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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 803/2009

of 27 August 2009

imposing a definitive anti-dumping duty on imports of 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, and repealing the exemption granted to Chup Hsin Enterprise Co. Ltd. and Nian Hong Pipe Fittings Co. Ltd.

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⁾ (the 'basic Regulation'), and in particular Articles 11(2) and (3) and 13(4) thereof,

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

Whereas:

(2) The measures currently in force are definitive anti-dumping duties imposed by Council Regulation (EC) No 964/2003⁽⁴⁾ on imports of certain tube and pipe fittings of iron or steel originating in the People's Republic of China and Thailand (countries concerned), and those consigned from Taiwan, whether declared as originating in Taiwan or not, pursuant to an expiry review in accordance with Article 11(2) of the basic Regulation (the 'first expiry review'). The anti-dumping duty in force is 58,6 % for the People's Republic of China and 58,9 % for Thailand except for Thai Benkan Co. Ltd. (0 %) and Awaji Materia Co. Ltd.⁽⁵⁾ (7,4 %). Three Taiwanese companies, Chup Hsin Enterprise Co. Ltd, Rigid Industries Co. Ltd and Nian Hong Pipe Fittings Co. Ltd., are exempted from the extension of the measures to Taiwan.

(3) By Commission Decision 96/252/EC⁽⁶⁾ undertakings were accepted from certain Thai producers. In 2004, these undertakings were withdrawn by Council Regulation (EC) No 1496/2004⁽⁷⁾ amending Regulation (EC) No 964/2003.

A. PROCEDURE

1. Measures in force and previous investigations

(1) By Council Regulation (EC) No 584/96⁽²⁾, a definitive anti-dumping duty was imposed on imports of certain tube and pipe fittings of iron or steel ('TPFs' or 'the product concerned'), originating in, inter alia, the People's Republic of China (the 'PRC') and Thailand (the original investigation). Pursuant to Article 13(3) of the basic Regulation, these measures have been extended by Council Regulation (EC) No 763/2000⁽³⁾ to cover certain imports of the product concerned which are consigned from Taiwan, based on the findings of the anti-circumvention investigation.

(4) Pursuant to Article 13(3) of the basic Regulation, the measures for the product concerned originating in the PRC were extended to imports consigned from Indonesia by Council Regulation (EC) No 2052/2004⁽⁸⁾, Sri Lanka by Regulation (EC) No 2053/2004⁽⁹⁾ and the Philippines by Regulation (EC) No 655/2006⁽¹⁰⁾, whether declared as originating in the Philippines, Indonesia, Sri Lanka or not.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 84, 3.4.1996, p. 1.

⁽³⁾ OJ L 94, 14.4.2000, p. 1.

⁽⁴⁾ OJ L 139, 6.6.2003, p. 1.

⁽⁵⁾ Previously Awaji Sangyo Co Ltd., see OJ C 152, 6.7.2007, p. 16.

⁽⁶⁾ OJ L 84, 3.4.1996, p. 46.

⁽⁷⁾ OJ L 275, 25.8.2004, p. 1.

⁽⁸⁾ OJ L 355, 1.12.2004, p. 4.

⁽⁹⁾ OJ L 355, 1.12.2004, p. 9.

⁽¹⁰⁾ OJ L 116, 29.4.2006, p. 1.

- (5) Anti-dumping measures imposed by Council Regulation (EC) No 1001/2008 ⁽¹⁾ are currently also in force on imports of the product concerned from the Republic of Korea and Malaysia.

2. Request for reviews

- (6) Following the publication of a notice of impending expiry ⁽²⁾ of the anti-dumping measures in force on imports of TPFs originating in the PRC and Thailand, the Commission received a request for reviews pursuant to Article 11(2) and (3) of the basic Regulation.
- (7) The request was lodged on 5 March 2008 by the Defence Committee of the Steel Butt-Welding Fittings Industry of the European Union (the applicant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of TPFs.
- (8) The request pursuant to Article 11(2) was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.
- (9) The request pursuant to Article 11(3) was based on information provided by the applicant that, with regard to imports of the product concerned from the PRC, the measure is no longer sufficient to counteract the injurious dumping, in particular as far as the extension of the measure to imports consigned from Taiwan is concerned. The applicant has provided prima facie evidence that the exemption of imports produced by Chup Hsin Enterprise Co. Ltd, and Nian Hong Pipe Fittings Co. Ltd. from the extended measure is no longer justified as these companies appear to be engaged in circumvention practices such as transshipment of TPFs originating in the PRC via Taiwan.
- (10) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review and a partial interim review, limited to the exemption of TPFs produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) and Nian Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) from the extension of the anti-dumping measures imposed on imports originating in the PRC to imports consigned from Taiwan, the Commission initiated reviews ⁽³⁾ pursuant to Article 11(2) and (3) of the basic Regulation (the present reviews).

3. Investigation

3.1. Parties concerned by the investigation

- (11) The Commission officially advised the applicant Community producers, the other Community producers, the exporting producers in the countries concerned including Taiwan, the importers/traders, users and their associations known to be concerned, as well as the representatives of the governments of the exporting countries, of the initiation of the reviews.
- (12) The Commission sent questionnaires to all these parties and to those who made themselves known within the time limit set out in the notice of initiation. The Commission also gave interested parties the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (13) As a result, questionnaire replies were received from both exporting producers in Taiwan and the three sampled Community producers as well as the three sampled unrelated importers in the Community (see recitals (14) to (17) below).

3.2. Sampling

- (14) In view of the apparent high number of exporting producers in the PRC, unrelated importers of the product concerned in the Community and Community producers supporting the request, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission requested these parties to provide the information listed in the notice of initiation in section 5.1.(a) (i) to (iii) and sent out sampling forms requesting specific information on the sales volume and prices of each Community producer, exporting producer and importer concerned.
- (15) No reply was received from any Chinese or Thai exporting producers, therefore sampling was not applicable.
- (16) Nine Community producers replied to the sampling form. A sample of four Community producers was selected based on the volume of their sales on the Community market during the review investigation period. These producers were requested to fill in the full questionnaire. One of the selected companies did subsequently not fill in the full questionnaire and was therefore excluded from the sample. The final sample of three companies accounted for more than 59 % of the total production of the Community industry and represented 62 % of the sales volume of the Community industry on the Community market.

⁽¹⁾ OJ L 275, 16.10.2008, p. 18.

⁽²⁾ OJ C 238, 10.10.2007, p. 20.

⁽³⁾ OJ C 138, 5.6.2008, p. 42.

- (17) As far as importers of the product concerned are concerned, nine replied to the sampling form. A sample of four importers was selected based on the volume of their imports of the products concerned to the Community from the countries concerned during the review investigation period. However, one of the companies did subsequently not complete the full questionnaire and was therefore excluded from the sample.

