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(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 59/2000
of 5 January 2000**

initiating a 'new exporter' review of Council Regulation (EC) No 393/98 imposing a definitive anti-dumping duty on imports of stainless steel fasteners and parts thereof originating, *inter alia*, in the People's Republic of China, repealing the duty with regard to imports from one exporting producer and making these imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

D. GROUNDS FOR THE REVIEW

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⁾, as last amended by Regulation (EC) No 905/98 ⁽²⁾, and in particular Article 11(3) and (4) thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST FOR A REVIEW

- (1) The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation'). The application was lodged by Bulten Fasteners China Co. Ltd (hereinafter referred to as 'the applicant'), an exporting producer in the People's Republic of China (hereinafter referred to as 'the PRC').

B. PRODUCT

- (2) The product concerned is stainless steel fasteners and parts thereof (hereafter referred to as 'SSFs'), originating in the PRC. The product described is currently classifiable within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30. These CN codes are only given for information.

C. EXISTING MEASURES

- (3) By Council Regulation (EC) No 393/98 ⁽³⁾, the Council imposed, *inter alia*, a definitive anti-dumping duty of 74,7 % on imports of the product concerned originating in the PRC, with the exception of imports from two exporting producers for which the Council imposed individual duty rates.

- (4) The applicant, has claimed that it operates under market economy conditions as provided for in Article 2(7)(c) of the basic Regulation, that it meets the conditions for individual treatment, that it is not related to the Chinese exporting producers which are subject to the abovementioned anti-dumping measures, and that it started exporting to the Community after the period of investigations on which the anti-dumping measures were based, i.e. the period from 1 January 1996 to 30 November 1996 (hereinafter referred to as 'the original investigation period').
- (5) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment. No comments have been received.
- (6) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a review pursuant to Article 11(3) and (4) of the basic Regulation with a view to determining the applicant's individual margin of dumping and, should dumping be found, the level of duty to which its imports of the product concerned into the Community should be subject.

E. PROCEDURE

(7) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporting producer, the importer named in the application, and to the authorities of the PRC.

(8) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ L 50, 20.2.1998, p. 1.

(9) **Selection of the market economy third country**

In accordance with Article 2(7) of the basic Regulation, Taiwan is envisaged as an appropriate market economy third country for the purpose of establishing normal value in respect of the PRC.

(10) **Market economy status**

If the applicant claims and provides properly substantiated evidence that it operates under market economy conditions, i.e. that it meets the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. The Commission will send a claim form to the applicant, as well as to the Chinese authorities.

F. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

- (11) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned originating in the PRC which are produced and sold for export to the Community by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of that Regulation, in order to ensure that, should the review result in a determination of dumping in respect of the applicant, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. TIME-LIMIT

- (12) In the interest of sound administration, time limits should be fixed within which:
- interested parties may make their views known in writing, submit supporting evidence and make a written request for a hearing,
 - parties to the investigation can comment on the choice of Taiwan being envisaged as an analogue country,
 - an applicant can submit a properly substantiated claim for market economy status.

H. NON-COOPERATION

- (13) It should be noted that in cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the relevant time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.
- (14) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available,

HAS ADOPTED THIS REGULATION:

Article 1

A review of Regulation (EC) No 393/98 is hereby initiated in order to determine if and to what extent imports of stainless steel fasteners and parts thereof falling within CN codes 7318 12 10, 7318 14 10, 7318 15 30, 7318 15 51, 7318 15 61, 7318 15 70 and 7318 16 30, originating in the People's Republic of China, produced and sold for export to the Community by Bulten Fasteners China Co. Ltd (TARIC additional code: A058), should be subject to the anti-dumping duty imposed by Regulation (EC) No 393/98.

Article 2

The anti-dumping duty imposed by Regulation (EC) No 393/98 is hereby repealed with regard to imports of the product identified in Article 1.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit information, unless otherwise specified, within 40 days of the date of entry into force of this Regulation. Interested parties may also apply to be heard by the Commission within the same time limit. This time limit applies to all interested parties, including parties not named in the application, and it is consequently in the interest of these parties to contact the Commission without delay.

2. Parties to the investigation wishing to comment on the appropriateness of Taiwan which is envisaged as a market-economy third country for the purpose of establishing normal value in respect of the PRC, shall file their comments within 10 days of the date of entry into force of this Regulation.

3. Duly substantiated claims for market economy status, in accordance with Article 2(7)(b) and (c) of Regulation (EC) No 384/96, must be submitted in writing within 21 days of the date of entry into force of this Regulation.

4. Any information relating to the matter and any request for a hearing, should be sent to the following address:

European Commission
Trade DG
DM-24 8/38
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 295 65 05
Telex: COMEU B 21877.

Article 5

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 5 January 2000.

For the Commission

Pascal LAMY

Member of the Commission
