



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

**amending Commission Decision 283/2000/ECSC and Council
Regulations (EC) No 584/96, (EC) No 763/2000 and (EC) No 1514/2002 with regard to
the anti-dumping measures applicable to certain hot rolled coils and to certain tube and
pipe fittings, of iron or steel**

(presented by the Commission)

EXPLANATORY MEMORANDUM

By Regulation (EC) No 452/2003 of 6 March 2003, the Council enabled action to be taken with a view to ensuring that a combination of safeguard tariff measures and anti-dumping and/or anti-subsidy measures does not have an effect greater than that intended or desirable in terms of the Community's trade defence policy and objectives.

Anti-dumping measures are in force in relation to hot rolled coils originating in Bulgaria, South Africa and Serbia and Montenegro¹, and tube and pipe fittings originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia, Croatia, Thailand, the People's Republic of China and those consigned from Chinese Taipei².

On 27 September 2002, the Commission adopted safeguard tariff measures with respect to certain steel products, including hot rolled coils and tube and pipe fittings. Those measures take the form of safeguard additional duty payable on imports made in excess of the relevant tariff quotas (hereinafter 'safeguard duty').

It is considered appropriate to grant total or partial exemption from anti-dumping duty on imports which are also subject to safeguard duty, so that, where both anti-dumping and safeguard duty would normally be payable, if the anti-dumping duty is less than or equal to the safeguard duty, the anti-dumping duty will not apply, if the anti-dumping duty is greater than the safeguard duty, only that part of the anti-dumping duty which is in excess of the amount of the safeguard duty should be payable.

Where the Commission has accepted a minimum price undertaking and the Council has wholly or partially exempted imports pursuant to such undertakings from the anti-dumping duty, the companies concerned should have the opportunity to benefit in a similar manner, either by exemption from the requirement to respect the minimum price or from a reduced minimum price where those imports are also subject to payment of safeguard duty.

The Commission has informed all interested parties that it intends to avoid undesirably onerous effects of the simultaneous application of anti-dumping measures and the safeguard duty, and their oral and written comments have been duly taken into account.

It is therefore proposed that the Council adopt the present proposal for a Regulation specifying in relation to hot rolled coils originating in Bulgaria, South Africa, and Serbia and Montenegro, and fittings originating in Thailand, the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia, the People's Republic of China, or consigned from Chinese Taipei, the applicable rates of anti-dumping duty where those imports are also subject to safeguard duty, and making provision in relation to price undertakings.

¹ Formerly the Federal Republic of Yugoslavia.

² Formerly referred to as Taiwan.

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amending Commission Decision 283/2000/ECSC and Council Regulations (EC) No 584/96, (EC) No 763/2000 and (EC) No 1514/2002 with regard to the anti-dumping measures applicable to certain hot rolled coils and to certain tube and pipe fittings, of iron or steel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 452/2003 of 6 March 2003³

Having regard to the proposal made by the Commission after consultation of the Advisory Committee established by Article 15 of Council Regulation (EC) No 384/96⁴,

Whereas:

A. Existing measures

- (1) The Commission, by Decision No 283/2000/ECSC of 4 February 2000⁵, imposed a definitive anti-dumping duty on certain flat rolled products of iron or non-alloy steel, of a width of 600 mm or more, not clad, plated or coated, in coils, not further worked than hot-rolled (currently classifiable under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 10, 7208 37 90, 7208 38 10, 7208 38 90, 7208 39 10, 7208 39 90 and hereinafter referred to as ‘hot rolled coils’) originating in Bulgaria, India, Taiwan⁶, South Africa and the Federal Republic of Yugoslavia⁷, and accepted certain undertakings. Pursuant to Article 1(1) of Council Regulation (EC) No 963/2002 of 3 June 2002⁸, such anti-dumping measures adopted under Decision No 2277/96/ECSC remain in force notwithstanding the expiry of the ECSC Treaty⁹.
- (2) The Council, by Regulation No 584/96¹⁰, imposed anti-dumping measures on certain 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 609.6mm, of a kind used for butt-welding or other purposes, currently classifiable under CN codes ex 7307 93 11 (TARIC code 7307 93 11 91 and 7307 93 11 99),

³ OJ L 69, 13.3.2003, p. 8.

⁴ OJ L 56, 6.3.1996, p.1; last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁵ OJ L 31, 5.2.2000, p. 15 last amended by Decision No 1043/2002/ECSC (OJ L 157, 15.6.2002, p. 45).

⁶ Chinese Taipei is referred to as Taiwan in that Regulation.

⁷ Hereinafter referred to as Serbia and Montenegro.

