COUNCIL REGULATION (EC) No 2117/2004

of 7 December 2004

extending the suspension of the anti-dumping duty imposed by Commission 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

THE COUNCIL OF THE EUROPEAN UNION,

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,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) By Decision 2730/2000/ECSC [2], the Commission imposed a definitive anti-dumping duty of EUR 32,6 per tonne on imports of coke of coal in pieces with a diameter of more than 80 mm (coke 80 +) originating in the People's Republic of China (the PRC), falling within CN code ex 2704 00 19(TARIC code 2704 00 19 10).

(2) By Decision 2004/264/EC [3] (the Decision), the Commission suspended the definitive anti-dumping duty for a period of nine months, with effect from 20 March 2004.

B. GROUNDS FOR EXTENDING OF THE SUSPENSION

(3) Article 14(4) of the basic Regulation provides for the possibility of suspension of anti-dumping measures in the Community interest on the grounds that market conditions have changed temporarily to an extent that injury would be unlikely to resume as a result of such a suspension. The anti-dumping measures may be suspended by a decision of the Commission for a period of nine months. Article 14(4) further specifies that the suspension may be extended for a further period, not exceeding one year, if the Council so decides on a proposal from the Commission.

(4) Following the suspension of the definitive anti-dumping duty by the Decision, the Commission has, in accordance with recital (15) of the Decision, continued to monitor the market situation of coke 80 +. In addition to the analysis of the imports from the PRC, a questionnaire was sent to all parties concerned requesting data on production, sales in volume and in prices on the Community market and profitability for 2003 and the first six months in 2004.

(5) Replies were received from both the complainant and user industries. Four Community producers cooperated: three from EU-15 (complainant industry) and one from Poland. Twelve companies representing both the stone-wool and foundry industries also cooperated.

Imports from the PRC

(6) As to the volume of imports into the Community from the PRC, it was found that during the first six months of 2004 the volume of imports of the product concerned had decreased by 4 % compared to the same period in 2003. Based on the experience of previous years, it seems, however, that more imports are normally made during the second half of the year. Indeed, in this case the comparison of the volume of imports between January and June 2004 and the last six months of 2003 shows a decrease of 11 %.

(7) With regard to prices, the average price of coke 80 + during the first six months in 2004 increased by 107 % compared to the average price in 2003. On average, the unit price was EUR 124 per tonne in 2003 and EUR 256 per tonne during the first six months of 2004. It is noted that during the first five months of 2004 there was a slight increase, from EUR 110 to EUR 140, and that in June the price rose to EUR 403.

[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] OJ L 316, 15.12.2000, p. 30. Decision as amended by Council Regulation (EC) No 997/2004 (OJ L 183, 20.5.2004, p. 1).
[3] OJ L 81, 19.3.2004, p. 89.

Imports from other countries

(8) During the original investigation, the PRC main competitors were Poland and the Czech Republic. Based on Eurostat, total imports from these countries were 924 602 tonnes compared to 318 005 tonnes from the PRC in 2003. These countries are now part of the Community industry and their data have been taken into consideration.

Situation of the Community producers

(9) The production among the Community producers (EU-15) increased from 442 397 tonnes in 2003 to an estimated 543 920 tonnes in 2004, i.e. by 23 %. At the same time, the sales volume increased by 35 % and prices by 8 %. The Community industry seems to have started to recover relatively well from the previous injurious situation, as the average profit was 8,5 % in 2003 and 12,4 % at the end of June 2004.

(10) With regard to the new EU Member States, production of coke 80 + is concentrated mainly in Poland and the Czech Republic. One of the Polish producers cooperated in this proceeding. EU-25 production among the cooperating companies increased by 30 % from 2003 to 2004. At the same time, the sales volume increased by 39 % and sales prices by 12 %. The average profit for EU-25 producers was 13 % in 2003 and 19,1 % in 2004.

Situation of the user industry (stone-wool and foundry industry)

(11) Prices of coke 80 + imported from the PRC by the user industry increased from EUR 143 per tonne in 2003 to EUR 255 per tonne in 2004 (April to June), i.e. by 78 %. The volume of Chinese coke purchased by these users decreased from 158 730 tonnes in 2003 to an estimated volume of 65 114 tonnes in 2004, i.e. by 59 %.

(12) Users still maintain that the supply of coke 80 + does not meet the demand on the Community market, despite significant increases in production and sales by the Community industry. In addition, they argue that Chinese coke 80 + is not available in sufficient quantities and even then only at very high prices.

C. **CONCLUSION**

(13) From the above, it can be seen that the market is in the same situation as when the measures were suspended. Indeed, given the temporary change in market conditions, and in particular the high level of prices of the product concerned, which are far above the injurious level found in the original investigation, together with the shortage of coke 80 + supply, it is considered that the injury caused to the Community industry by imports of coke 80 + from the PRC is unlikely to resume under the present circumstances, and that an extension of the suspension would be in the Community interest. Consequently, the conditions for the suspension continue to be fulfilled.

(14) In view of the abovementioned findings, it is proposed that the suspension of the anti-dumping duty on imports of coke of coal in pieces with a diameter of more than 80 mm be extended for a further period of one year, pursuant to Article 14(4) of the basic Regulation.

(15) It should be noted when this extended suspension expires, the anti-dumping duty in force will have lapsed, unless a request for an expiry review is lodged.

(16) All interested parties were informed of the essential facts and considerations leading to this conclusion. On the grounds that the coke market is very volatile, the Community industry requested an extension, limited to nine months, of the suspension of the anti-dumping duty. In this respect it was considered that a shorter period was not appropriate in the present context, since pursuant to Article 14(4) of the basic Regulation, measures may be reinstated, at any time and after consultation, if the reason for suspension is no longer applicable.

(17) For the period of the suspension, the Commission will continue to monitor the development of imports of coke 80 + into the Community,

HAS ADOPTED THIS REGULATION:

Article 1

The suspension of the definitive anti-dumping duty imposed by Commission Decision 2730/2000/ECSC is hereby extended until 15 December 2005.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 December 2004.

For the Council
The President
G. ZALM