COMMISSION DECISION

of 18 May 2004

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of silicon carbide originating, *inter alia*, in Ukraine

(2004/498/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 461/2004 [2] (the 'basic Regulation'), and in particular Articles 8, 11(3), 21 and 22(c) thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) Pursuant to Regulation (EC) No 1100/2000 [3] the Council imposed a definitive anti-dumping duty on imports into the Community of silicon carbide (the 'product concerned') originating in Ukraine. Pursuant to Regulation (EC) No 991/2004 [4] the Council amended Regulation (EC) No 1100/2000.

(2) The rate of the duty applicable to the net, free-at-Community-frontier price, before duty, is set at 24 % for imports of the product concerned originating in Ukraine.

2. Investigation

(3) On 20 March 2004 the Commission announced through the publication of a notice in the *Official Journal of the European Union* [5] the initiation of a partial interim review of the measures in force ('the measures') pursuant to Articles 11(3) and 22(c) of the basic Regulation.

(4) The review was launched at the initiative of the Commission in order to examine whether, as a consequence of the enlargement of the European Union on 1 May 2004 ('enlargement') and, bearing in mind the aspect of Community interest, there is a need to adapt the measures in order to avoid a sudden and excessively negative effect on all interested parties including users, distributors and consumers.

(5) All interested parties, including the Community industry, associations of producers or users in the Community, exporters/producers in the countries concerned, importers and their associations and the relevant authorities of the countries concerned as well as interested parties in the 10 new Member States which acceded to the European Union on 1 May 2004 (the 'EU10') were advised of the initiation of the investigation and were given the opportunity to make their views known in writing, to submit information and to provide supporting evidence within the time-limit set out in the notice of initiation. All interested parties who so requested and showed that there were reasons why they should be heard were granted a hearing.

3. Result of investigation

(6) As set out in Regulation (EC) No 991/2004, the investigation concluded that it is in the Community interest to adapt the existing measures, provided that such adaptation does not significantly undermine the desired level of trade defence.

4. Undertaking

(7) In accordance with the conclusions of Regulation (EC) No 991/2004, the Commission, in conformity with Article 8(2) of the basic Regulation, suggested undertakings to the company concerned. As a result, undertakings were subsequently offered by one exporting producer of the product concerned in Ukraine (Open Joint Stock Company Zaporozhsky Abrasivny Combinat).

(8) It should be noted that, in application of Article 22(c) of the basic Regulation, these undertakings are considered as special measures since, in accordance with the conclusions of Regulation (EC) No 991/2004, they are not directly equivalent to an anti-dumping duty.

(9) Nevertheless, in conformity with Regulation (EC) No 991/2004, the undertakings oblige producing exporter to respect the import ceilings and, in order that the undertakings can be monitored, the exporting producer concerned has also agreed broadly to respect their traditional selling patterns to individual customers in the EU10. The exporting producer is also aware that if it is found that these sales patterns change significantly, or that the undertakings become in any way difficult or impossible to monitor, the Commission is entitled to withdraw acceptance of the company's undertakings resulting in definitive anti-dumping duties being imposed in their place, or it may adjust the level of the ceiling, or it may take other remedial action.

[1] OJ L 56, 6.3.1996, p. 1.
[2] OJ L 77, 13.3.2004, p. 12.
[3] OJ L 125, 26.5.2000, p. 3.
[4] OJ L 182, 18.5.2004, p. 18.
[5] OJ C 70, 20.3.2004, p. 15.

(10) It is also a condition of the undertakings that if they are breached in any way, the Commission will be entitled to withdraw acceptance thereof resulting in definitive anti-dumping duties being imposed in their place.

(11) The company will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission.

(12) In order that the Commission can monitor effectively the companies' compliance with the undertakings, when the request for release for free circulation pursuant to an undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) No 991/2004. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate anti-dumping duty will instead be payable.

(13) In view of all the above, the offer of undertakings is considered acceptable.

(14) The acceptance of the undertakings is limited to an initial period of six months without prejudice to the normal duration of the measures and it shall lapse after this period, unless the Commission considers it is appropriate to extend period of application of special measure for next six months,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by the exporting producer mentioned below, in connection with the anti-dumping proceeding concerning imports of silicon carbide originating in Ukraine is hereby accepted.

Country	Company	TARIC additional code
Ukraine	Produced and exported by Open Joint Stock Company Zaporozhsky Abrasivny Combinat, Zaporozhye, Ukraine to the first independent customer in the Community acting as an importer	A523

Article 2

This Decision shall enter into force on the day after its publication in the *Official Journal of the European Union* and remain in force for a period of six months.

Done at Brussels, 18 May 2004.

For the Commission

Pascal LAMY

Member of the Commission