3.3. Investigation and verification visits

- (18) The Commission sought and verified all information deemed necessary for the purposes of determining the likely continuation or recurrence of dumping and injury and the Community interest and to verify whether the exemption of certain TPFs produced by the in recital (9) above mentioned companies from the extension of the anti-dumping measures in force against the PRC is still justified to counteract the injurious dumping. Verification visits were carried out at the premises of the following companies:

(a) Sampled Community producers

- Erne Fittings GmbH, Schlins, Austria, including the related company Siekmann Fittings, GmbH, Lohne, Germany,
- Interfit S.A., Maubeuge, France,
- Virgilio Cena & Figli S.p.A, Brescia, Italy,

(b) Sampled unrelated importers

- BSS Group plc, Leicester, UK,
- Eurobridas Fittings, S.A., Zaragoza, Spain,
- Manfred Geldbach GmbH & Co., Gelsenkirchen, Germany,

(c) Exporting producers in Taiwan

- Chup Hsin Enterprise Co. Ltd, Kaohsiung,
- Nian Hong Pipe Fittings Co. Ltd, Kaohsiung,

(d) Producer in the analogue country, the USA

- Weldbend Corporation, Argo, Illinois, USA,

3.4. The review investigation period

- (19) The investigation of continuation or recurrence of dumping covered the period from 1 April 2007 to 31 March 2008 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2004 up to the end of the RIP (the period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product under consideration

- (20) The product under review is the same as in the original investigation and the first expiry review: certain 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 the People's Republic of China and Thailand.

- (21) TPFs are manufactured essentially by cutting and forming tubes and pipes. They are used to join tubes and pipes and come in different shapes: elbows, reducers, tees and caps, as well as different sizes and material grades. They are used mainly in the petrochemical industry, construction, energy generation, shipbuilding and industrial installations. When sold for use in the petrochemical industry, the global standard used is the ANSI standard. For other purposes, the most common standard used in the Community is the DIN standard.

2. Like product

- (22) As in the original investigation and the first expiry review, it was found that the TPFs produced in the countries concerned, sold domestically and/or exported to the Community, have the same basic physical, technical and chemical characteristics and end uses as the products sold in the Community by the applicant Community producers and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (23) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

1. Preliminary remarks

- (24) As mentioned above, in the absence of cooperation from any exporting producers in the PRC and Thailand, this examination had to be based on information available to the Commission from other sources, such as the review request, Eurostat, Chinese Customs statistics, and the information gathered in the analogue country.

2. Thailand

(a) Normal value

- (25) In accordance with Article 18 of the basic Regulation, and in the absence of any cooperation from Thai exporting producers, the normal value was based on the data provided in the request, i.e. estimated cost of manufacturing in Thailand to which was added 15 % for SGA and 11 % for profit. There was no indication that this level of profit would exceed the profit normally realised by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin as provided for in Article 2(6)(c).

(b) Export price

- (26) In accordance with Article 18 of the basic Regulation, and in the absence of cooperation from Thai exporting producers, the export price was calculated by using Eurostat data. These figures were adjusted by product types in proportion to the tonnage of each product type based on information provided in the request.

(c) Comparison

- (27) To ensure a fair comparison the export price was adjusted for inland and ocean freight, insurance, commissions and packing in accordance with Article 2(10) of the basic Regulation.

(d) Dumping margin

- (28) In order to calculate the dumping margin, the Commission compared the weighted average normal value with the average export price to the Community at ex-factory level and at the same level of trade, in accordance with Article 2(11) of the basic Regulation. This comparison showed the existence of a dumping margin for Thailand of 17,8 %, being equal to the amount by which the normal value established exceeded the export price.

3. People's Republic of China

(a) Normal value: Analogue Country

- (29) The existing measures provide for a single countrywide duty on all imports into the Community of the like product originating in the PRC. Accordingly, the normal value was determined on the basis of information obtained in a market economy third country (the analogue country). In the original investigation Thailand was chosen as analogue country. However, the United States of America was envisaged as analogue country in the notice of initiation as the Community industry in its review request had indicated that it was now a more appropriate choice than Thailand. However, all efforts were made to find possible alternatives in other third countries, but no companies agreed to cooperate, except for one company in the USA.

- (30) The choice of the USA, in accordance with Article 2(7) of the basic Regulation, was considered to be appropriate due to its market size, the level of imports and the strong competition on this market resulting therefrom. Furthermore, as no Thai exporters cooperated in the investigation, it was considered more appropriate to base the normal value for the PRC on the verified data of the cooperating US company. Moreover, no comments were received from any interested party after the publication of the notice of initiation about the proposal to use the USA as analogue country. As a result, the normal value was based on the data provided by the producer in the USA.

(b) Export Price

- (31) As regards the exports to the Community, given that no exporting producers in the PRC cooperated, findings had to be based on facts available, in accordance with Article 18(1) of the basic Regulation. Following the same methodology as in the original investigation, the export price was determined on the basis of Chinese customs statistics. These data were checked against data from Eurostat. Considerable differences in both quantity and price were found. Based on previously documented evidence of circumvention from the PRC which indicates that the use of Eurostat data were not sufficiently accurate, it was considered appropriate not to use them in this review.

(c) Comparison

- (32) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences in respect of transport (ocean freight), insurance costs, credit cost and broker fees, which were considered to affect prices and price comparability.

(d) Dumping margin

- (33) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value, on an ex-factory USA basis, was compared to the weighted average export price on an ex-factory China basis, at the same level of trade. The above comparison showed the existence of 100 % dumping margin for the PRC.

(e) Conclusion

- (34) The investigation has revealed that, imports from both countries have continued at high dumped levels. The investigation did not reveal any reason why the level of dumping would disappear or decrease if the measures were to be repealed. It was therefore concluded that there is a likelihood of continuation of dumping. In addition, it has to be noted that, despite the high level of the anti-dumping duties imposed on their exports, the volumes of imports from these countries have increased massively. However, it was considered appropriate to also examine whether there would be a recurrence of dumping in increased export volumes should the existing measures be repealed.

4. Development of imports should measures be repealed

- (35) For the purpose of the examination of a likelihood of recurrence of dumping, the following factors were assessed: the evolution of the export and/or production capacity of the countries concerned, the background of circumvention in the case of the PRC and the situation in the export behavior on third country markets.

5. Thailand

- (36) In the absence of cooperation from any exporting producers in Thailand, this examination had to be based on information available to the Commission from other sources i.e. the request. The Thai annual production capacity was estimated according to the request, at 63 000 tonnes, for a domestic consumption of only 4 200 tonnes, which made the Thai industry heavily dependent on exports. The annual production was estimated to be 38 000 tonnes. As a result, the spare capacity was estimated at 25 000 tonnes.

