# COMMISSION DECISION No 435/2001/ECSC

## of 2 March 2001

## amending Decision No 2277/96/ECSC on protection against dumped imports from countries not members of the European Coal and Steel Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 74 thereof,

Whereas:

(1) Commission Decision No 2277/96/ECSC [1], as amended by Decision No 1000/1999/ECSC [2], sets out common rules for protection against dumped imports from countries not members of the European Coal and Steel Community.

(2) Article 2(7)(a) of Decision No 2277/96/ECSC provides that, in the case of imports from non-market economy countries and, in particular those listed in a footnote to that paragraph, normal value is, *inter alia*, to be determined on the basis of the price or constructed value in an analogue market economy third country.

(3) Article 2(7)(b) of Decision No 2277/96/ECSC further provides that, in the case of imports from the Russian Federation and the People's Republic of China normal value is to be determined in accordance with the rules applicable to market economy countries in cases where it can be shown that market economy conditions prevail for one or more producers subject to investigation in respect of the manufacture and sale of the like product concerned.

(4) The process of reform in Ukraine, Vietnam and Kazakhstan has fundamentally altered their economies and has led to the emergence of firms for which market economy conditions prevail. Those three countries have, as a result, moved away from the economic circumstances which inspired the use of the analogue country method.

(5) The European Community's anti-dumping practice under Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [3], as last amended by Regulation (EC) No 2238/2000 [4] now takes account of the changed economic conditions in Ukraine, Vietnam and Kazakhstan. Regulation (EC) No 384/96 now also provides for similar treatment to be granted to imports from such countries which are members of the World Trade Organisation (WTO) at the date of the initiation of the relevant anti-dumping investigation.

(6) The relevant provisions of Decision No 2277/96/ECSC should be aligned with those of Regulation (EC) No 384/96 as a matter of urgency, in order to ensure consistency in the application of the anti-dumping rules provided under the EC Treaty and the ECSC Treaty respectively. Decision No 2277/96/ECSC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Article 2(7) of Decision No 2277/96/ECSC is amended as follows:

1. The footnote relating to the first subparagraph of subparagraph (a) is replaced by the following:

   '(*) Including Albania, Armenia, Azerbaijan, Belarus, Georgia, North Korea, Kyrgyzstan, Moldavia, Mongolia, Tajikistan, Turkmenistan and Uzbekistan.'

2. Subparagraph (b) is replaced by the following:

   '(b) In anti-dumping investigations concerning imports from the Russian Federation, the People's Republic of China, Ukraine, Vietnam and Kazakhstan and any other non-market economy country which is a member of the World Trade Organisation (WTO) at the date of the initiation of the investigation, normal value shall be determined in accordance with paragraphs 1 to 6, if it is shown, on the basis of properly substantiated claims by one or more producers subject to the investigation and in accordance with the criteria and procedures set out in subparagraph (c), that market economy conditions prevail for this producer or producers in respect of the manufacture and sale of the like product concerned. When this is not the case, the rules set out in subparagraph (a) shall apply.'

*Article 2*

This Decision shall apply to all anti-dumping investigations initiated after the date on which it enters into force.

In the case of imports from non-market economy countries which become members of the WTO after the date on which it enters into force, this Decision shall apply to all anti-dumping investigations concerning products originating in those countries which are initiated after the date of their accession to the WTO.

*Article 3*

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

[1] OJ L 308, 29.11.1996, p. 11.
[2] OJ L 122, 12.5.1999, p. 35.
[3] OJ L 56, 6.3.1996, p. 1.
[4] OJ L 257, 11.10.2000, p. 2.

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

Done at Brussels, 2 March 2001.

*For the Commission*
Pascal LAMY
*Member of the Commission*