

COMMISSION DECISION No 659/2000/ECSC**of 30 March 2000****amending Decision No 2136/97/ECSC on administering certain restrictions on imports of certain steel products from the Russian Federation**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the treaty establishing the European Coal and Steel Community, and in particular the first paragraph of Article 95 thereof,

After consulting the ECSC Consultative Committee and obtaining the unanimous agreement of the Council,

Whereas:

- (1) Commission Decision No 2136/97/ECSC of 12 September 1997 on administering certain restrictions on imports of certain steel products from the Russian Federation ⁽¹⁾, as last amended by Decision No 2124/98/ECSC ⁽²⁾, implements in Community law the provisions of the Agreement between the European Coal and Steel Community and the Russian Federation on trade in certain steel products ⁽³⁾ (hereinafter the 'Steel Agreement'). The Steel Agreement was concluded in the wider framework, and provided for in Article 21 of the Agreement on partnership and cooperation (PCA) establishing a partnership between the European Communities and their member States, of one part, and the Russian Federation of the part ⁽⁴⁾.
- (2) Several Declarations are attached as integral parts to the Steel Agreement. Declaration No 3, in particular, states that 'in the context of the Agreement [...], the Parties agree that they shall not apply with respect to the other Party quantitative restrictions, customs duties, charges or any similar measures on the export of ferrous waste and scrap under the Combined Nomenclature heading 7204 [...].'
- (3) On 16 April 1999, the Russian Government adopted a Decree ⁽⁵⁾ imposing a 15 % customs duty (with a minimum charge of EUR 15/tonne) on exports of iron and steel scrap for a period of six months. The intention, as stated in the Decree, was to prevent diversion of the raw materials needed for steel production and to maintain minimum levels of production from Russian steel plants.
- (4) At the 17 May meeting of the Cooperation Council, the Community delegation passed a memorandum to the Russian delegation expressing its concerns regarding the Decree. This memorandum called for the export tax on iron scrap to be dropped forthwith on the grounds of its incompatibility with the Steel Agreement.
- (5) At the request of the Russian authorities, the Partnership and Cooperation Agreement coal and steel contact group and the subcommittee on steel, coal, mining and raw materials were convened in Brussels in June for consultations focusing particularly on Russia's export duty on iron scrap. The Commission delegation clearly stated that it regarded the measure as a violation of both the Steel Agreement and the Partnership and Cooperation Agreement. In the absence of a satisfactory solution, it reserved the right to make use of the dispute settlement provisions and take retaliatory measures under the latter.
- (6) The Community delegation expounded the same objections regarding the Decree at the meeting of the EU/Russia Cooperation Committee in Brussels on 8 October 1999.
- (7) Notwithstanding all these consultations, on 28 October 1999 the Russian Government extended by six months the original decree imposing a customs duty on exports of iron and steel scrap ⁽⁶⁾.
- (8) The aim and effect of the decrees is to restrict exports of the products concerned from the Russian Federation, and they are therefore prejudicial to the Community's steel industry. Against a background of economic recovery in world steel production, the tax on Russian scrap exports means that the current pressure on the price of scrap is further intensified. The international price for scrap rose by some EUR 8 per tonne in the last few months of 1999. Each additional euro represents extra costs to the Community industry of around EUR 60 million.
- (9) Appropriate trade sanctions are clearly necessary, therefore, for as long as the Russian Federation persists in this breach of the Steel Agreement.

⁽¹⁾ OJ L 300, 4.11.1997, p. 15.

⁽²⁾ OJ L 268, 3.10.1998, p. 31.

⁽³⁾ Commission Decision 97/742/ECSC (OJ L 300, 4.11.1997, p. 51). Text of Agreement (OJ L 300, 4.11.1997, p. 52).

⁽⁴⁾ OJ L 327, 28.11.1997, p. 3.

⁽⁵⁾ Decree No 441.

⁽⁶⁾ Decree No 1198.

- (10) The Steel Agreement was concluded in the overall framework of the partnership and Cooperation Agreement. For the purposes of dispute settlement and trade sanctions, therefore, the relevant procedures in the latter apply in areas covered by the former.
- (11) In particular, under Article 107(2) of the Partnership and Cooperation Agreement 'if either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Cooperation Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the parties'.
- (12) In accordance with that Article, the Community wrote on 22 December 1999 to the President of the Cooperation Council supplying all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties, and also informing the Cooperation Council of the Community's intention to adopt appropriate sanctions against its obligations under the bilateral Steel Agreement and the PCA unless a solution i.e. withdrawal of the tax on exports of scrap of Combined Nomenclature heading 7204, was found within one calendar month of the date on the letter. No solution acceptable to the Parties was found during the consultations which took place in Brussels on 2 to 3 February 2000.
- (13) Annex IV of Decision No 2136/97/ECSC determines the quantitative limits applicable to Community imports of certain steel products from the Russian Federation.
- (14) A reduction of 12 % in these limits for 2000 represents a trade sanction of the order of EUR 20 million. Such a measure therefore constitutes a proportionate response to the infringement. In accordance with Article 107(2) of the PCA, priority has been given in the selection of these measures to those which least disturb the functioning of the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The quantitative limits for 2000 in Annex IV to Decision No 2136/97/ECSC on administering certain restrictions on imports of certain steel products from the Russian Federation are replaced by those set out in the Annex to this Decision.

Article 2

The Commission shall take appropriate measures to repeal this Decision once the Russian Federation has taken the necessary measures to meet its obligations under Declaration No 3, attached to the Agreement between the European Coal and Steel Community and the Russian Federation on trade in certain steel products.

Article 3

This Decision shall enter into force the day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 30 March 2000.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

<i>(in tonnes)</i>	
Products	2000
<i>SA. Flat-rolled products</i>	
1. Coils	201 423
1 (a) Hot rolled coils for re-rolling	397 557
2. Heavy plate	30 206
3. Other flat rolled products	27 438
<i>SB. Long products</i>	
1. Beams	11 649
2. Wire rod	27 182
3. Other longs	101 307