- (37) The investigation has showed that no other market worldwide could absorb this available capacity since Thailand is already subject to anti-dumping measures. These measures range from 10,68 % to 52,6 % in the USA for a product largely overlapping with the one concerned with this investigation, limited to an inside diameter of 14 inches. In addition, based on past experience and according to the request for this review, it seems that there is a general huge overcapacity worldwide and especially in South-East Asia.

- (38) Consequently if measures were allowed to lapse, it is likely that a substantial part of the Thai excess capacity would be directed to the EU market, in the light of existing restrictions and the high level of the measures in force in other main markets.

6. People's Republic of China

(a) Production and capacity utilisation

- (39) Given the absence of cooperation from Chinese exporting producers, the Commission services had to make use of the facts available. Since little information is known about the Chinese industry, the following conclusions rely on the information contained in the request and Chinese customs statistics. Support for these findings was also found in information that was made public in the framework of similar proceedings in the USA.

- (40) According to these sources, the total Chinese production capacity for the product concerned was around 365 000 tonnes per year. The current yearly Chinese production volume, as estimated in the request, was around 291 000 tonnes. This estimation was based on the Chinese

worldwide export volume given by the trade customs statistics (around 70 000 tonnes/year), and on a domestic consumption estimated at around 221 000 tonnes/year.

- (41) On this basis, the Chinese spare capacity would reach 74 000 tonnes which in itself was almost sufficient to supply the total EU consumption (79 813 tonnes).

- (42) Since the PRC, like Thailand, is also subject to anti-dumping measures ranging from 35,06 % to 182,9 % in the USA it is likely that a substantial part of the Chinese excess capacity would be directed to the EU market.

- (43) The fact that, despite the existence of high anti-dumping duties (58,6 %) in force against Chinese imports, the Chinese exporting producers managed to increase substantially their exports to the EU from 2 550 tonnes in 2004 to 10 268 tonnes in the RIP indicates the continued strong interest of Chinese exporters in the EU market.

7. Background for circumvention

- (44) In addition, Chinese exporters have demonstrated their continuing determination to export to the EU by any means as evidenced by the numerous attempts to circumvent the measures imposed by Regulation (EC) No 964/2003 by exporting successively through Taiwan, Indonesia, Sri Lanka and the Philippines.

- (45) It is even more clear, on the basis of the Chinese customs statistics, that the EU is a very attractive market for the Chinese exporting producers since they achieved some of their highest export prices (albeit dumped) when exporting to the EU.

8. Conclusion

- (46) The investigation has shown that both exporting producers in the PRC and Thailand have continued their dumping practices during the RIP.

- (47) Both countries together reached 99 000 tonnes of spare capacity which was significantly more than the total Community production during the RIP (86 723 tonnes) and even more than the total Community consumption during the same period (79 813 tonnes).

- (48) Given the fact that the PRC has a very large spare production capacity available and that it has already circumvented the measures, there is a strong likelihood that Chinese exporting producers would substantially increase their dumped exports of the product concerned to the Community in case existing measures were to be repealed.

(49) With respect to Thailand it should be noted that since the Thai companies are export oriented and given the attractiveness of the Community market, it is very likely that, should the existing measures be repealed, these companies would resume their exports of the product concerned to the Community market in substantial volumes and at dumped prices.

(50) Finally, reference is made to the practices of dumping by the Chinese and Thai exporting producers on the US market and the US anti-dumping measures which have been renewed in October 2005.

(51) In summary, it is highly probable that imports to the Community from the countries concerned will continue in significant quantities and at dumped prices, should the measures be repealed.

D. DEFINITION OF THE COMMUNITY INDUSTRY

(52) The Community industry, in accordance with Article 4(1) of the basic Regulation consisted of the three Community producers on which behalf the request was lodged and which were also selected in the sample as well as six Community producers supporting the request. On this basis, the Community industry represented a

major proportion of the total Community production, i.e. in this case more than 76 %.

E. SITUATION ON THE COMMUNITY MARKET

1. Consumption in the Community market

(53) Total Community production was determined on the basis of the information provided by the nine Community producers supporting the complaint and the estimated production volume of the non-cooperating Community producers provided in the request.

(54) The investigation revealed that a considerable part of the Community producers' sales were made to stockists that in turn exported the product concerned outside the Community, i.e. these sales were not intended for consumption on the Community market. The export sales volume from these stockists to other third market countries could not be established during the investigation. The apparent Community consumption was therefore established on the basis of the total production volume in the Community as defined above in recital (53), and on the total Community import and export volume of the product concerned based on Eurostat data.

(55) On this basis, during the period considered, the Community consumption increased by 28 %, from 62 317 tonnes in 2004 to 79 813 tonnes during the RIP.

Table 1 – Community consumption

Community consumption	2004	2005	2006	2007	RIP
Tonnes	62 317	57 492	64 919	77 095	79 813
Index (2004 = 100)	100	92	104	124	128
Y/Y trend		– 8	12	20	4

Source: Eurostat, request, verified questionnaire replies of the Community industry

2. Current imports from the countries concerned

(a) Volume and market share

(56) In order to establish total import volumes of the product concerned from the PRC, it was considered appropriate to include imports from those countries to which the current anti-dumping measures had been extended pursuant to Article 13(3) of the basic Regulation, i.e. Sri Lanka, Indonesia, the Philippines and Taiwan (see recital (2) and (4) above). Indeed, it was considered that imports from these countries were in fact products originating in the PRC. On this basis, total imported volume of TPFs from the PRC and Thailand increased from 6 861 tonnes in 2004 to 17 605 tonnes during the RIP, i.e. by 157 %. The market share of these imports, expressed as a percentage of the Community consumption, increased from 11 % in 2004 to 22 % in the RIP.

Table 2 – Imports from the countries concerned

Imports (tonnes)	2004	2005	2006	2007	RIP
PRC incl. Sri Lanka, Indonesia, Philippines and Taiwan	6 083	6 705	10 621	15 326	16 004
Market share	10 %	12 %	16 %	20 %	20 %
Thailand	778	558	1 623	1 700	1 601
Market share	1 %	1 %	2 %	2 %	2 %
Total countries concerned	6 861	7 263	12 244	17 026	17 605
Market share	11 %	13 %	19 %	22 %	22 %

Source: Eurostat

(b) Prices of the imports and undercutting

- (57) In the absence of cooperation from the exporting producers in the PRC and Thailand, the export price was based on Eurostat data. For the reasons set out above in recital (56), the average export price from the PRC was also based on the average export prices from Sri Lanka, Indonesia and the Philippines, i.e. the countries to which the measures were extended because of circumvention practices. On this basis, over the period considered, the average export price of the product concerned from the PRC, including circumvention, increased by 17 % from 997 EUR/tonne to 1 169 EUR/tonne, from Thailand by 69 % from 1 223 EUR/tonne to 2 067 EUR/tonne and from Taiwan by 22 % from 1 412 EUR/tonne to 1 718 EUR/tonne. Overall, the average price of the product from the countries concerned including Taiwan increased from EUR 1 137 in 2004 to EUR 1 479 in the RIP, i.e. by 30 %. During the same period, the cost of production increased considerably due to increase of the price of basic raw material, i.e. steel tube.
- (58) A comparison between the sampled Community producers' ex-works prices to Eurostat prices duly adjusted showed price undercutting on an average basis for PRC of 54,8 %, for Thailand of 20 % and for Taiwan 33,5 %.

