II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 July 1995

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of ferro-silico-manganese originating in Russia, Georgia, Ukraine, Brazil and South Africa and terminating the proceeding against Georgia

(95/418/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 1251/95 [2], and in particular Article 23 thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 [3] on protection against dumped imports from countries not members of the European Economic Community, as last amended by Regulation (EC) No 522/94 [4], and in particular Articles 9 and 10 thereof,

After consulting the Advisory Committee,

Whereas :

(1) The Commission, by Regulation (EC) No 3119/94 [5] (hereinafter referred to as the 'provisional duty Regulation'), imposed a provisional anti-dumping duty on imports into the Community of ferro-silico-manganese (FeSiMn) originating in Russia, Ukraine, Brazil and South Africa and falling within CN code 7202 30 00. No provisional anti-dumping duty was imposed on imports of the product concerned originating in Georgia. By Regulation (EC) No 866/95 [6], the Council extended the validity of the duty for a period not exceeding two months.

(2) In the subsequent procedure, it was established that definitive anti-dumping measures should be taken in order to eliminate injurious dumping. The findings and conclusions on all aspects of the investigation are set out in Council Regulation (EC) No 2413/95 [7].

(3) Having been informed of these conclusions, the Ukrainian authorities, in conjunction with two Ukrainian exporters, and the two South African exporters, offered undertakings to the Commission with regard to the import prices in the Community pursuant to Article 10 of Regulation (EEC) No 2423/88.

(4) The minimum prices set out in the undertakings for exports to the Community are at a level sufficient to eliminate injurious dumping.

(5) In addition, since the Ukrainian authorities, the two Ukrainian exporting companies and the two South African exporters have undertaken to submit detailed and regular sales information to the Commission and not to enter into direct or indirect compensatory arrangements with their customers

[1] OJ No L 349, 31. 12. 1994, p. 1.
[2] OJ No L 122, 2. 6. 1995, p. 1.
[3] OJ No L 209, 2. 8. 1988, p. 1.
[4] OJ No L 66, 10. 3. 1994, p. 10.
[5] OJ No L 330, 21. 12. 1994, p. 15.
[6] OJ No L 89, 21. 4. 1995, p. 1.
[7] See page 1 of this Official Journal.

and since exports from both countries have been made through a limited number of purchasers, it has been concluded that the correct observance of the undertakings can effectively be monitored by the Commission.

(6) As far as Ukraine in concerned, the Government, implementing two Presidential decrees, dated August and November 1994, set up an Interministerial Commission on anti-dumping investigations of goods originating in Ukraine, in order to prevent the export of Ukrainian goods at dumped prices. In this framework the Ukrainian Government will operate an export licensing system for the duration of the undertakings which will ensure that all imports into the Community benefiting from the exemption of the obligation to pay anti-dumping duties subsequent to the undertakings, have Ukrainian origin, have been produced, will be exported and invoiced directly by the exporters concerned to first unrelated buyers in the Community at prices not below the minimum price laid down in the undertakings. Any intended exports of the product by the exporters subject to the undertakings from the territory of Ukraine to the Community, whether directly or indirectly, which do not meet these criteria, will not receive an export licence.

(7) One South African exporter sells a part of its exports to the Community through a related importer in the Community. The undertaking provides for sales by the related importer to be incorporated in the minimum price mechanism and monitoring procedure.

(8) Under these circumstances, the undertakings offered by the Ukrainian authorities, in conjunction with two Ukrainian exporters, and by the two South African exporters are considered acceptable and the investigation can, therefore, be terminated with respect to the Ukrainian and South African exporters concerned. Where there is reason to believe that an undertaking is being infringed, a provisional duty may be imposed pursuant to Articles 7 and 8 (10) of Regulation (EC) No 3283/94 and, should the conditions of Article 8 (9) of the Regulation be met, a definitive anti-dumping duty will be imposed.

(9) As far as imports of FeSiMn originating in Georgia are concerned, the investigation confirmed the findings reported in the provisional duty Regulation, that imports of FeSiMn from Georgia were *de minimis* and, therefore, did not cause injury to the Community industry. Such a finding has not been contested by either the Community industry or the other exporters. Consequently, the proceeding should be terminated with respect to imports of FeSiMn originating in Georgia.

(10) When the Advisory Committee was consulted on the acceptance of the undertakings offered some objections were raised. Therefore, in accordance with Articles 9 (1) and 10 (1) of Regulation (EEC) No 2423/88, the Commission sent a report to the Council on the result of the consultations and a proposal for the acceptance of the undertakings. As the Council has not decided otherwise within one month, this Decision should be adopted. No objections were raised concerning the termination of the proceecing with relation to Georgia,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by the Ukrainian authorities in conjunction with Nikopol Ferro Alloy Plant and Zaporozhye Ferro Alloy Plant, Ukraine and by Highveld Steel and Vanadium Corporation Limited and Samancor Limited, South Africa, in connection with the anti-dumping proceeding concerning imports of Ferro-Silico-Manganese originating in Russia, Ukraine, Georgia, Brazil and South Africa and falling within CN code 7202 30 00 are hereby accepted.

The investigation in respect of these exporters is hereby terminated.

Article 2

The proceeding concerning imports of ferro-silico-manganese originating in Georgia is hereby terminated.

Done at Brussels, 26 July 1995.

For the Commission

Leon BRITTAN

Vice-President