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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 42/2007

of 15 January 2007

extending the definitive anti-dumping duty imposed by Regulation (EC) No 398/2004 on imports of silicon originating in the People's Republic of China to imports of silicon consigned from the Republic of Korea whether declared as originating in the Republic of Korea or not

THE COUNCIL OF THE EUROPEAN UNION,

measures in force had been absorbed by Chinese exporters and imposed an additional duty on imports of silicon originating in China.

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 13 thereof,

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

Whereas:

(3) In 1997, both expiry and interim reviews were initiated. These reviews were concluded by Council Regulation (EC) No 2496/97 ⁽⁴⁾. As a result of these reviews, measures were maintained but it was considered more appropriate to change the form of the measures from a fixed duty to an *ad valorem* duty. The duty rate amounted to 49 % of the cif price of the imports in question. In accordance with the lesser duty rule, this rate corresponded to the injury margin.

(4) Following an expiry review, the Council concluded by Regulation (EC) No 398/2004 ⁽⁵⁾ that the anti-dumping duty should be maintained.

A. PROCEDURE

1. Existing measures

- (1) By Regulation (EEC) No 2200/90 ⁽²⁾, the Council imposed definitive anti-dumping measures in the form of a fixed duty per tonne of silicon originating in the People's Republic of China (China) imported into the Community.
- (2) Shortly thereafter, following a request lodged by the Community industry, the Council, by Regulation (EEC) No 1607/92 ⁽³⁾, concluded that the anti-dumping

2. Request

- (5) On 6 March 2006, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on imports of silicon, classifiable within CN code 2804 69 00 (silicon content less than 99,99 % by weight) originating in China. The request was submitted by Euroalliages (Liaison Committee of the Ferro-Alloy Industry) (the applicant) on behalf of producers representing a major proportion, namely 100 %, of the Community production of silicon. The request alleged that the anti-dumping measures in force on imports of silicon originating in China were being circumvented by means of transshipment via the Republic of Korea (Korea).

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 198, 28.7.1990, p. 57.

⁽³⁾ OJ L 170, 25.6.1992, p. 1.

⁽⁴⁾ OJ L 345, 16.12.1997, p. 1.

⁽⁵⁾ OJ L 66, 4.3.2004, p. 15.

- (6) The request further alleged that there was insufficient due cause or justification other than the imposition of anti-dumping measures for such change in the pattern of trade and that the remedial effects of the existing anti-dumping measures were being undermined both in terms of quantity and price. Significant volumes of imports of silicon from Korea appeared to have replaced imports of silicon from China. In addition, there was sufficient evidence that these imports were made at prices below the cost of production and reasonable profit established for the Community industry in the investigation that led to the existing measures.
- (7) Finally, the applicants alleged that the prices of silicon consigned from Korea were dumped in relation to the normal value previously established for silicon originating in China.

3. Initiation

- (8) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission initiated an investigation by Regulation (EC) No 607/2006⁽¹⁾ (the initiating Regulation). Pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, by the initiating Regulation, also directed the customs authorities to register imports of silicon consigned from Korea, whether declared as originating in Korea or not.

4. Investigation

- (9) The Commission officially advised the authorities of China and Korea, the producers/exporters and the importers in the Community known to be concerned as well as the applicant Community industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in Korea and to the Chinese and Korean authorities. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being made on the basis of the facts available.
- (10) No questionnaire replies were received from exporters/producers in China, nor did the Commission receive any comments from the Chinese authorities.

- (11) Two Korean companies offered to cooperate in the investigation. Only one of these imported silicon from China into Korea, but did not export it to the Community. The second cooperating Korean company neither produced nor imported silicon at all.

5. Investigation Period

- (12) The investigation period covered the period from 1 April 2005 to 31 March 2006 (the IP). Data was collected from 2001 up to the end of the IP to investigate the alleged change in the pattern of trade.

B. RESULTS OF THE INVESTIGATION

1. General considerations/degree of cooperation

- (13) As mentioned in recital 10, no producers/exporters of silicon in China cooperated in the investigation nor did any Community importer submit information relevant for the investigation. As mentioned in recital 11, only two companies in Korea cooperated but they did not export silicon to the Community during the period considered. Accordingly, findings in respect of silicon consigned from Korea to the Community had to be made on the basis of the facts available in accordance with Article 18 of the basic Regulation.