3. Imports from other third countries

- (59) Anti-dumping duties are in force on imports from the Republic of Korea and Malaysia; imports from these countries decreased to a very low level during the period considered (i.e. less than 1 % of Community consumption) as reported by Eurostat.
- (60) The total import volumes of TPFs from third countries other than the ones mentioned in the previous recital increased from 4 679 tonnes in 2004 to 10 563 tonnes at the end of the RIP, i.e. by 126 %. The market share of these imports reached 13 % of the Community consumption. This means an increase of 76 % in the period considered from 8 % to 13 %.

Table 3 – Imports and market share of imports from other third countries

	2004	2005	2006	2007	RIP
Imports from other third countries (tonnes)	4 679	6 134	6 795	9 993	10 563
Index (2004 = 100)	100	131	145	214	226
Market share	8 %	11 %	10 %	13 %	13 %
Index (2004 = 100)	100	142	139	173	176

Source: Eurostat and market information provided by the applicant

Table 4 – Main imports into the Community

Main imports from other third countries in tonnes and by country	2004	2005	2006	2007	RIP
Israel	78	945	1 231	2 455	3 293
Turkey	650	506	467	1 991	2 138
Vietnam	767	695	1 225	1 748	2 134
India	1 537	1 763	1 553	1 703	1 065

Source: Eurostat and market information provided by the applicant

4. Economic situation of the Community industry

4.1. Preliminary remark

- (61) The trends of the economic indicators such as production, production capacity, capacity utilisation, employment, productivity, sales, market share and growth were assessed on the basis of the information collected from all Community producers, while the trends concerning prices, profitability, cash flow, ability to raise capital and investments, stocks, return on investment and wages was assessed on the basis of the verified information provided in the full questionnaire response by the sampled Community producers.

4.2. Data relating to the Community industry as a whole

(a) Output, production capacity and capacity utilisation

- (62) The Community industry's overall production increased by 8 % during the period considered, while the production capacity increased by 5 %. During the same period the capacity utilisation has slightly increased. However, this has to be seen in the light of the 28 % increase in Community consumption.

Table 5 – Production, production capacity and capacity utilisation

	2004	2005	2006	2007	RIP
Production volume in tonnes	80 044	73 049	82 950	85 536	86 723
Production capacity in tonnes	154 840	155 740	160 890	162 910	163 210
Capacity utilisation in %	52	47	52	53	53

Source: Eurostat, request, verified questionnaire replies of the Community industry

(b) Employment and productivity

- (63) Employment level within the Community industry remained relatively stable, except in 2005, showing 1 % decrease over the whole period considered. Productivity, measured as output in tonnes per person employed, increased by 9 %.

Table 6 – Employment and productivity

	2004	2005	2006	2007	RIP
Employment (product concerned)	1 297	1 073	1 268	1 289	1 287
Productivity (tonnes/employees)	62	68	65	66	67

(c) Sales volume and market share

- (64) The Community industry's sales volume to unrelated customers on the Community market increased by 4 %, from 59 399 tonnes in 2004 to 61 991 tonnes in the RIP. However, market shares of the Community industry declined constantly throughout the period considered. The overall market share held by the Community industry decreased thus by 21 %. As explained above, a considerable part of the Community products is sold for export through stockists. Thus, market share was expressed as the proportion of total Community output minus total exports in the apparent Community consumption.

Table 7 – Sales volume and market share

	2004	2005	2006	2007	RIP
Sales volume in the EU to unrelated parties in tonnes	59 399	51 461	57 299	60 193	61 991
Market share	81 %	77 %	71 %	65 %	65 %
Index (2004 = 100)	100	94	87	80	79

(d) Growth

- (65) While Community consumption grew by 28 % between 2004 and the RIP, the 21 % decrease in the market share of the Community industry and the parallel increase in imports from the countries concerned clearly show that the Community industry could not participate in the growth of the market.

(e) Magnitude of dumping margin

- (66) Given the volume, the market share and the prices of the dumped imports from the countries concerned, the impact on the Community industry of the actual margins of dumping cannot be considered to be negligible.

(f) Recovery from the effects of dumping

- (67) As shown by the positive evolution of most of the indicators listed above, in the years 2004 to early 2008 the financial situation of the Community industry has partially recovered from the injurious effect of dumped imports originating in the countries concerned.

4.3. Data relating only to the sampled Community producers

(a) Stocks

- (68) Stocks increased by 3 % during the whole period considered. Stock levels were significantly higher in 2007 which was due to rising steel tube prices that led the companies to build up higher stocks.

Table 8 – Stocks

Closing Stock in Volume	2004	2005	2006	2007	RIP
Tonnes	7 449	7 206	7 580	8 510	7 703

Source: Verified questionnaire replies of the sampled Community producers

(b) Average sales prices

- (69) During the period considered the average sales prices charged by the sampled Community producers on the Community market increased gradually. The total increase between 2004 and the RIP was 57 %. This rise is partly explained by the increase in the cost of the main raw material, steel tubes, and partly by a shift in two Community producers' production scope to focus on more expensive special types.

Table 9 – Average sales price

Sales price	2004	2005	2006	2007	RIP
EUR/tonne	1 779	2 128	2 482	2 738	2 790
Index (2004 = 100)	100	120	139	154	157

Source: Verified questionnaire replies of the sampled Community producers

(c) Average cost of production

- (70) During the period considered the average cost of production (COP) also increased gradually mainly due to the increased steel prices. The average COP increased from 1 628 EUR/tonne to 2 401 EUR/tonne in the RIP, i.e. by 48 %.

Table 10 – Average costs of production

Unit cost	2004	2005	2006	2007	RIP
EUR/tonne	1 628	2 059	1 998	2 040	2 401
Index (2004 = 100)	100	127	123	125	148

Source: Verified questionnaire replies of the sampled Community producers

(d) Profitability and cash flow

- (71) The sampled Community producers' profitability followed a positive trend, in line with the increase in the sales prices. Despite significant problems in 2004 and 2005, overall profitability reached 9,1 % in the RIP. This was partly due to a switch to the production of products with a higher added value during the period considered.
- (72) There were considerable fluctuations in cash flow between 2004 and 2006 followed by a very significant and gradual increase up till the end of the period considered.

