# Commission Implementing Regulation (EU) 2016/1077 of 1 July 2016 imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China following an expiry review under Article 11(2) and a partial interim review under Article 11(3) of Council Regulation (EC) No 1225/2009

## COMMISSION IMPLEMENTING REGULATION (EU) 2016/1077

## of 1 July 2016

## imposing a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China following an expiry review under Article 11(2) and a partial interim review under Article 11(3) of Council Regulation (EC) No 1225/2009

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Articles 9(4), 11(2), (3) and (5),

Whereas:

### 1. PROCEDURE

#### 1.1. Measures in force

(1) The measures currently in force are a definitive anti-dumping duty on imports of silicon originating in the People's Republic of China ('the PRC') imposed by Council Implementing Regulation (EU) No 467/2010[(2)] following an expiry review under Article 11(2) and a partial interim review ('the previous review investigations') under Article 11(3) of the basic Regulation. The measures are in force in the form of duties of between 16,3 % and 19 % of the value of the imported goods.

#### 1.2. Request for an expiry review

(2) Following the publication of a notice of impending expiry[(3)] of the existing measures, the Commission received on 27 February 2015 a request for the initiation of an expiry review of these measures under Article 11(2) of the basic Regulation. The request was lodged by Euroalliages on behalf of producers representing 100 % of the Union production of silicon.

(3) The request was based on the grounds that the expiry of the measures would likely result in a continuation of dumping and recurrence of injury to the Union industry.

#### 1.3. Request for a partial interim review

(4) On 17 June 2015, the Commission received a request for a partial interim review of the existing measures, limited in scope to the examination of injury.

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1077. (See end of Document for details)*

(5) The request for review was lodged by the European Users of Silicon Metal ('Eusmet'), an association of Union chemical users of silicon created for this investigation. Eusmet provided evidence that as far as injury is concerned the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of a lasting nature.

(6) These changes relate to the composition and the structure of the Union industry, to the silicon demand in the Union, to the economic situation of the Union producers and to the Union supply pattern.

1.4. **Initiation of an expiry review and a partial interim review**

(7) On 28 May 2015, the Commission initiated an expiry review of the measures in force on imports into the Union of silicon originating in the PRC and published a Notice of Initiation in the *Official Journal of the European Union*[(4)].

(8) On 1 September 2015, the Commission initiated a partial interim review limited to injury with regard to imports into the Union of silicon originating in the PRC and published a separate Notice of Initiation in the *Official Journal of the European Union*[(5)].

1.5. **Interested parties**

(9) In the Notice of Initiation of the expiry review, the Commission invited interested parties to participate in the investigation. In addition, the Commission specifically informed known Union producers, the known exporting producers, the Chinese authorities, known importers and users about the initiation of the review and invited them to participate.

(10) The Commission also stated that it envisaged using the United States of America ('the USA') as a third market economy country ('analogue country'), as proposed by the applicant, within the meaning of Article 2(7)(a) of the basic Regulation. Therefore, the Commission also informed the authorities and the producer in the USA about the initiation and invited them to participate.

(11) The Commission also sent notices to the authorities in Australia, Brazil, Norway, Russia, South Africa and Thailand notifying them of the initiation of the investigation and requesting information on production and sale of silicon in those countries. Letters were then sent to all known producers of silicon in these countries asking for their cooperation with the review and enclosing a questionnaire.

(12) In the Notice of Initiation of the partial interim review, the Commission invited interested parties to participate in the investigation. In addition, the Commission informed known Union producers, the known exporting producers, the Chinese authorities, known importers and users about the initiation of the review and invited them to participate.

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(13) Interested parties had an opportunity to comment on the initiation of these investigations and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.6. **Sampling**

(14) In both Notices of Initiation, the Commission stated that it might sample exporting producers and importers in accordance with Article 17 of the basic Regulation.

