certain iron or steel fasteners originating in the People's Republic of China as extended to imports consigned from Malaysia, whether declared as originating in Malaysia or not.

The review was initiated following a substantiated request lodged by Malaysian Precision Manufacturing SDN BHD ('the applicant').

The applicant withdrew its request for review before replying to the questionnaire. It was established that the termination of the review proceeding would not be against the interest of the Union.

Therefore, it is suggested that the Council adopts the attached proposal for a Regulation in order to terminate the interim review investigation, which should be published in the *Official Journal of the European Union*.

Legal basis

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

Subsidiarity principle

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

Proportionality principle

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

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, 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 instrument: Regulation.

Other means would not be adequate for the following reason:

Other means would not be adequate because the basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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terminating the partial interim review concerning the anti-dumping measures on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports consigned from Malaysia, whether declared as originating in Malaysia or not

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community¹ ('the basic Regulation') and in particular Articles 11(3) and 13(4) thereof,

Having regard to the proposal submitted by the European Commission ('the Commission') after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Measures in force

- (1) The Council imposed definitive anti-dumping duty on imports of certain iron or steel fasteners, currently falling within CN codes ex 7318 12 90, ex 7318 14 91, ex 7318 14 99, ex 7318 15 59, ex 7318 15 69, ex 7318 15 81, ex 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00 originating in the People's Republic of China, by Regulation (EC) No 91/2009² as amended by Council Implementing Regulation (EU) No 924/2012³ ('measures in force').
- (2) The Council extended the definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not by Regulation (EU) No 723/2011⁴ ('measures in force as extended').

1.2. Request for a review

- (3) A request for a partial interim review pursuant to Articles 11(3) and 13(4) of the basic Regulation was lodged by Malaysian Precision Manufacturing SDN BHD ('the applicant'), an exporting producer from Malaysia.
- (4) The request was limited in scope to granting an exemption from the measures in force as extended, as far as the applicant is concerned.

¹ OJ L 343, 22.12.2009, p. 51.

² OJ L 29, 31.1.2009, p. 1.

³ OJ L 275, 10.10.2012, p. 1.

⁴ OJ L 194, 26.7.2011, p. 6.

- (5) In the request the applicant claimed that it is a genuine producer of certain iron or steel fasteners and that it is able to produce the entire quantity of certain iron or steel fasteners that it has shipped to the Union since the start of the investigation period of the anti-circumvention investigation leading to the imposition of the measures in force as extended.
- (6) The applicant provided *prima facie* evidence that it has been established as a producer of certain iron or steel fasteners in Malaysia long before the imposition of the measures in force. In addition, the applicant claimed that although it is related to certain producers of certain iron or steel fasteners located in the People's Republic of China, its relationships with its related companies in the People's Republic of China have been established before the imposition of the measures in force and that these relationships have not been used to circumvent the measures in force as extended.

1.3. Initiation of a partial interim review

- (7) Having determined, after consulting the Advisory Committee, that the request contained sufficient *prima facie* evidence to justify the initiation of a partial interim review, on 14 May 2013 the Commission initiated a partial interim review pursuant to Articles 11(3) and 13(4) of the basic Regulation limited to the examination of the possibility of granting an exemption from the measures in force as extended as far as the applicant is concerned, by a notice published in the *Official Journal of the European Union*⁵ ('the Notice of initiation'),

1.4. Interested parties

- (8) The Commission officially informed the applicant, the representatives of Malaysia and the People's Republic of China and the association of Union producers about the initiation of the partial interim review. 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 Notice of initiation. Only the applicant came forward. No hearing has been requested.
- (9) In order to obtain information deemed necessary for its investigation, the Commission sent a questionnaire to the applicant, who did not provide any reply within the deadline set for that purpose.

2. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE PROCEEDING

- (10) On 18 June 2013 the applicant withdrew its request for the partial interim review of the measures in force as extended. The applicant claimed that it was not able to provide the Commission with the data requested in the questionnaire as regards its related companies. Furthermore, the applicant complained that the deadline for submitting questionnaire reply was too short. However, no substantiated request for an extension of time limit for submitting the reply to the questionnaire has been made.
- (11) In view of the withdrawal, it was considered whether it would be warranted to continue the review investigation *ex officio*. The Commission found no compelling reasons that termination would not be in the Union interest. On this basis, the review investigation should be terminated.
- (12) Interested parties were informed of the intention to terminate the review investigation and were given the opportunity to comment. No comments were received.

⁵ OJ C 134, 14.5.2013, p. 34.

- (13) It is therefore concluded that the partial interim review concerning the anti-dumping measures applicable to imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not should be terminated without amending the anti-dumping measures in force as extended,

HAS ADOPTED THIS REGULATION:

Article 1

The partial interim review of the anti-dumping measures, applicable to imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, initiated pursuant to Articles 11(3) and 13(4) of Regulation (EC) No 1225/2009 is hereby terminated without amending the anti-dumping measure in force as extended.

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