COMMISSION DECISION

of 16 February 2005

partially suspending the definitive anti-dumping duties imposed by Regulation (EC) No 258/2005 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Croatia and Ukraine

(2005/133/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'), and in particular Article 14(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. EXISTING MEASURES

(1) Following a review investigation carried out in accordance with Article 11(3) of the basic Regulation ('review investigation'), the Council, by Regulation (EC) No 258/2005 [2] ('the definitive Regulation'), imposed an anti-dumping duty of 38,8 % on imports of certain seamless pipes and tubes of iron or non-alloy steel ('SST') originating in Croatia and an anti-dumping duty of 64,1 % for imports of SST originating in Ukraine with the exception of imports from Dnipropetrovsk Tube Works ('DTW') which is subject to an anti-dumping duty of 51,9 % ('the existing measures'). The definitive Regulation amended definitive anti-dumping duties imposed by Regulation (EC) No 348/2000 [3], as last amended by Regulation (EC) No 1515/2002 [4] and repealed the possibility of exemption from the duties as provided for in Article 2 of Regulation (EC) No 348/2000 ('original measures').

B. MEASURES IN FORCE ON IMPORTS OF SST FROM ROMANIA AND RUSSIA

(2) By Regulation (EC) No 2320/97, anti-dumping duties were imposed on imports of SST originating, *inter alia*, in Romania and Russia [5]. By Decisions 97/790/EC [6] and 2000/70/EC [7], undertakings were accepted from exporters in, *inter alia*, Romania and Russia. By Regulation (EC) No 1322/2004 [8], it was decided to no longer apply the measures in force on imports of SST originating in Romania and Russia ('the non-applied measures') as a matter of prudence due to an anti-competitive behaviour of certain Community producers [9].

---

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] See page 7 of this Official Journal.
[3] OJ L 45, 17.2.2000, p. 1.
[4] OJ L 228, 24.8.2002, p. 8.
[5] OJ L 322, 25.11.1997, p. 1. Regulation as last amended by Regulation (EC) No 235/2004 (OJ L 40, 12.2.2004, p. 11).
[6] OJ L 322, 25.11.1997, p. 63.
[7] OJ L 23, 28.1.2000, p. 78.
[8] OJ L 246, 20.7.2004, p. 10.
[9] See recital (9) of Regulation (EC) No 1322/2004.

C. **EXAMINATION OF GROUNDS FOR SUSPENSION OF THE EXISTING MEASURES**

(3) 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 a suspension. 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.

(4) The definitive Regulation takes account mainly of the situation between October 2001 and September 2002, i.e. the investigation period of that review investigation ('review investigation period'). The review investigation leading to the definitive Regulation showed that imports from Ukraine and Croatia had, during the review investigation period, a significant market position. They were still dumped and the injury margin had increased as compared to the original investigation. On this basis, the review concluded that the original measures which were at a level of 23 % for Croatia and 38,5 % for Ukraine should be increased to reach their current level of 38,8 % for Croatia and 51,9 % and 64,1 % depending on the exporting producer concerned, for imports from Ukraine.

(5) An examination of recent import flows reveals that in particular since the non-application of the measures on imports of SST from Russia and Romania, the situation on the Community market with respect to imports has changed, notably in that cumulated import flows from the aforesaid countries have increased, whereas at the same time cumulated imports from Croatia and Ukraine have significantly decreased to very low levels.

(6) As long as the current market conditions prevail, Russian and Romanian imports are likely to maintain their strong presence and it would be unlikely that Ukrainian and/or Croatian imports would increase significantly. Therefore, it is considered that, in this specific situation, it is unlikely that injury to the Community industry would resume if the increase of the duty rates as provided for by the definitive Regulation would be suspended. Consequently, and because of the special circumstances regarding, *inter alia*, the non-application of the measures on imports from Russia and Romania, it is considered that the duty levels of 23 % and 38,5 % established in the original investigation for Croatia and Ukraine respectively would be sufficient to eliminate injurious dumping.

(7) The Commission also notes that the current temporary change in market conditions does not warrant a complete suspension of measures applicable against Croatia and Ukraine. Information collected in the review investigation concluded by the definitive Regulation demonstrates that Ukrainian and Croatian producers continue to have a considerable export potential so that they could easily increase exports to the Community market to an injurious level. Thus, a full suspension of measures against imports from Croatia and Ukraine could also lead to similar import trends from these two countries as are currently experienced with regard to imports from Russia and Romania and would, therefore, in all likelihood lead to injury of the Community industry.

(8) For the above reasons, it is concluded that the requirements permitting a partial suspension of the definitive Regulation, pursuant to Article 14(4) of the basic Regulation are met. Indeed, it is not in the interest of the Community to apply the increased duty levels provided for by the definitive Regulation as long as the duty levels set out in Regulation (EC) No 348/2000, as last amended by Regulation (EC) No 1515/2002 are sufficient. Accordingly, the application of the duty rates foreseen in the definitive Regulation should be partially suspended to the extent of the difference between the rates set in Article 1 of the definitive Regulation and those set in Article 1(2) of Regulation (EC) No 348/2000.

(9) Should the situation which led to the suspension change subsequently, the Commission may reinstate the anti-dumping measures by repealing the partial suspension of the anti-dumping duties forthwith.

D. **CONSULTATION OF THE COMMUNITY INDUSTRY**

(10) In accordance with the provisions of Article 14(4) of the basic Regulation the Commission informed the Community industry of its intention to partially suspend the anti-dumping measures and provided it with an opportunity to comment. The Community industry did not raise any objection.

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping duty imposed by Regulation (EC) No 258/2005 on imports of

— seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm (falling within CN codes 7304 10 10 and 7304 10 30);

— seamless pipes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled (falling within CN code 7304 31 99);

— other tubes of circular cross-section, of iron or non-alloy steel, of an external diameter not exceeding 406,4 mm (falling within CN codes 7304 39 91 and 7304 39 93)

is hereby partially suspended as follows for a period of nine months:

Country	Company	Rate of duty foreseen in Regulation (EC) No 258/2005 %	Rate of duty which is suspended %	Rate of duty which is not suspended %	TARIC additional code
Croatia	All companies	38,8	15,8	23	—
Ukraine	Dnipropetrovsk Tube Works (DTW), Dnipropetrovsk	51,9	13,4	38,5	A614
	OJSC Nizhnedneprovsky Tube Rolling Plant (NTRP), Dnipropretovsk, and CJSC Nikopolsky seamless tubes plant 'Nikotube', Nikopol	64,1	25,6	38,5	A615
	All other companies	64,1	25,6	38,5	A999

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, 16 February 2005.

For the Commission
Peter MANDELSON
Member of the Commission