Table 11 – Profitability and cash flow

	2004	2005	2006	2007	RIP
Profitability	1,8 %	1,2 %	7,2 %	10,6 %	9,1 %
Index (2004 = 100)	100	70	403	598	514
Cash flow (EUR '000)	3 320	1 425	7 577	10 100	12 308
Index (2004 = 100)	100	43	228	304	371

Source: Verified questionnaire replies of the sampled Community producers

(e) Investments, return on investment and ability to raise capital

- (73) The sampled Community producers increased investments by 115 % during the period considered. Investments were mostly done for the development of machinery and for building of better logistics capacities to increase productivity.
- (74) Return on investments, expressed as profits/losses of the product concerned in relation to the net book value of investments, has risen considerably during the period, following the trend of profitability.
- (75) No evidence was provided to the Commission in respect of a reduced or increased ability to raise capital over the period considered.

Table 12 – Investments and return on investments

	2004	2005	2006	2007	RIP
Investments to PC (EUR 000)	2 567	4 448	3 930	4 986	5 524
Index (2004 = 100)	100	173	153	194	215
Return on investments	4 %	2 %	29 %	44 %	38 %

Source: Verified questionnaire replies of the sampled Community producers

5. Conclusion on the situation of the Community industry

- (76) Anti-dumping measures had a positive impact on the situation of the sampled Community producers as demonstrated by the positive development of most of the indicators since 2004, during a period of a favourable economic cycle. The Community industry increased its sales volumes and prices. Injury indicators such as production, production capacity, profitability, investments, return on investments and productivity also showed a positive development. The increased investments destined to improve production facilities had a direct impact on the profitability of the sampled producers, despite the significant loss in market shares.
- (77) However, it should be considered that the Community producers need to maintain a certain level of production and sales volume to absorb the fixed costs. TPFs are produced by tailor-made, specialized machinery that is a significant cost factor. The sampled companies operated at around 50 % capacity over the period considered and were not able to increase their capacity utilisation significantly. Therefore profitability remains vulnerable to decreases in production.
- (78) Notwithstanding the above described positive developments, the Community industry lost a significant

part of their market share over the period considered from 81 % in 2004 to 65 % during the RIP. After a drop in sales volumes, the Community producers were able to regain the level of sales volume already realised in 2004, while total Community consumption increased by 28 % over the same period. Clearly, the Community industry did not manage to take advantage of the significant growth in consumption in the Community. Also, some of the positive factors are the result of the disappearance of a significant Community producer in the United Kingdom, whose activities were taken over by two of the companies supporting the request.

- (79) Considering the above, it can be concluded that the introduction of measures against the PRC and Thailand had a certain positive impact on the financial situation of the Community industry that could regain profitability. However, while the Community industry was able to increase production and sales volumes slightly, market shares were lost when demand on the Community market increased significantly. This shows that despite the investments made into modernized production facilities the situation of the Community industry is still fragile in general and strongly dependent on the one hand on sufficient price levels and on the other hand on sufficient production volumes that allow for the absorption of high fixed costs.

F. LIKELIHOOD OF RECURRENCE OF INJURY

- (80) In order to assess the likely effect of the expiry of the measures in force, the following elements were considered:
- (81) The price pressure in the Community market remains very high given the significant undercutting margins found during the RIP. While cost of production of the Community producers increased 48 % during the period (due mainly to the increase of the price of the raw material, i.e. steel tube), the average price of the imports from the countries concerned increased only by 30 %.
- (82) Consequently, imports from the countries concerned increased their market share considerably during the period considered. This shows that the major part of market share loss of the Community industry was taken over by the imports from the countries concerned which were made at dumped prices undercutting significantly the Community industry's sales' prices, despite the anti-dumping duties in force.
- (83) Furthermore, as mentioned above in recitals (40) and (36), available spare production capacities in the countries concerned are significantly more than the total Community production during the RIP or the total Community consumption during the same period. It can therefore be expected that, should the measures be repealed, high quantities of the products produced in these countries will penetrate the Community market. On other potential export markets high anti-dumping measures are in force which would make the Community market easier to penetrate. Furthermore, the repeated attempts to circumvent the anti-dumping measures confirm the high interest of the exporting producers of the countries concerned in the Community market.
- (84) Considering the past and current price behaviour of the exporting producers in the countries concerned it is expected that imports will be low priced thus undercutting the Community industry's prices significantly. Low priced imports would certainly have a negative impact on the Community industry which only recovered since price levels could be kept at a certain level but which is still vulnerable to massive imports at low and dumped price levels.
- (85) In the light of the above, it is concluded that allowing the measures to lapse would in all likelihood result in a recurrence of injury to the Community industry caused by the dumped imports. It is in particular expected that the price level in the Community will decrease significantly with a strong negative impact on the Community producer's profit levels which would not only endanger the significant investments made since 2004, but would also not allow any further investments. This would inevitably also lead to an important loss of

employment of the Community industry. The likelihood of the recurrence of injury has been recently magnified in view of the current situation caused by the economic downturn.

G. COMMUNITY INTEREST

1. Introduction

- (86) According to Article 21 of the basic Regulation, it was examined whether a prolongation of the existing anti-dumping measures would be contrary to the interests of the Community industry as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders as well as the users of the product concerned.
- (87) In order to assess the likely impact of the continuation or non-continuation of the measures, the Commission requested information from all interested parties mentioned above. The Commission sent sampling questionnaires to 62 importers of the product concerned and received nine answers. The Commission selected a sample of four companies from which three provided a full questionnaire response. No submissions were received from users.
- (88) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the fact that the present investigation is a review, analysing a situation in which anti-dumping measures have already been in place allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (89) On this basis, it was examined whether despite the conclusions on continuation of dumping and likelihood of recurrence of injury, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to maintain measures in this particular case.

2. Interests of the Community industry

- (90) The Community industry has proved to be a structurally viable industry. This was confirmed by the positive development of its economic situation at a time when effective competition had been restored after the imposition of the anti-dumping measures that are currently in force. Indeed, the efforts made by the Community industry to rationalise its production and enhance its competitiveness have led to a reasonable profit in the last two years of the period considered. Also, profitable export activity of the Community industry developed positively showing that it was competitive on third country markets (exports of the sampled producers increased by 21 % over the period considered).

- (91) For the reasons outlined in recital (77), the Community industry needs to produce a certain volume of standard products in order to achieve economies of scale and thus remain competitive. Standard products are therefore in direct competition with the imports from PRC and Thailand. If products at dumped prices would enter the market, economies of scale and thus profitability of the operations in the Community would consequently be decreased significantly. In turn, it can reasonably be expected that the Community industry will continue to benefit from the measures currently imposed. Should measures not be maintained, it is likely that the Community industry will suffer material injury.