⁸ OJ L 149, 7.6.2002, p.3 as amended by Council Regulation (EC) No 1310/2002 of 19 July 2002 (OJ L 192, 20.7.2002, p.9).

⁹ But are henceforth subject to Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p. 1) last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

¹⁰ OJ L 84, 3.4.1996, p. 1, and amended by Regulation (EC) No 1592/2000 (OJ L 182, 21.7.2000, p. 1).

ex 7307 93 19 (TARIC code 7307 93 19 91 and 7307 93 19 99), ex 7307 99 30 (TARIC code 7307 99 30 92 and 7307 99 30 98) and ex 7307 99 90 (TARIC code 7307 99 90 92 and 7307 99 90 98) (hereinafter referred to as 'tube and pipe fittings') originating in Croatia, Thailand and the People's Republic of China. The measures on imports of tube and pipe fittings originating in China were extended to certain imports of tube and pipe fittings consigned from Taiwan¹¹ pursuant to Regulation (EC) 763/2000¹². The measures in relation to imports originating in Croatia have since expired¹³, but those in relation to imports originating in Thailand and China, as extended to imports consigned from Chinese Taipei, remain in force by virtue of the initiation of an expiry review¹⁴, pursuant to Article 11(2) of Regulation (EC) No 384/96¹⁵. The Council, by Regulation (EC) No 1514/2002¹⁶ also imposed anti-dumping measures on imports of tube and pipe fittings originating in the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia.

- (3) By Commission Regulation (EC) No 1694/2002¹⁷ of 27 September 2002, the Commission adopted safeguard tariff measures with respect to certain steel products, including hot rolled coils and tube and pipe fittings which were already subject to the anti-dumping measures aforementioned. In accordance with Article 5 of that Regulation, the tariff quotas and safeguard additional duty ('safeguard duty') in relation to hot rolled coils do not apply to India or Chinese Taipei, whilst the tariff quotas and safeguard duty in relation to tube and pipe fittings do not apply to China.
- (4) The above-mentioned anti-dumping measures take the form of either a duty or an undertaking. The safeguard measures take the form of tariff quotas applicable for specified periods, in excess of which a safeguard duty must be paid.
- (5) Once the tariff quotas established under the safeguard measures are exceeded, both the safeguard duty and the anti-dumping duty would become payable on the same imports, or, where price undertakings have been accepted, the safeguard duty would become payable in addition to the obligation to observe such price undertakings.
- (6) The Council, by Regulation (EC) No 452/2003 of 6 March 2003¹⁸, considered that the combination of anti-dumping or anti-subsidy measures with safeguard measures on the same product could have an effect greater than that intended in terms of the Community's trade defence policy and objectives and could place an undesirably onerous burden on certain exporting producers seeking to export to the Community. As a result, the Council introduced specific provisions to enable the Community institutions, where they consider it appropriate, to take action to ensure that a combination of anti-dumping or anti-subsidy measures with safeguard tariff measures on the same product does not have such an effect.

¹¹ Hereinafter referred to as Chinese Taipei.

¹² OJ L 94, 14.4.2000, p. 1, as amended by Regulation (EC) No 2314/2000 (OJ L 267, 20.10.2000, p. 15).

¹³ OJ C 104, 4.4.2001, p. 7.

¹⁴ OJ C 103, 3.4.2001, p. 5.

¹⁵ 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).

¹⁶ OJ L 228, 24.8.2002, p. 1.

¹⁷ OJ L 261, 28.9.2002, p. 1.

¹⁸ OJ L 69, 13.3.2003, p. 8.

B. Modalities

- (7) In the present case, whilst there is some uncertainty as to if and when each of the safeguard tariff quotas imposed by Regulation (EC) No 1694/2002 will be exhausted, it is possible that imports of hot rolled coils or tube and pipe fittings which are subject to anti-dumping duties or undertakings will also become subject to the payment of a safeguard duty.
- (8) In this instance, it is considered that the combination of anti-dumping measures with the safeguard duty could have an effect greater than that intended or desirable in terms of the Community's trade defence policy and objectives. In particular, such a combination could place an undesirably onerous burden on certain exporting producers seeking to export to the Community, which may have the effect of denying them access to the Community market. The Council therefore considers that it is appropriate to amend the existing anti-dumping measures on imports of hot-rolled coils and on imports of tube and pipe fittings.
- (9) In these circumstances, and in order to ensure legal certainty for the economic operators concerned, it is considered appropriate to specify for these cases the anti-dumping measures which should apply in the event that the safeguard tariff quotas are exhausted or in case the benefit of the quota is not requested or is not granted.
- (10) In those cases where both an anti-dumping duty and a safeguard duty would normally be payable and where the anti-dumping duty is less than or equal to the amount of the safeguard duty, it is 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 is considered appropriate that only that part of the anti-dumping duty which is in excess of the amount of the safeguard duty should be payable.
- (11) In those cases in which a price undertaking had been accepted, the Commission and the companies concerned have agreed equivalent reductions in those price undertakings or, as the case may be, they have agreed that the obligation to observe a minimum price will not apply when the safeguard duty is payable.