2. Product concerned and like product

- (14) The product concerned is the same as in the original investigation, i.e. silicon originating in China classifiable within CN code 2804 69 00 (silicon content less than 99,99 % by weight). It is recalled that silicon with a higher purity, that is containing by weight not less than 99,99 % of silicon, used mostly in the electronic semi-conductor industry, falls under a different CN code and is not covered by this proceeding.
- (15) From the information received from the two cooperating Korean companies as well as information available in the request submitted by the applicant, it was concluded that silicon exported to the Community from China and silicon consigned from Korea to the Community have the same basic physical characteristics and the same uses. Therefore, they are considered as like products within the meaning of Article 1(4) of the basic Regulation. No submissions to the contrary were made during the investigation.

⁽¹⁾ OJ L 107, 20.4.2006, p. 24.

3. Change in the pattern of trade between third countries and the Community

- (16) As stated above, the change in the pattern of the trade was alleged to stem from transshipment via Korea.
- (17) Due to the absence of cooperation from Korean exporting companies, the volume and value of Korean exports of the product concerned to the Community were determined on the basis of the information available, which in this case was Eurostat import statistics.
- (18) The change in the pattern of trade is based on data from the first table reproduced below. Large volumes of silicon started to be imported from Korea into the Community in 2002 and 2003, and continued at a high level until the IP. The significant volumes of imports consigned from Korea between, in particular, 2003 and the IP, while fluctuating during this period, coincided with a substantial and continuing reduction (more than 50 %) of imports from China.

Table 1

Imports of silicon from China and Korea (volume)

Country	2002	2003	2004	2005	IP (April 2005-March 2006)
China (tonnes)	39 705	56 226	55 939	30 346	22 358
Korea (tonnes)	1 070	5 540	2 340	4 380	3 658

Source: Eurostat.

4. Circumvention process found and insufficient due cause or economic justification

- (19) Since no Korean company which exported silicon to the EU cooperated in the present investigation, the assessment of circumvention was based on information available in accordance with Article 18 of the basic Regulation, including information provided in the complaint. The investigation did not reveal information suggesting that that silicon was produced in Korea. On the contrary, both Korean cooperating companies confirmed that no production of silicon exists in Korea.

- (20) It is therefore concluded that, in the absence of any other sufficient due cause or economic justification within the meaning of the second sentence of Article 13(1) of the basic Regulation, the change in the pattern of trade stemmed from the anti-dumping duty imposed on imports of silicon originating in China and must be assumed, as the complainant states, to consist in transshipment through Korea.

5. Undermining of the remedial effects of the duty in terms of the prices and/or the quantities of the like product

- (21) It is evident from the data mentioned in recital 18 that a quantitative change in the pattern of Community imports of the product concerned occurred and that Chinese imports into the Community decreased significantly in 2005, while at the same time there was a surge of exports of the product concerned to the Community from Korea, a country where there is no production of silicon. It is therefore clear that the marked change in trade flows undermined the remedial effects of the measures in terms of the quantities imported into the Community market even if the imports from Korea during the IP amounted to significantly less than the reduction of imports from China between 2004 and the IP.
- (22) With regard to prices of silicon consigned from Korea, in the absence of cooperation, it was necessary to refer to Eurostat data. It was found that the average export prices from Korea to the Community were far below the sale prices and the costs of the Community industry as established in the investigation which led to the imposition of the current measures.

Table 2

Imports of silicon from China and Korea (EUR per tonne)

Country	2002	2003	2004	2005	IP (April 2005-March 2006)
China	1 063	1 000	1 026	964	1 001
Korea	1 031	912	961	1 039	1 061

Source: Eurostat.

- (23) It is therefore concluded that the imports of the product concerned from Korea undermine the remedial effects of the duty both in terms of quantities and prices.

6. Evidence of dumping in relation to the normal value previously established for the like product

- (24) As explained in recitals 10 and 11, given the absence of cooperation and in order to determine whether evidence of dumping could be found with respect to the exports of the product concerned to the Community from Korea during the IP, Eurostat data at CN level were used pursuant to Article 18 of the basic Regulation as the basis for establishing export prices to the EU.
- (25) In accordance with Article 13(1) of the basic Regulation, these export prices were compared with the normal value previously established, in this case the normal value established in the most recent expiry review.
- (26) In accordance with Article 2(11) and 2(12) of the basic Regulation, a comparison of the weighted average normal value as established during the expiry review investigation and the weighted average of export prices during this investigation's IP, expressed as a percentage of cif price at the Community frontier duty unpaid, confirmed significant dumping.