3. Interests of importers/traders

- (92) None of the cooperating importers imported the product concerned from PRC or Thailand, but only from Taiwan. The investigation provided no evidence that the measures in force had materially affected the importers. It is clear that the importers could find other sources of supply, as can be seen from the market share (13 %) held by other third countries, which showed that conditions of competition on the Community market are ensured.
- (93) As far as Taiwan is concerned, and as outlined below in recitals (98) to (105), the current exemption for two exporting producers was reassessed because of allegations of circumvention practices. Importers were confident that in case the exemption of these companies would be repealed, they would be able to find other supply sources. Thus, the maintenance of the measures will not have a significant negative effect on importers due to other supply channels. It should, however, be noted that some problems may arise for the niche market of British standard products where known supply is limited to one European and one Taiwanese producer. This effect will, however, probably be felt only on the short term until other sources emerge.
- (94) It is therefore concluded that the economic situation of the importers of the product concerned has not been negatively influenced to any significant extent by the imposition of the anti-dumping measures currently in force. This is confirmed by the fact that the importers continued to trade the product concerned in significant volumes, even raising the volume imported during the period considered. On the same grounds, it is also unlikely that a continuation of the measures would lead to a deterioration in their economic situation in the future.

4. Interests of users

- (95) The users of the product concerned are mainly the petrochemical and building industries. The Commission sent out questionnaires to 9 users. None of the users cooperated or made themselves known in the current investigation. Their lack of cooperation seems to confirm that the tube or pipe fittings represent a very small part of their total production costs and that the measures in

force do not appear to have caused any loss of competitiveness for them.

5. Conclusion on Community interest

- (96) The investigation has shown that the existing anti-dumping measures have allowed the Community industry to become profitable, even though it suffered significant market share loss because of continued dumped imports. If measures were allowed to lapse, this would endanger the recovery process and possibly lead to the disappearance of the Community industry.
- (97) Furthermore, in the past, the existing measures appear not to have had any significant negative effect on the economic and financial situation of users and importers. It is therefore concluded that there are no compelling reasons against the continuation of the existing anti-dumping measures.

H. INTERIM REVIEW CONCERNING THE EXEMPTED TAIWANESE COMPANIES

1. Background

- (98) In 2000, Regulation (EC) No 763/2000 extended the anti-dumping measures imposed on imports originating in the PRC to imports consigned from Taiwan of certain tube or pipe fittings, of iron or steel with the exception of those produced and exported by Chup Hsin Enterprise Co. Ltd (Chup Hsin), Nian Hong Pipe Fittings Co. Ltd, (Nian Hong) and Rigid Industries Co. Ltd. (Kaohsiung, Taiwan) because it was found that they did not circumvent the measures.
- (99) The present partial interim review was limited to the review of the non-extension of the duties granted to Chup Hsin and Nian Hong.
- (100) Both of these companies cooperated in this investigation by replying to the Commission's questionnaire and accepting a verification visit at their premises.
- (101) In response to the final disclosure document one company claimed that the initiation of the current investigation was not warranted. Specifically, the company stated that since they had been exempted from the extended measures in 2000, there were no measures in force against them to be reviewed. In this regard, the company referred to the WTO Appellate Body Report in the Beef & Rice Mexico case. This Report interprets Article 5.8 of the Anti-Dumping Agreement, as applicable to new investigations where exporters are found to have a *de minimis* dumping margin. Article 5.8 indeed explicitly refers to 'an application under Article 5.1'. However, in the current case, Chup Hsin and the other two companies were subject to an anti-circumvention investigation initiated on the basis of Article 13 of the basic Regulation and not a new

anti-dumping investigation. Indeed, in 2000 the imports from Taiwan were found to be circumventing the measures imposed on the PRC, with the exemption of three companies, on the grounds that they were not importing the product concerned from the PRC at that time. The basic Regulation does not preclude such exemption being reviewed at any point if evidence of circumvention exists. Therefore, the initiation of the current interim review was indeed warranted and legally sound. On that basis the company's claim is rejected.

- (102) Since the non-extension of the duties was established on the basis of the findings of the initial anti-circumvention investigation, in the present review it was examined whether those findings were still valid. In accordance with Article 13(1) of the basic Regulation, it was examined whether the conditions for circumvention were met.

2. Change in the pattern of trade

- (103) With regard to Nian Hong the findings showed that the company imported TPFs of all types (elbows, reducers, caps and tees) from the PRC. The company claimed that these imports were not product concerned but semi-finished goods. The result of the investigation could not confirm these claims. Moreover, it was found that Nian Hong's input to these goods was limited to bevelling, marking the company's logo and packing, which represented less than 10 % of the total COP. In addition, the Taiwanese customs import declaration from the PRC mentioned the CN code of the product concerned (7307 93), i.e. the finished product.
- (104) With regard to Chup Hsin, their questionnaire reply did not mention any purchases or corresponding resales of TPFs with Chinese origin. Only during the on-spot verification visit was it found that the company imported TPFs from the PRC. The evidence collected showed that those imports were made through a Japanese company. After the verification visit, the company claimed that all imports of TPF with Chinese origin were sold on the Taiwanese domestic market. The company submitted revised data for some tables of the questionnaire reply. However, the fact that the information concerning the imports from the PRC was originally omitted was considered misleading within the meaning of Article 18 of the basic Regulation and cast serious doubts about the reliability of the information submitted both before and after the verification visit.
- (105) As mentioned above, the grounds for originally granting an exemption to Chup Hsin and Nian Hong was that both companies at that time did not purchase any TPF from the PRC, which is not the case any longer. Given the circumvention practices revealed, the change in the pattern in trade is established since products originating in the PRC are now consigned through Taiwan also by the abovementioned two companies.

3. Insufficient due cause or economic justification

- (106) For neither company did the practice of re-exporting of the imported Chinese products have any other due cause or sufficient economic justification than that of the circumvention of the anti-dumping measures.
- (107) In the case of Nian Hong, the products were only slightly modified and the value added to the product concerned was thus very low.
- (108) With regard to Chup Hsin, the fact that the company omitted to report its imports of the Chinese product in its reply to the questionnaire was considered misleading on the one hand and on the other hand an indication that it was aware that it was circumventing the measures imposed on the tube and pipe fittings originating in the PRC. Moreover, on the basis of evidence provided by the two companies, the investigation has established that it was possible to import goods from a third country into Taiwan and re-export them under a Taiwanese certificate of origin without them undergoing any substantial transformation.

4. Undermining of the remedial effects of the duty in terms of the prices and/or quantities of the like products

- (109) Based on Eurostat, total exports from Taiwan to the Community increased by 209 % from 2 372 tonnes in 2003 to 7 335 tonnes in the RIP. However, the volume of exports remained more or less stable between 2003 and 2005, but increased massively from 2006 to the end of the RIP. The two Taiwanese companies, which alone were responsible for almost the total Taiwanese export of the product concerned to the EU during the RIP, increased their exports to the EU by 206 % between 2005 and the RIP.
- (110) The volume of imports concerned represented 9 % of Community consumption, which is considered significant. It is therefore clear that the marked change in trade flows undermined the remedial effects of the measures in terms of the quantities imported into the Community market.
- (111) With regard to the prices of the products consigned from Taiwan, Eurostat data showed that the average export prices of imports from Taiwan during the RIP reached EUR 1 718/tonne, which was significantly below the prices of the Community industry (- 33,5 %). A comparison between the sampled Community producers' ex-works prices and Chup Hsin and Nian Hong's verified export prices showed price underselling on an average basis of 86,6 % and 71 % respectively, i.e. the percentage by which the export prices of these companies were lower than the non-injurious prices of the Community industry. Hence, the remedial effects of the anti-dumping duty imposed are undermined in terms of price.