1.6.1. *Sampling of importers*

(15) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(16) One unrelated importer provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

1.6.2. *Sampling of exporting producers in the PRC*

(17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide all information specified in the expiry Notice of Initiation. In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(18) Eleven Chinese exporting producers and two traders provided the requested information and agreed to be included in the sample. The Commission originally proposed a sample of three exporting producers, based on the largest volume of exports that could be verified in the time available.

(19) During consultations on this sample one of the three companies withdrew its cooperation, and therefore it was replaced by two smaller exporting producers, making the final sample four exporting producers out of the ten cooperating.

(20) The same ten exporting producers came forward in the sampling exercise for the partial interim review and therefore the same sample of companies was selected.

1.7. **Replies to questionnaires**

(21) The Commission sent questionnaires to the Union industry, the importer and the sampled exporting producers and received replies from all of them. Three replies were received to the analogue country questionnaire from producers in Norway, Russia and the USA.

1.8. **Verification visits**

(22) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Union interest. Verification visits

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under Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) *Union producers*

— FerroAtlántica S.L., Madrid, Spain

— Ferropem, Chambéry, France

— RW silicium GmbH, Pocking, Germany

(b) *Importer*

— Stanchem Sp.J., Lublin, Poland

(c) *Users*

— Dow Corning Limited, Barry, UK

— Raffmetal SpA, Casto, Italy

— Trimet Aluminium SE, Essen, Germany

— Wacker Chemie AG, Munich, Germany

(d) *Exporting producers in the PRC*

— Changning Zhenyuan Smelting Silicon Co., Ltd, Yunnan

— CIEC Westland Corporation, Xi'an

— Sichuan Linhe Silicon Industrial Co., Ltd, Leshan

— S.au (Guilin) Trade Co., Ltd, Guilin

(e) *Producer in the analogue country*

— Globe Specialty Metals, Miami, Florida, USA

1.9. **Review investigation period and period considered**

(23) The investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 ('the review investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2011 to the end of the review investigation period ('the period considered').

## 2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(24) The product concerned is silicon currently falling within CN code 2804 69 00 originating in the PRC ('the product concerned').

2.2. **Like product**

(25) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

(1) the product concerned;

(2) the product produced and sold on the domestic market of the USA, which was selected as analogue country; and

(3) the product produced and sold in the Union by the Union industry.

(26) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

## 3. DUMPING

### 3.1. Likelihood of recurrence or continuation of dumping

(27) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was currently taking place and whether dumping was likely to continue or recur upon a possible expiry of the measures in force on imports from the PRC.

#### 3.1.1. *Normal value and analogue country*

(28) According to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in a market economy third country. For this purpose, a market economy third country had to be selected ('the analogue country').

(29) In the Notice of Initiation, the Commission informed interested parties that it envisaged using the USA as an appropriate analogue country, as proposed by Euroalliages, and invited interested parties to comment.

(30) The Commission asked producers of the like product in the USA, Norway, Brazil, Russia, Thailand, South Africa, and Australia to provide information.

(31) Eusmet commented that the USA was not an appropriate analogue country, rejected Australia, Brazil and Russia, and proposed Norway as the alternative.

(32) Norway had been used as analogue country in earlier investigations, but was rejected as an appropriate analogue country in the previous review investigations, for the reasons set out in recital 35 of Regulation (EU) No 467/2010. At the start of this investigation questionnaires were sent to both Norwegian producers, but only one cooperated, and this producer had no domestic sales.

(33) Based on the evidence in this questionnaire reply, showing no domestic sales, the Commission has concluded that the circumstances regarding the Norwegian domestic market have not changed since the previous review investigations in 2010. The Commission therefore does not consider Norway as an appropriate analogue country.

(34) Brazil had been used as analogue country in the previous investigations but no Brazilian company responded to the questionnaire sent to them, including the companies that had cooperated in the previous investigations.

(35) Eusmet asked the Commission to reject the USA for the following reasons:

— there is only one producer in the USA who sells onto the domestic market,

— there are duties in place against imports from some countries, in particular the PRC and Russia,