COMMISSION DECISION

of 18 March 2004

suspending the anti-dumping duty imposed by Decision No 2730/2000/ECSC on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China

(2004/264/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](the basic Regulation), as last amended by Regulation (EC) No 1972/2002 [2], and in particular Article 14(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) The Commission, by Decision No 2730/2000/ECSC [3], imposed a definitive anti-dumping duty on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China (PRC), falling under CN code ex 2704 00 19 (the product concerned). The amount of the anti-dumping duty is equal to the fixed amount of EUR 32.6 per tonne of dry net weight.

(2) In view of the expiry of the Treaty establishing the European Coal and Steel Community on 23 July 2002, the Council, by Regulation (EC) No 963/2002 [4], Regulation as last amended by Regulation (EC) No 1310/2002 [5], decided that anti-dumping proceedings initiated pursuant to Commission Decision No 2277/96/ECSC [6], Decision as last amended by Decision No 435/2001/ECSC [7], and still in force shall be continued and be governed by the provisions of the basic Regulation with effect from 24 July 2002. Likewise, any anti-dumping measures resulting from pending anti-dumping investigations shall be governed by the provisions of the basic Regulation from 24 July 2002.

(3) In December 2002, the Commission initiated an interim review at the request of Eucoke-EEIG (the applicant), lodged on behalf of producers representing a major proportion of the total Community production of coke of coal in pieces with a diameter of more than 80 mm, in accordance with Article 11(3) of the basic Regulation.

(4) After the applicant had withdrawn the complaint, the Commission has proposed to the Council that the interim review should be terminated.

(5) However, during the investigation of the interim review concerning the period from 1 October 2001 to 30 September 2002 (the investigation period), information on a change of market conditions occurred after the investigation period (i.e. from 1 October 2002 to 30 September 2003) which might justify the suspension of the measures currently in force, in accordance with Article 14(4) of the basic Regulation, was provided to the Commission. Consequently, the Commission examined whether such suspension was warranted.

B. GROUNDS

(6) Article 14(4) of the basic Regulation provides that, in the Community interest, anti-dumping measures may be suspended on the grounds that market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension, provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Article 14(4) further specifies that the anti-dumping measures concerned may be reinstated at any time if the reason for suspension is no longer applicable.

(7) During the interim review investigation, a number of interested parties have alleged that in the time since the investigation period, the market situation has changed dramatically. The allegations were based on a shortage of supply of the product concerned and the high level of prices charged by the traders on the Community market.

(8) In view of the seriousness of these allegations, the Commission has carried out a further investigation to assess the recent evolution of volumes and prices of the product concerned for the period between 1 October 2002 and 30 September 2003. All parties concerned were given an opportunity to present their views. All interested parties cooperated with the new investigation, the users to a somewhat lesser extent.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 305, 7.11.2002, p. 1.
[3] OJ L 316, 15.12.2000, p. 30.
[4] OJ L 149, 7.6.2002, p. 3.
[5] OJ L 192, 20.7.2002, p. 9.
[6] OJ L 308, 29.11.1996, p. 11.
[7] OJ L 63, 3.3.2001, p. 14.

(9) With regard to the information provided by a cooperating importer and confirmed by the users, an increase ranging from 20 % to 50 % in the price of the product concerned imported from the PRC has been reported for the period examined. This price trend was also confirmed by the Community industry. The steel industry, which is not an interested party in this proceeding, also reported an increase of 76 % in prices of all types of coke.

(10) Considering that the Community users do not buy the product concerned directly from the PRC but from traders which do not make an accurate distinction according to the origin of the product, the information on the volume of the product concerned was based on the findings of a specialised magazine called *The Coke Market Report*, recognised as a reliable source of information for the coke market. This publication reported a decrease of imports from PRC from 15,5 million tonnes for all types of coke in 2002 to 12 million tonnes in 2003, i.e. a decrease of 23 %. This decrease is mainly the result of a recent change in the policy of the Chinese authorities which have decided to direct the Chinese production to the domestic market in order to meet an increasing domestic demand, by reducing the number of export licences granted to the Chinese exporters. A further decrease in imports from PRC of 6,5 million tonnes is expected for the year 2004, although this information has not yet been confirmed as the Chinese authorities have still to issue the licenses. In view of the decreasing number of export licenses issued by the Chinese authorities, a further increase of 19 % in the price of the product concerned is expected in 2004. Since the significant change in supplies of the product concerned is the result of a change in the policy applied by the Chinese authorities, there is no information which would allow the Commission to assume that these changes are of a lasting nature.

(11) With regard to the Community industry, it is to be noted that since the imposition of the measures in 2000, the situation of the Community industry has improved. The sales and production volumes decreased slightly as did the Community consumption, but sales prices increased significantly. Investments increased by a third and employment by 10 %. Only the market share remained stable (33 %) but this was due to the emergence of new exporting countries such as the Czech Republic and Poland, while the Chinese market share decreased by more than 10 percentage points and represented 9 % of the Community market in the investigation period. The profit situation also improved, although it has not yet achieved the 10,5 % profit targeted by Decision No 2730/2000/ECSC. The Community industry has, however, gained 17 percentage points since the year 2000 and became profitable during the investigation period. Furthermore, as to the situation after the investigation period (i.e. from 1 October 2002 to 30 September 2003), it is worth noting that, although the Community producers have reported an increase in production and sales on the Community market of 20 % and 40 % respectively, bearing in mind that the Community producers only produce one third of the Community market demand for the product concerned, the imports from the PRC remain vital to supply the Community market.

C. **CONCLUSION**

(12) In conclusion, given the temporary change in market conditions, and in particular the high level of prices of the product concerned practised on the Community market, which is far above the injurious level found in the original investigation, together with the alleged shortage of supply of the product concerned, it is considered that the injury linked to the imports of the product concerned originating in the PRC is unlikely to resume as a result of the suspension which would be in the interest of the Community. It is therefore proposed to suspend the measures in force for a period of nine months in accordance with Article 14(4) of the basic Regulation.

(13) Pursuant to Article 14(4) of the basic Regulation, the Commission has informed the Community industry of its intention to suspend the anti-dumping measures in force. The Community industry has been given an opportunity to comment. The Community industry did not oppose the suspension of the anti-dumping measures in force.

(14) The Commission therefore considers that all requirements for suspending the anti-dumping duty imposed on the product concerned are met, in accordance with Article 14(4) of the basic Regulation. Consequently, the anti-dumping duty imposed by Decision No 2730/2000/ECSC should be suspended for a period of nine months.

(15) The Commission will continue to monitor the development of imports and the prices of the product concerned. Should a situation arise at any time in which increased volumes at dumped prices of the product concerned from the PRC resume and consequently cause injury to the Community industry, the Commission will reinstate the anti-dumping duty by repealing the present suspension,

HAS ADOPTED THIS DECISION:

Article 1

The definitive anti-dumping duty imposed by Decision No 2730/2000/ECSC on imports of coke of coal in pieces larger than 80 mm in maximum diameter, falling within CN code ex 2704 00 19 (TARIC code 2704 00 19 10), and originating in the People's Republic of China is hereby suspended for a period of nine months.

Article 2

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

Done at Brussels, 18 March 2004.

For the Commission
Pascal LAMY
Member of the Commission