- (112) On the basis of the above it is concluded that the change in trade flows, together with the substantial increase in imports from Taiwan made at very low prices, has undermined the remedial effects of the anti-dumping measures in terms of both quantities and prices of the like product.

5. Evidence of dumping in relation to the normal values previously established for the like product

- (113) In order to determine whether evidence of dumping could be found with respect to the product concerned exported to the Community by the two Taiwanese companies during the IP, export prices were based on the companies' own data.
- (114) In accordance with Article 13(1) of the basic Regulation, these export prices were compared with the normal value previously established for the like product. In the previous expiry review in 2003, Thailand was found to be an appropriate market economy analogue country for the PRC for the purposes of establishing normal value.
- (115) For the purposes of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affected prices and price comparability. These adjustments were made in accordance with Article 2(10) of the basic Regulation in respect of transport and credit cost on the basis of the information gathered during the verification visits.
- (116) In accordance with Article 2(11) of the basic Regulation the comparison between the weighted average normal value as established in the original investigation and the weighted average of export prices during this review investigation, expressed as a percentage of the CIF price at the Community frontier, duty unpaid, showed dumping for the imports of tube or pipe fittings by the two Taiwanese companies. The dumping margins found, expressed as a percentage of the CIF price at the Community frontier, duty unpaid, were 56,09 % for Chup Hsin and 44,77 % for Nian Hong.

6. Conclusion concerning the review of the exemptions from the extension of the measures to imports from Taiwan

- (117) In view of the above finding of circumvention, and in accordance with Article 13(1), first sentence, of the basic Regulation, the existing anti-dumping measures on imports of the product concerned originating in the PRC should be extended to imports of the same product consigned from Chup Hsin and Nian Hong.

7. Lasting nature of changed circumstances

- (118) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances could reasonably be said to be of lasting nature.
- (119) With regard to Nian Hong, the investigation has shown that the company has no genuine production for some years and that all exports to the Community from this company were tube and pipes fittings imported from the PRC. Given that genuine production has ceased for several years now, there is no reason to believe that this situation is not lasting.
- (120) With regard to Chup Hsin, as mentioned above in recital (104), the information submitted by it was considered unreliable. The fact that the company omitted to report the products it had imported from China in its reply to the Commission's questionnaire, is considered as an indication that it was aware of the circumvention and there is no information that the company's intention is not to continue this practice in the future.
- (121) In these circumstances, the findings from the RIP can be considered to be lasting. In conclusion, and in accordance with Article 11(3), given the circumvention practices found for the two exporting producers in Taiwan, namely Chup Hsin and Nian Hong, it is appropriate to withdraw these exemptions from the extended measures.

I. ANTI-DUMPING MEASURES

- (122) All parties concerned were informed of the essential facts and considerations on the basis of which it is intended to recommend that the existing measures be maintained and the exemption from the extension of the duty to imports of the product concerned produced by Chup Hsin and Nian Hong to be repealed. They were also granted a period within which to make representations after disclosure.
- (123) Following the abovementioned disclosure, one of the exporting producers from whom the exemption was withdrawn offered an undertaking in accordance with Article 8(1) of the basic Regulation.
- (124) This offer was examined and it was found that the formal offer had been made after the deadline for making representations, with an insufficient justification for the delay. The offer was allegedly based on the volume of exports during the RIP limited to the company's own production and the production supplied by a sub-contractor in Taiwan, which would not be subject to any anti-dumping duty up to a quantitative ceiling.

(125) However, given that during the on-spot investigation the company had been unable to prove what part of its sales to the Community were of Taiwanese production and what was imported from the PRC, the company's argument that the export figures could be checked via appropriate databases was not valid, as exports to the Community could include goods originating in the PRC. Moreover, the fact that the company omitted to report its imports from the PRC during the RIP was considered misleading within the meaning of Article 18 of the basic Regulation and casts serious doubts as to the reliability of the information submitted by the company both before and after the verification visit.

(126) For the above reasons the undertaking offered by the exporting producer concerned could not be accepted.

(127) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping duties on imports of tube and pipe fittings originating in the PRC and Thailand or consigned from Taiwan as imposed by Regulation (EC) No 964/2003, should be maintained.

(128) As a consequence, the extension of the measures for the product concerned originating in the PRC to imports consigned from Indonesia by Regulation (EC) No 2052/2004, Sri Lanka by Regulation (EC) No 2053/2004 and the Philippines by Regulation (EC) No 655/2006, whether declared as originating in the Philippines, Indonesia, Sri Lanka or not, should also be maintained.

(129) The exemptions of certain TPFs produced by Chup Hsin and Nian Hong from the extension of the anti dumping measures should be withdrawn. As a consequence, these companies will be subject to the same anti-dumping duty as producers in the PRC according to Article 13(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tube and 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 the People's Republic of China and Thailand and currently falling within CN codes ex 7307 93 11, ex 7307 93 19, ex 7307 99 30 and ex 7307 99 90 (TARIC codes 7307 93 11 91, 7307 93 11 93, 7307 93 11 94,

7307 93 11 95, 7307 93 11 99, 7307 93 19 91, 7307 93 19 93, 7307 93 19 94, 7307 93 19 95, 7307 93 19 99, 7307 99 30 92, 7307 99 30 93, 7307 99 30 94, 7307 99 30 95, 7307 99 30 98, 7307 99 90 92, 7307 99 90 93, 7307 99 90 94, 7307 99 90 95, 7307 99 90 98).

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

Country	Company	Rate of duty (%)	TARIC Additional Code
People's Republic of China	All companies	58,6	—
Thailand	Awaji Materia (Thailand) Co. Ltd. Samutprakarn	7,4	8850
	Thai Benkan Co. Ltd. Prapadaeng – Samutprakarn	0	A118
	All other companies	58,9	A999

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The definitive anti-dumping duty imposed by Article 1 on imports originating in the People's Republic of China is hereby extended to imports of the same fittings consigned from Taiwan (TARIC codes: 7307 93 11 91, 7307 93 19 91, 7307 99 30 92 and 7307 99 90 92; TARIC additional code A999), Indonesia (TARIC codes: 7307 93 11 93, 7307 93 19 93, 7307 99 30 93 and 7307 99 90 93), Sri Lanka (TARIC codes: 7307 93 11 94, 7307 93 19 94, 7307 99 30 94 and 7307 99 90 94) and the Philippines (TARIC codes: 7307 93 11 95, 7307 93 19 95, 7307 99 30 95 and 7307 99 90 95), whether declared as originating respectively in Taiwan, Indonesia, Sri Lanka and the Philippines or not, with the exception of those produced by Rigid Industries Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A099). The exemption from the extension of the duty to imports of the same fittings produced by Chup Hsin Enterprise Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A098) and Nian Hong Pipe Fittings Co. Ltd, Kaohsiung (Taiwan) (TARIC additional code A100) is hereby repealed.