C. Procedure

- (12) All parties directly concerned, i.e. the national authorities of Bulgaria, South Africa, Serbia and Montenegro, Thailand, Chinese Taipei, the Czech Republic, Malaysia, the Republic of Korea, Russia and Slovakia; relevant exporting producers in those countries and the Community industry, received disclosure of the proposed course of action described above, and were given an opportunity to comment.
- (13) Responses were received from a number of interested parties. All their arguments have been duly considered. Certain parties fully supported the Community institutions' intended course of action. Other parties argued that for those imports to which the safeguard measures apply, anti-dumping measures should not be imposed, or, if already imposed, they should be suspended or repealed. Others argued that for those imports to which anti-dumping measures apply, the safeguard measures should not apply.

- (14) In relation to the first argument, it is considered that it is only when there is a combination of anti-dumping measures with the safeguard duty that an effect greater than that intended or desirable could arise. Indeed, it is only in that circumstance that certain exporting producers are subject to the burden of both anti-dumping measures and safeguard duty on the same import. Therefore, it is considered that it would only be appropriate to take action where safeguard duties become payable.
- (15) In relation to the second argument, it must be remembered that anti-dumping measures apply only to imports of hot rolled coils and tube and pipe fittings originating in certain countries. Therefore, if safeguard measures were not applied to imports of hot rolled coils and tube and pipe fittings subject to anti-dumping measures, they would only apply to some imports of those products originating in some countries but not in others. It is considered that this would be contrary to the Community's international obligations which require that safeguard measures shall be applied to a product being imported irrespective of its source.
- (16) Therefore, having duly taken account of the submissions made by the parties concerned, it is considered that neither of the alternative solutions suggested by the parties concerned should be adopted, and that the present measures are the most appropriate to achieve the objective of avoiding an undesirably onerous burden on certain exporting producers seeking to export to the Community.

HAS ADOPTED THIS REGULATION:

Article 1

In Commission Decision No 283/2000/ECSC, in Article 1, the following paragraph is inserted –

“(2a) Notwithstanding paragraph (2), where imports of the product concerned originating in Bulgaria, South Africa or Serbia and Montenegro are subject to payment of a safeguard additional duty pursuant to Article 1(3) of Regulation (EC) No 1694/2002, the rates of anti-dumping duty for products manufactured by the companies listed in the table below applicable to the free-at-Community-frontier price, before duty, shall be:

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	
Bulgaria	All companies	0%	0%	0%	0%	0%	A999
South Africa	Iskor Limited, Roger Dyason Road, Pretoria West, and Saldanha Steel (Pty) Ltd., Private Bag X11, Saldanha 7395	0%	0%	0%	0%	0%	A079
	All other companies	20.3%	22.1%	22.1%	23.7%	23.7%	A999
Serbia and Montenegro	All companies	0%	0%	0%	1.3%	1.3%”	

Article 2

In Council Regulation (EC) No 584/96, in Article 1, after paragraph (2), the following paragraph is inserted–

“(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	Except: Thai Benkan Co. Ltd, Prapadaeng Samutprakarn	35.2%	37.6%	37.6%	39.7%	39.7%	8851
		0%	0%	0%	0%	0%”	A118

Article 3

In Council Regulation (EC) No 763/2000, in Article 1, after paragraph (2), the following paragraph is inserted–

“(2a) Notwithstanding paragraph (1), with the exception of those fittings produced and exported 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 Chinese Taipei 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	
Chinese Taipei	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

Article 4

In Council Regulation (EC) No 1514/2002, in Article 1, the following paragraph is inserted -

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

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	
Czech Republic	Mavet a.s., Trebic	0%	0%	0%	0%	0%	A323
	All other companies	0%	1.1%	1.1%	3.2%	3.2%	A999
Malaysia	Anggerik Laksana Sdn Bhd, Selangor Darul Ehsan	35.5%	37.9%	37.9%	40%	40%	A324
	All other companies	51.3%	53.7%	53.7%	55.8%	55.8%	A999
Russia	All companies	19.6%	22%	22%	24.1%	24.1%	
Republic of Korea	All companies	20.3%	22.7%	22.7%	24.8%	24.8%	
Slovakia	All companies	0%	0%	0%	0%	0%	A999

Article 5

1. This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* .
2. This Regulation shall expire on 28 March 2005.
3. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*