



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.11.2003
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Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 964/2003 of 2 June 2003 imposing definitive anti-dumping duties on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 6 June 2003, following an expiry review investigation, definitive measures were imposed, by Council Regulation (EC) No. 964/2003, on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not.

It however subsequently appeared that certain provisions were omitted in the operative part of the corresponding Council Regulation. Those provisions are necessary in order to avoid that once the tariff quotas established under the safeguard measures – also applicable to this product – are exceeded, both the safeguard and the anti-dumping duty would become payable on the same imports.

It is, therefore, proposed that the Council adopt the attached proposal for a Regulation, by which the relevant provisions will apply.

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amending Council Regulation (EC) No 964/2003 of 2 June 2003 imposing definitive anti-dumping duties on imports of certain tube or pipe-fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the Council Regulation (EC) No 452/2003 of 6 March 2003 on measures that the Community may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures¹

Having regard to the proposal submitted by the Commission, after consultations with the Advisory Committee established by Article 15 of Council Regulation (EC) No 384/96 of 22 December 1995, on protection against dumped imports from countries not members of the European Community² ('basic Regulation),

Whereas:

- (1) By Regulation (EC) No 778/2003, the Council amended, amongst others, Council Regulations (EC) Nos 584/96 and 763/2000 with regard to the anti-dumping measures applicable to certain tube and pipe fittings, of iron or steel, originating in the People's Republic of China and Thailand, and those consigned from Taiwan, whether declared as originating in Taiwan or not. The purpose was to make provision for the situation where those imports also become subject to the payment of a safeguard duty, as adopted by Commission Regulation (EC) No 1694/2002.
- (2) In such circumstances, and where the anti-dumping duty is less than, or equal to, the amount of the safeguard duty, it was considered appropriate that no anti-dumping duty should be payable. Where the anti-dumping duty is greater than the amount of the safeguard duty, it was considered appropriate that only that part of the anti-dumping duty which is in excess of the amount of the safeguard should be payable.

¹ OJ L 69, 13.3.2003, p. 8.

² OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p.1).

- (3) Pursuant to Article 11(2) of the basic Regulation, the measures imposed by Regulation (EC) No 584/96 and 763/2000 were prolonged by Council Regulation (EC) No 964/2003. However, no provision similar to the one described in recital (2) above was made by that latter Regulation for the situation where imports also become subject to the payment of a safeguard duty.
- (4) Consequently, Regulation (EC) No 964/2003 should be amended so as to make provision for the situation where imports also become subject to the payment of a safeguard duty, in the same way as the amendment introduced into the in Council Regulations (EC) Nos 584/96 and 763/2000 by Regulation (EC) No 778/2003.

HAS ADOPTED THIS REGULATION:

Article 1

In Council Regulation (EC) No 964/2003, the following paragraphs are inserted:

- in Article 1, after paragraph (2)

“(2a) Notwithstanding paragraph (2), where imports of the product concerned from Thailand are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002*, the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		to 28.3.03	29.3.03 to 28.9.03	29.9.03 to 28.3.04	29.3.04 to 28.9.04	29.9.04 to 28.3.05	
Thailand	All (Except:Thai Benkan Co. Ltd,Prapadaeng Samutprakarn)	35.2%	37.6%	37.6%	39.7%	39.7%	8851

* OJ L 261, 28.9.2002, p. 1.”

- in Article 3, after first paragraph

“2. Notwithstanding paragraph (1), with the exception of those fittings produced by the said Chup Hsin Enterprise Co. Ltd, Rigid Industries Co., Ltd and Niang Hong Pipe Fittings Co., Ltd, where imports of fittings consigned from Taiwan are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002*, the rate of anti-dumping duty applicable to the free-at-Community-frontier price, before duty, shall be as follows:

Country	Company	Rate of AD duty (%) applicable when safeguard additional duty is payable					TARIC additional code
		to 28.3.03	29.3.03 to 28.9.03	29.9.03 to 28.3.04	29.3.04 to 28.9.04	29.9.04 to 28.3.05	
Taiwan	All (except Chup Hsin Enterprise Co. Ltd, Rigid Industries Co., Ltd and Niang Hong Pipe Fittings Co., Ltd)	34.9%	37.3%	37.3%	39.4%	39.4%	A999

* OJ L 261, 28.9.2002, p. 1.”

Article 2

This Regulation shall retroactively enter into force on the day of entry into force of Council Regulation (EC) No 964/2003, namely on 7 June 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*