C. MEASURES

- (27) In view of the findings above it is found that circumvention has taken place within the meaning of the second sentence of Article 13(1) of the basic Regulation. In accordance with the first sentence of Article 13(1) of the basic Regulation, the existing anti-dumping measures on imports of the product concerned originating in China, should be extended to imports of the same product consigned from Korea, whether declared as originating in Korea or not.
- (28) The measures to be extended should be the ones established in Article 1(2) of Regulation (EC) No 398/2004, which are a definitive anti-dumping duty of 49 % applicable to the net, free-at-Community-frontier price, before customs duty.
- (29) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provides that any extended measure should apply to imports which entered the Community under registration imposed by the initiating Regulation, duties should be collected on those registered imports of silicon consigned from Korea.

D. REQUESTS FOR EXEMPTION

- (30) Although during this investigation no genuine producer/exporter of silicon to the Community was found to exist in Korea or made itself known to the Commission, any exporters concerned which consider lodging a request for an exemption from the extended anti-dumping duty pursuant to Article 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to determine whether an exemption may be warranted. Such exemption may be granted after the assessment of the market situation of the product concerned, production capacity and capacity utilisation, procurement and sales and the likelihood of continuation of practices for which there is insufficient due cause or economic justification and the evidence of dumping. The Commission would normally also carry out an on the spot verification visit. The request should be addressed to the Commission forthwith, with all relevant information, in particular any modification in the company's activities linked to production and sales.
- (31) Where an exemption is warranted, the Commission will, after consultation of the Advisory Committee, propose the amendment of this Regulation accordingly. Subsequently, any exemption granted will be monitored to ensure compliance with the conditions set therein.

E. PROCEDURE

- (32) Interested parties were informed of the essential facts and considerations on the basis of which the Council intended to extend the definitive anti-dumping duty in force and were given the opportunity to comment and to be heard. No comments which were of a nature to change the above conclusions were received.

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Regulation (EC) No 398/2004 on imports of silicon falling within CN code 2804 69 00 originating in the People's Republic of China is hereby extended to imports of silicon, falling within CN code ex 2804 69 00 (TARIC code 2804 69 00 10), consigned from the Republic of Korea whether declared as originating in the Republic of Korea or not.

2. The duties extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Article 2 of Commission Regulation (EC) No 607/2006 and Articles 13(3) and 14(5) of Regulation (EC) No 384/96.

3. The provisions in force concerning customs duties shall apply.

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the Community and must be signed by a person authorised to represent the applicant. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate B
Office: J-79 05/17
B-1049 Brussels
Fax (32-2) 295 65 05.

2. In accordance with Article 13(4) of Regulation (EC) No 384/96, the Commission, after consulting the Advisory Committee, may authorise by decision the exemption of imports which do not circumvent the anti-dumping measures imposed by Regulation (EC) No 398/2004 from the duty extended by Article 1.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EC) No 607/2006.

Article 4

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.

Done at Brussels, 15 January 2007.

For the Council

The President

F.-W. STEINMEIER

COMMISSION REGULATION (EC) No 43/2007**of 18 January 2007****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 January 2007.

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

Done at Brussels, 18 January 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 18 January 2007 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	55,3
	MA	73,8
	TN	148,3
	TR	146,4
	ZZ	106,0
0707 00 05	JO	166,3
	MA	87,1
	TR	167,1
	ZZ	140,2
0709 90 70	MA	80,2
	TR	132,2
	ZZ	106,2
0805 10 20	EG	52,9
	IL	48,9
	MA	50,8
	TN	58,7
	TR	56,1
	ZZ	53,5
0805 20 10	MA	79,1
	TR	45,4
	ZZ	62,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	82,9
	IL	61,4
	MA	59,8
	TR	65,9
	ZZ	67,5
0805 50 10	AR	67,1
	TR	50,0
	ZZ	58,6
0808 10 80	CA	92,3
	CN	83,4
	US	124,4
	ZZ	100,0
0808 20 50	CN	64,3
	US	100,5
	ZA	94,5
	ZZ	86,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 44/2007
of 18 January 2007
on the issuing of export licences for wine-sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 883/2001 of 24 April 2001, laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector⁽¹⁾, and in particular Article 7 and Article 9(3) thereof,

