COMMISSION DECISION

of 22 December 1999

accepting an undertaking offered in connection with the interim review of the anti-dumping duty applicable to imports of certain seamless pipes and tubes of iron or non alloy steel originating, *inter alia*, in Russia

(2000/70/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 8(1) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigation

(1) By Regulation (EC) No 2320/97 [3] (hereinafter referred to as the 'definitive Regulation'), the Council imposed definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Hungary, Poland, Russia, the Czech Republic, Romania and the Slovak Republic. Undertakings were offered by most exporting producers in the countries subject to the above measures, and were accepted by the Commission in all but one case.

(2) The undertaking offered by the Russian exporting producers was not accepted by the Commission as it did not contain the necessary guarantees on the part of the Russian authorities to allow adequate monitoring. The definitive Regulation therefore imposed an *ad valorem* anti-dumping duty at the level definitively established for imports originating in Russia, i.e. 26,8 %.

(3) Recital 87 of the definitive Regulation provided for the type of anti-dumping measure in respect of Russia to be modified, if ever there was a change in circumstances such that the conditions for the acceptance of an undertaking were met.

2. Review investigation

(4) The Russian authorities subsequently provided the Commission with guarantees which appeared to be sufficient for the adequate monitoring of an undertaking, as discussed in the framework of the original investigation, and the Russian exporting producers requested that the Commission accept such an undertaking.

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an interim review, the Commission initiated such a review pursuant to Article 11(3) of Regulation (EC) 384/96 (hereinafter referred to as the 'basic Regulation'), limited in scope to the examination of the acceptability of an undertaking from the Russian exporting producers concerned. The notice of initiation of the interim review was published in the *Official Journal of the European Communities* [4].

B. UNDERTAKING

1. Nature of the undertaking

(6) All interested parties were invited to make their views known and provide supporting evidence within the deadline set in the notice of initiation.

(7) The undertaking which is being offered jointly by the Russian authorities and the Russian exporting producers concerned is modelled on those offered, and accepted by the Commission, in the original investigation by Commission Decision 97/790/EC [5]. In addition, the Russian Ministry of Trade has guaranteed to supervise and monitor the undertaking.

(8) The exporting producers have undertaken to sell to or for export to the Community up to a certain quantity of the product concerned at revised prices so that the injurious effects of the dumping found in the original investigation are eliminated. In addition, they have offered to ensure that their prices per product group fall into line with the price structure prevailing on the Community market.

(9) Having carefully examined the proposal for an undertaking, the Commission is satisfied that, in case of acceptance, the elimination of the injury will be achieved by two means: first a price undertaking up to an annual volume threshold, and then an *ad valorem* anti-dumping duty levied on any imports above this threshold.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 128, 30.4.1998, p. 18.
[3] OJ L 322, 25.11.1997, p. 1.
[4] OJ C 77, 20.3.1999, p. 6.
[5] OJ L 322, 25.11.1997, p. 63.

The Russian Ministry of Trade has undertaken to control and authenticate production certificates for each invoiced shipment exported to the Community which falls within the agreed threshold quantity free of anti-dumping duty. In order to ensure that the quantity of imports exempted from the *ad valorem* anti-dumping duty does not exceed the threshold quantity in respect of which the undertaking has been offered, the exemption will be conditional on the presentation to the Community's customs authorities of a valid original production certificate. This certificate shall be issued in conformity with the specifications set out in the Council Regulation amending the anti-dumping measures applicable to imports of certain seamless pipes and tubes originating, *inter alia*, in Russia [1].

2. **Monitoring of the undertaking**

(10) The monitoring of this joint undertaking will be threefold: firstly, the Russian Ministry of Trade has agreed to provide the Commission with a quarterly report listing all production certificates which have been issued, specifying the producer, the quantity exported, the importer and the first independent customer in the Community: secondly, the exporting producers, which are also parties to the undertaking, have agreed to provide the Commission with a quarterly report giving information on their sales for export to the Community, and to keep records available for subsequent verification; thirdly, the Commission will monitor the imports into the Community and may verify the records kept at the premises of the exporting producers concerned.

3. **Breach of the undertaking**

(11) The undertaking will be underpinned by a definitive anti-dumping duty (the duty rate applicable to Russia is 26,8 %) which may be imposed in the event of a breach in accordance with Article 8(9) of the basic Regulation.

(12) Moreover, if the Commission has reasons to believe that the undertaking is being breached, a provisional duty may be imposed pursuant to Article 8(10) of the basic Regulation.

C. **COMMENTS OF THE COMMUNITY INDUSTRY**

(13) Having been informed of the main facts and considerations on the basis of which the Commission intended to accept the undertaking, the Community industry expressed its opposition to the acceptance of an undertaking from the Russian exporting producers concerned, as the situation of the Community industry was worsening due to the decrease in demand in the Community and a decrease in the Community industry's exports. The industry argued that allowing the Russian exporting producers concerned to export each year to the Community a set quantity of the product concerned free of anti-dumping duty (albeit at revised prices), would worsen the situation of the Community producers even further, resulting in additional job losses and reduced market share.

(14) The Commission recalls that the undertaking submitted in the framework of this review, which consists in a pricing commitment within the limits of a threshold quantity, is similar to those already accepted from other exporting producers in the countries concerned by the previous investigation, and to which the Community industry did not raise any objections at the time. Furthermore, since the entry into force of these undertakings, the Commission has not received any information which would demonstrate that they do not have their intended effect of removing injurious dumping.

(15) It should also be borne in mind that, should the Community industry receive information that absorption practices by the exporting producers are taking place, the Commission will examine whether an investigation pursuant to Article 12 should be opened.

(16) In addition, it is emphasised that the threshold quantity for the price undertaking offered in this investigation has been fixed at a level substantially below the volume imported during the investigation period established in the previous investigation.

(17) The Commission therefore considers that the acceptance of the undertaking submitted by the Russian authorities jointly with the exporting producers concerned will not have the negative consequences feared by the Community industry. The undertaking will be closely monitored and, in the event of any breach, the Commission will take the necessary steps to reimpose measures forthwith,

HAS ADOPTED THIS DECISION:

Article 1

The undertaking offered jointly by the Russian authorities and by the exporting producers mentioned below, in the framework of the interim review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Russia is hereby accepted.

[1] See page 1 of this Official Journal.

Country	Product manufacturer	Taric additional code
Russia	Taganrog Metallurgical Works	A042
	Pervouralsky Novotrubny	A043
	Chelyabinsk Tube-Rolling Plant	A044

Article 2

The investigation in connection with the interim review of the anti-dumping measures applicable to imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Russia is hereby terminated.

Article 3

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

Done at Brussels, 22 December 1999.

For the Commission

Pascal LAMY

Member of the Commission