Council Regulation (EC) No 998/2004 of 17 May 2004 amending Regulation (EC) No 950/2001 imposing a definitive anti-dumping duty on imports of certain aluminium foil originating in the People's Republic of China and Russia

COUNCIL REGULATION (EC) No 998/2004

of 17 May 2004

amending Regulation (EC) No 950/2001 imposing a definitive anti-dumping duty on imports of certain aluminium foil originating in the People's Republic of China and Russia

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 Articles 8, 11(3) and 22 (c) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) By Regulation (EC) No 950/2001[(2)], the Council imposed a definitive anti-dumping duty on imports into the Community of certain aluminium foil ('the product concerned') originating among others in Russia. By Commission Decision (2001/381/EC) of 16 May 2001[(3)], an undertaking was accepted for a Russian exporting producer 'United Company Siberian Aluminium'.

(2) The rate of the duty applicable to the net, free-at-Community-frontier price, before duty, was set at 14,9 % for imports of the product concerned from Russia by Regulation (EC) No 950/2001.

2. Investigation

(3) On 20 March 2004 the Commission announced through the publication of a notice in the *Official Journal of the European Union*[(4)], the initiation of a number of partial interim reviews of anti-dumping measures applicable to imports of certain products originating in the People's Republic of China, the Russian Federation, Ukraine and the Republic of Belarus pursuant to Articles 11(3) and 22 (c) of the basic Regulation. The anti-dumping measure imposed on imports of certain aluminium foil originating in Russia is one of the measures on which the review was initiated ('the measures').

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 998/2004. (See end of Document for details)*

(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'), it would be appropriate to adapt the measures.

(5) Since a certain quantity of the imports of the product concerned originating in Russia is currently subject to a price undertaking for a specific volume, the review of the measures was initiated in order to examine whether this undertaking, which was drawn up on the basis of data for a Community of 15 Member States, should be adapted to take account of the enlargement.

3. Parties concerned by the investigation

(6) All interested parties known to the Commission, 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 ten new Member States which acceded to the European Union on 1 May 2004 ('the EU10') were informed 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.

(7) In this regard, the following interested parties made their views known:

(a) Community Producers Association:

— Eurometaux, Brussels, Belgium

(b) Exporting producers:

— JSC 'United Company Siberian Aluminium', Moscow, Russia.

B. PRODUCT CONCERNED

(8) The product concerned is aluminium foil of a thickness of 0,009 mm or more up to not more than 0,018 mm, not backed, not further worked than rolled, presented in reels of a width not exceeding 650 mm, currently classifiable within CN code ex 7607 11 10. The product concerned is commonly known as aluminium household foil ('AHF').

(9) AHF is manufactured by rolling aluminium ingots or foil-stock up to the desired thickness. Once rolled, the foil is annealed by a thermal process to make it pliable. Once rolled and annealed the AHF is presented on reels of a width not exceeding 650 mm. The dimension of the reel is determinant for its use, since the users of this product ('spoolers' or 'rewinders') will mount the AHF onto small end-rolls destined for retail sale. The AHF rewound onto smaller rolls is then used for multi-purpose short-life wrapping (mostly in households, catering and food and floristry retail business).

C. RESULTS OF THE INVESTIGATION

1. Claims made by interested parties

(10) The Russian exporting producer subject to the price undertaking submitted that the volume of imports to which the price undertaking applies was established on the basis of its sales to the market of the EU15 and that, therefore, the undertaking should be revised in order to take due account of the market of the EU25. It claimed that such revision was essential in order to avoid discrimination in favour of the other exporters of the product concerned to the EU.

2. Comments received from Member States

(11) The Member States have made their views known and the majority of them support adapting the measures in order to take account of the enlargement.

3. Assessment

(12) An analysis was made of the available data and information which confirmed that the import volumes of the product concerned from Russia into the EU10 were significant. Considering that the volume of imports subject to the price undertaking currently in force was established on the basis of the imports into the Community of 15 Member States, it does not take into account the effect of the increase of the market following the enlargement.

4. Conclusion

(13) Considering the above, it is concluded that to take account of the enlargement it is appropriate to adapt the measures in order to cater for the additional volume of imports into the EU10 market.

(14) The original volume of imports subject to the price undertaking for the EU15 was calculated on the basis of the exports to the Community during the original investigation period of the Russian producer for whom an undertaking has been accepted. The amount of the increase of the volume of imports subject to the price undertaking has been calculated following the same calculation method.

(15) Accordingly, it is considered appropriate that the Commission may accept a proposal for a modified undertaking reflecting the situation after the enlargement and on the basis of the method described in recital 14,

HAS ADOPTED THIS REGULATION:

Article 1

The Commission may accept a proposal for a modified undertaking increasing the volume of imports subject to the price undertaking accepted by Decision 2001/381/EC as regards imports of certain aluminium foil originating in Russia. The increase shall be calculated by using the same calculation method that was used when the original price undertaking was established for the Community of 15 Member States, that is on the basis of the exports to the Community of the Russian producer for whom an undertaking has been accepted.