Council Regulation (EC) No 865/2008 of 27 August 2008 extending the suspension of the definitive anti-dumping duty imposed by Regulation (EC) No 1420/2007 on imports of silico-manganese originating in the People's Republic of China and Kazakhstan

COUNCIL REGULATION (EC) No 865/2008

of 27 August 2008

extending the suspension of the definitive anti-dumping duty imposed by Regulation (EC) No 1420/2007 on imports of silico-manganese originating in the People's Republic of China and Kazakhstan

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) The Council, by Regulation (EC) No 1420/2007[(2)], imposed a definitive anti-dumping duty on imports of silico-manganese (including ferro-silico-manganese) (SiMn) originating in the People's Republic of China (PRC) and Kazakhstan, falling within CN codes 7202 30 00 and ex 8111 00 11 (TARIC code 8111 00 11 10) (the product concerned). The rate of the anti-dumping duty is 8,2 % and 6,5 % for imports of the product concerned originating in the PRC and Kazakhstan respectively.

(2) By Decision 2007/789/EC[(3)] (the Decision), the Commission suspended the definitive anti-dumping duties for a period of nine months, with effect from 6 December 2007.

B. GROUNDS FOR EXTENDING OF THE SUSPENSION

(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 suspension, provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Article 14(4) also specifies that the suspension may be extended for a further period, not exceeding one year, if the Council so decides, acting on a proposal from the Commission. Article 14(4) further specifies that the measures concerned may be reinstated at any time if the reason for suspension is no longer applicable.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 865/2008. (See end of Document for details)*

(4) Following the suspension of the definitive anti-dumping duties, the Commission has, in accordance with recital 13 of the Decision, continued to monitor the developments on the market, in particular with regard to the flow of imports and the prices of SiMn. In addition to such analysis of the imports, a questionnaire was also sent to co-operating Community producers requesting monthly data on production, sales in volume and value on the Community market as well as profitability for the last quarter of 2007 and the first quarter of 2008.

(5) On the basis of the information gathered, it was established that market prices of SiMn on the Community market continued to be relatively high and significantly higher than during the original investigation period (1 July 2005 to 30 June 2006). A continuous increase can be observed from the third quarter of year 2006 with an average price of 622 EUR/MT, through an average of 1 051 EUR/MT in the third quarter of year 2007 and an average 1 189 EUR/MT in the first quarter of year 2008. These trends were also observed for imports of SiMn into the Community.

(6) As regards imports, between the period investigated for the Decision suspending the measures (from 1 October 2006 to 30 September 2007) (the 'Decision IP') and the period from 1 March 2007 to 29 February 2008 (the 'Monitoring Period') the market share of imports of SiMn originating in the PRC and Kazakhstan increased only marginally by 0,2 percentage point to 10 % of the overall Community consumption and remained below their respective market share during the original investigation period (10,4 %). EC consumption remained stable, around 20 % higher than during the original investigation period.

(7) With regard to the Community industry, its situation remained improved when compared to the original investigation period (from 1 July 2005 to 30 June 2006). As mentioned in recital 8 of the Decision, between the original investigation period and the period from 1 October 2006 to 30 September 2007, the sales and production volumes have increased by 15 % and 19 % respectively and the profitability of the Community industry reached 42 % in the third quarter of year 2007. The new information gathered revealed that between the Decision IP and the Monitoring Period, the sales of the Community industry increased even further by additional 9 % and their market share increased to 25,4 %. As a result of the uninterrupted high price levels of the SiMn on the EU market the profitability of the Community industry remained extraordinary, even if it slightly dropped in the first quarter of year 2008 to 36 %, still substantially surpassing the 5 % profit level established as appropriate by the original investigation.

(8) As indicated in recitals 157 to 163 of Regulation (EC) No 1420/2007 and referred to in recital 9 of the Decision, the imposition of measures in question was expected to have some negative, although limited, effects for users in the form of cost increases arising out of the possible need to arrange new or alternative supplies. Considering the temporary change in market conditions and that consequently the Community industry is currently not suffering injury, any negative effect on users could continue to be eliminated by extending the suspension of the measures. Consequently, it can be concluded that extending the suspension is in the overall Community interest.

C. CONSULTATION OF COMMUNITY INDUSTRY

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

D. CONCLUSION

(10) Given the above, it is considered that the market is in a substantially similar situation as when the measures where suspended. Indeed, considering the temporary change in market conditions, and in particular the high level of prices of SiMn existing on the Community market, which is far higher than the injurious price level found in the original investigation, it is considered that the injury linked to the imports of the product concerned originating in the PRC and Kazakhstan is unlikely to resume as a result of the extension of the suspension.

(11) In view of the aforementioned findings, it is therefore proposed that the suspension of the anti-dumping measures on imports of silico-manganese (including ferro-silico-manganese) be extended for a further period of one year pursuant to Article 14(4) of the basic Regulation.

(12) 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 and Kazakhstan resume and consequently cause injury to the Community industry, the Commission will take the necessary steps to reinstate the anti-dumping duty, taking into account the substantive rules that govern an injury assessment. An interim review pursuant to Article 11(3) of the basic Regulation may be initiated, if appropriate,

HAS ADOPTED THIS REGULATION:

Article 1

The suspension of the definitive anti-dumping duty imposed by Commission Decision 2007/789/EC is hereby extended until 6 September 2009.

Article 2

This Regulation shall enter into force on the day following that of 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.