Council Implementing Regulation (EU) No 1297/2009 of 22 December 2009 repealing the anti-dumping duty imposed by Regulation (EC) No 172/2008 on imports of ferro-silicon originating in the former Yugoslav Republic of Macedonia

COUNCIL IMPLEMENTING REGULATION (EU) No 1297/2009

of 22 December 2009

repealing the anti-dumping duty imposed by Regulation (EC) No 172/2008 on imports of ferro-silicon originating in the former Yugoslav Republic of Macedonia

THE COUNCIL OF THE EUROPEAN UNION,

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

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 11 paragraphs 3 and 6 thereof,

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

Whereas:

1. **PROCEDURE**

1.1. **Existing measures**

(1) The Council, by Regulation (EC) No 172/2008[(2)] ('the original Regulation'), imposed a definitive anti-dumping duty on imports of ferro-sillicon ('FeSi') originating in the People's Republic of China, Egypt, Kazakhstan, the former Yugoslav Republic of Macedonia and Russia. The measures consist of *ad valorem* duties in the range of 5,4 % to 33,9 % depending on the country of origin, with the exception of four companies expressly mentioned in the original Regulation which are subject to individual duty rates.

1.2. **Request for a review**

(2) Subsequent to the imposition of definitive measures, the Commission received a request for a partial interim review pursuant to Article 11(3) of the basic Regulation ('the interim review'). The request, limited in scope to the examination of dumping, was lodged by an exporting producer from the former Yugoslav Republic of Macedonia, Silmak Dooel Export Import ('the applicant' or 'Silmak'). The applicant cooperated in the investigation which led to the findings and conclusions laid down in the original Regulation ('the original investigation'). The anti-dumping duty applicable to the applicant, which is the only known exporting producer of the product concerned originating in the former Yugoslav Republic of Macedonia, is 5,4 %.

(3) In its request for the interim review, the applicant argued that a comparison of its constructed normal value and its export prices to the Union indicated that the

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 1297/2009. (See end of Document for details)*

dumping margin was substantially lower than the current level of measure. Therefore, it claimed that the continued application of the measure at its current level was no longer necessary to offset dumping.

1.3. **Initiation of a partial interim review**

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an interim review, the Commission decided to initiate a partial interim review in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of dumping as far as Silmak is concerned. The Commission published a notice of initiation on 22 April 2009 in the *Official Journal of the European Union*[3] and commenced an investigation.

1.4. **Product concerned and like product**

(5) The product concerned by the interim review is the same as that in the original investigation, i.e. a ferro-alloy containing by weight more than 8 % and less than 96 % silicon and at least 4 % iron. Production of FeSi takes place in electric arc furnaces by means of reducing quartz using carbon-bearing products. The product is essentially used as a deoxidiser and as an alloying component in the iron and steel industry. FeSi is sold in the form of lumps, grains or powder and exists in various qualities depending on the silicon and the impurity content (e.g. aluminium). FeSi with a silicon content of 70 % and higher was considered as high purity, with a silicon content of more than 55 % and less than 70 % as medium purity, and with a silicon content of less than 55 % as low purity FeSi. The product concerned currently falls within CN codes 7202 21 00, 7202 29 10. and 7202 29 90.

(6) The product produced and sold in the former Yugoslav Republic of Macedonia and that exported to the Union have the same basic physical, technical and chemical characteristics and uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

1.5. **Parties concerned**

(7) The Commission officially advised the Union industry, the applicant and the authorities of the exporting country of the initiation of the interim review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(8) The Commission sent a questionnaire to the applicant and received a reply within the deadline set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping, and a verification visit was carried out at the premises of the applicant:

— Silmak Dooel Export-Import, Jegunovice, the former Yugoslav Republic of Macedonia.

1.6. **Investigation period**

***Changes to legislation:** There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 1297/2009. (See end of Document for details)*

(9) The investigation of dumping covered the period from 1 January 2008 to 31 December 2008 (‘the investigation period’ or ‘IP’).

2. RESULTS OF THE INVESTIGATION

2.1. Normal value

(10) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the applicant's domestic sales of the like product to independent customers were representative, i.e. whether the total volume of such sales was equal to at least 5 % of the total volume of the corresponding export sales to the Union.

(11) As the investigation established that there were no representative domestic sales of the like product in the former Yugoslav Republic of Macedonia, normal value had to be constructed. In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding to the manufacturing costs of the exported types a reasonable amount for selling, general and administrative expenses (‘SG&A’) and a reasonable profit margin.

(12) In order to establish whether the applicant's own SG&A and profit margin realised on the domestic sales of the like product could be used, the Commission subsequently examined whether there were any domestic sales of FeSi in the IP which could be regarded as having been made in the ordinary course of trade, pursuant to Article 2(4) of the basic Regulation. It was found that the company had few profitable domestic sales transactions during the IP, corresponding to very small quantities. The company claimed that these transactions concerned trial product types which could not therefore be considered to be in the ordinary course of trade. The claim was examined and accepted.

(13) Based on the above analysis, it was concluded that the applicant did not have any domestic sales of the like product in the ordinary course of trade during the IP. Thus, pursuant to point (c) of Article 2(6) it was considered reasonable, when constructing the normal value, to follow the same method as that applied in the original investigation. As a consequence, the weighted average SG&A incurred by the Egyptian producers in the original investigation, because of their comparable production and sales structures, and a profit margin of 5 % which was considered a reasonable profit for this type of commodity market, were added to the cost of manufacturing of the applicant.

2.2. Export price

(14) Since all export sales of the applicant to the Union were made directly to independent customers, the export prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

2.3. Comparison

(15) The comparison between the weighted average normal value and the weighted average export price was made on an ex-works basis and at the same level of trade.