Article 3

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, 27 August 2009.

For the Council

The President

C. BILDT

COMMISSION REGULATION (EC) No 804/2009**of 3 September 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 September 2009.

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

Done at Brussels, 3 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	39,9
	XS	37,6
	ZZ	38,8
0707 00 05	MK	21,7
	TR	108,0
	ZZ	64,9
0709 90 70	TR	107,4
	ZZ	107,4
0805 50 10	AR	93,0
	BR	122,7
	TR	109,0
	UY	71,2
	ZA	100,7
	ZZ	99,3
0806 10 10	EG	145,1
	TR	99,0
	ZZ	122,1
0808 10 80	AR	124,5
	BR	64,0
	CL	85,3
	NZ	82,8
	ZA	82,3
	ZZ	87,8
0808 20 50	AR	145,7
	CN	64,7
	TR	106,1
	ZA	80,6
	ZZ	99,3
0809 30	TR	118,7
	ZZ	118,7
0809 40 05	IL	121,0
	TR	99,1
	ZZ	110,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 805/2009**of 3 September 2009****fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

- (1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.
- (2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export refunds for certain agricultural products ⁽³⁾, and following an examination of the tenders submitted in response to

the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 1 September 2009.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 1 September 2009, the maximum amount of refund for the products and destinations referred to in Article 1(a) and (b) and in Article 2 respectively of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 4 September 2009.

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

Done at Brussels, 3 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for exports to the destinations referred to in Article 2 of Regulation (EC) No 619/2008
Butter	ex 0405 10 19 9700	70,00
Butteroil	ex 0405 90 10 9000	84,50

COMMISSION REGULATION (EC) No 806/2009**of 3 September 2009****fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 619/2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 164(2), in conjunction with Article 4, thereof,

Whereas:

(1) Commission Regulation (EC) No 619/2008 of 27 June 2008 opening a standing invitation to tender for export refunds concerning certain milk products ⁽²⁾ provides for a standing invitation to tender procedure.

(2) Pursuant to Article 6 of Commission Regulation (EC) No 1454/2007 of 10 December 2007 laying down common rules for establishing a tender procedure for fixing export

refunds for certain agricultural products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 1 September 2009.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the standing invitation to tender opened by Regulation (EC) No 619/2008, for the tendering period ending on 1 September 2009, the maximum amount of refund for the product and destinations referred to in Article 1(c) and in Article 2 of that Regulation shall be EUR 25,80/100 kg.

Article 2

This Regulation shall enter into force on 4 September 2009.

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

Done at Brussels, 3 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 168, 28.6.2008, p. 20.

⁽³⁾ OJ L 325, 11.12.2007, p. 69.

COMMISSION REGULATION (EC) No 807/2009**of 3 September 2009****fixing the maximum buying-in price for butter for the 11th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 186/2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 43, in conjunction with Article 4 thereof,

Whereas:

(1) Commission Regulation (EC) No 186/2009 ⁽²⁾ has opened buying-in of butter by a tendering procedure for the period expiring on 31 August 2009, in accordance with the conditions provided for in Commission Regulation (EC) No 105/2008 of 5 February 2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter ⁽³⁾.

(2) In the light of the tenders received in response to individual invitations to tender, a maximum buying-in price is to be fixed or a decision to make no award is to be

taken, in accordance with Article 16(2) of Regulation (EC) No 105/2008.

(3) In the light of the tenders received for the 11th individual invitation to tender, a maximum buying-in price should be fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the 11th individual invitation to tender for the buying-in of butter within the tendering procedure opened by Regulation (EC) No 186/2009, in respect of which the time limit for the submission of tenders expired on 1 September 2009, the maximum buying-in price shall be EUR 219,00/100 kg.

Article 2

This Regulation shall enter into force on 4 September 2009.

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

Done at Brussels, 3 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 64, 10.3.2009, p. 3.

⁽³⁾ OJ L 32, 6.2.2008, p. 3.

COMMISSION REGULATION (EC) No 808/2009**of 3 September 2009****fixing the maximum buying-in price for skimmed milk powder for the 9th individual invitation to tender within the tendering procedure opened by Regulation (EC) No 310/2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 43, in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) No 310/2009 ⁽²⁾ has opened buying-in of skimmed milk powder by a tendering procedure for the period expiring on 31 August 2009, in accordance with the conditions provided for in Commission Regulation (EC) No 214/2001 of 12 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in skimmed milk powder ⁽³⁾.
- (2) In the light of the tenders received in response to individual invitations to tender, a maximum buying-in price is to be fixed or a decision to make no award is to be

taken, in accordance with Article 17 of Regulation (EC) No 214/2001.

- (3) In the light of the tenders received for the 9th individual invitation to tender, a maximum buying-in price should be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the 9th individual invitation to tender for the buying-in of skimmed milk powder within the tendering procedure opened by Regulation (EC) No 310/2009, in respect of which the time limit for the submission of tenders expired on 1 September 2009, the maximum buying-in price shall be EUR 167,90/100 kg.

Article 2

This Regulation shall enter into force on 4 September 2009.

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

Done at Brussels, 3 September 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 97, 16.4.2009, p. 13.

⁽³⁾ OJ L 37, 7.2.2001, p. 100.

COMMISSION REGULATION (EC) No 809/2009**of 3 September 2009****prohibiting fishing for northern prawn in NAFO area, Division 3L, by vessels flying the flag of all Member States except Estonia, Latvia, Lithuania and Poland**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2009.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, Member States referred to therein have exhausted the quota allocated for 2009.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated for 2009 to the Member States referred to in the Annex to this Regulation for the stock referred to therein shall be deemed to be exhausted.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, the Member States referred to therein shall be prohibited. It shall also be prohibited to retain on board, tranship or land such stock caught by those vessels.

*Article 3***Entry into force**

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, 3 September 2009.

For the Commission

Fokion FOTIADIS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1.

⁽³⁾ OJ L 22, 26.1.2009, p. 1.

ANNEX

No	01/09/NA
Member State	All Member States except Estonia, Latvia, Lithuania and Poland
Stock	PRA/N3L.
Species	Northern Prawn (<i>Pandalus borealis</i>)
Area	NAFO Regulatory Area, Division 3L
Date	19 August 2009

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