Whereas:

- (1) Article 63(7) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾, limits the grant of export refunds for wine-sector products to the volumes and expenditure contained in the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations.
- (2) Article 9 of Regulation (EC) No 883/2001 lays down the conditions under which the Commission may take specific measures to prevent an overrun of the quantity laid down or the budget available under the said Agreement.
- (3) On the basis of information on export licence applications available to the Commission on 17 January 2007, the quantity still available for the period until 15 March 2007, for destination zones (1) Africa, (3)

Eastern Europe and (4) Western Europe, referred to in Article 9(5) of Regulation (EC) No 883/2001, could be exceeded unless the issue of export licences with advance fixing of the refund is restricted. Therefore, a single percentage for the acceptance of applications submitted on 16 January 2007 should be applied and the submission of applications and the issue of licences suspended for this zone until 16 March 2007,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export licences with advance fixing of the refund for wine-sector products for which applications are submitted on 16 January 2007 under Regulation (EC) No 883/2001 shall be issued in concurrence with 38,30 % of the quantities requested for zone (1) Africa, in concurrence with 53,66 % of the quantities requested for zone (3) Eastern Europe and in concurrence with 34,57 % of the quantities requested for zone (4) Western Europe.

2. The issue of export licences for wine-sector products referred to in paragraph 1 for which applications are submitted from 17 January 2007 and the submission of export licence applications from 19 January 2007 for destination zone (1) Africa, (3) Eastern Europe and (4) Western Europe shall be suspended until 16 March 2007.

Article 2

This Regulation shall enter into force on 19 January 2007.

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

Done at Brussels, 18 January 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 128, 10.5.2001, p. 1. Regulation as last amended by Regulation (EC) No 2079/2005 (OJ L 333, 20.12.2005, p. 6).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 2165/2005 (OJ L 345, 28.12.2005, p. 1).

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

POLITICAL AND SECURITY COMMITTEE DECISION DARFUR/5/2007

of 16 January 2007

appointing a Military Advisor to the European Union Special Representative for Sudan

(2007/34/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular to Article 25(3) thereof,

Having regard to Council Joint Action 2005/557/CFSP of 18 July 2005 on the European Union civilian-military supporting action to the African Union mission in the Darfur region of Sudan ⁽¹⁾, and in particular Article 4 thereof,

Whereas:

- (1) On 5 July 2006 the Council adopted Joint Action 2006/468/CFSP ⁽²⁾ renewing and revising the mandate of the Special Representative of the European Union for Sudan.
- (2) The Special Representative of the European Union (EUSR) for Sudan *inter alia* ensures the coordination and coherence of the Union's contributions to the African Union mission in the Darfur region of Sudan (AMIS). In accordance with Article 5(2) of Joint Action 2005/557/CFSP, an EU Coordination Cell in Addis Ababa (ACC) under the authority of the EUSR, comprised of a political advisor, a military advisor and a police advisor, manages day-to-day coordination with all relevant EU actors and with the Administrative Control and Management Centre (ACMC) within the chain of command of the African Union in Addis Ababa in order to ensure coherence and timely EU support to AMIS.
- (3) Under Article 4 of Joint Action 2005/557/CFSP the Council authorised the Political and Security Committee to appoint the military advisor to the EUSR upon a

proposal from the Secretary-General/High Representative (SG/HR) based on a recommendation from the EUSR.

- (4) The SG/HR, following the recommendation of the EUSR, has proposed that Colonel François AMELINEAU be appointed as the new Military Advisor to the EUSR.
- (5) In accordance with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the elaboration and implementation of decisions and actions of the European Union which have defence implications,

HAS DECIDED AS FOLLOWS:

Article 1

Colonel François AMELINEAU is hereby appointed Military Advisor to the EUSR for Sudan.

Article 2

This Decision shall take effect on 25 January 2007.

Done at Brussels, 16 January 2007.

For the Political and Security Committee
The Chairperson
C. von GOETZE

⁽¹⁾ OJ L 188, 20.7.2005, p. 46.

⁽²⁾ OJ L 184, 6.7.2006, p. 38.