# Council implementing Regulation (EU) No 1202/2009 of 7 December 2009 imposing a definitive anti-dumping duty on imports of furfuryl alcohol originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96

## COUNCIL IMPLEMENTING REGULATION (EU) No 1202/2009

## of 7 December 2009

## imposing a definitive anti-dumping duty on imports of furfuryl alcohol originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96

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 Articles 9 and 11(2) thereof,

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

Whereas:

### A. PROCEDURE

#### 1. Measures in force

(1) In October 2003, the Council, by Regulation (EC) No 1905/2003[(2)], imposed definitive anti-dumping measures in the form of a specific duty on imports of furfuryl alcohol (FA) originating in the People's Republic of China (China). The specific duty amounts ranged from EUR 84 to EUR 160 per ton for four cooperating Chinese producers, while the country-wide duty was set at EUR 250 per ton (the original investigation).

#### 2. Request for an expiry review

(2) Following the publication, in May 2008, of a notice of impending expiry of the anti-dumping measures applicable to imports of FA originating in China[(3)], the Commission received on 30 July 2008 a request for a review pursuant to Article 11(2) of the basic Regulation.

(3) The request was lodged by International Furan Chemicals BV (the applicant) on behalf of the sole producer in the Union representing 100 % of the Union production of FA. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and recurrence of injury to the Union industry.

(4) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission published a notice of initiation of this review in the *Official Journal of the European Union*[4].

## 3. Investigation

### 3.1. *Procedure*

(5) The Commission officially advised the applicant Union producer, the exporting producers in China, the Chinese authorities, the producer in the suggested analogue country, United States of America, the importers/traders and users in the Union known to be concerned, of the initiation of the 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.

(6) Questionnaires were sent to all the parties that were officially advised of the initiation of the review and to those who requested a questionnaire within the time limit set out in the notice of initiation.

(7) Replies to the questionnaire were received from the applicant Union producer, two traders, ten users, two associations of users, one exporting producer in China and the producer in the analogue country.

### 3.2. *Interested parties and verification visits*

(8) The Commission sought and verified all the information it deemed necessary for the purpose of the determination of the likelihood of continuation or recurrence of dumping and injury and for the determination of the Union interest. Verification visits were carried out at the premises of the following companies:

- Union producer and related companies:
  - TransFurans Chemicals BVBA, Geel, Belgium,
  - International Furan Chemicals BV, Rotterdam, the Netherlands,
  - Central Romana Corporation, LTD, La Romana, Dominican Republic,
- Exporting producers in China:
  - Zhucheng Taisheng Chemical Co. Ltd,
- Producer in the analogue country:
  - Penn Speciality Chemicals Inc., United States of America (USA),
- Unrelated importers/traders:
  - S. Chemicals, the Netherlands,
- Users:
  - Kiilto OY, Finland,
  - Mazzon Flli., Italy,
  - SATEF Hüttenes-Albertus, Italy,

— Ashland Sudchemie Kernsfest, Germany,

— Hüttenes-Albertus, Germany,

3.3. *Review investigation period and period under consideration*

(9) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 October 2007 to 30 September 2008 ('RIP' or 'Review Investigation Period').

(10) The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2005 up to the end of the RIP ('period considered' or 'period under consideration').

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. The product concerned

(11) The product concerned is the same as in the original investigation, i.e. FA originating in China, currently falling within CN code ex 2932 13 00.

(12) FA is a chemical product. It is a colourless to pale yellow liquid that is soluble in many common organic solvents. The raw material for the production of FA is furfural (FF), which is a chemical liquid obtained by processing different types of agricultural waste such as sugar cane, corncobs and rice hulls among others.

(13) FA is a commodity product. The main use of FA is the production of synthetic resins, used in the production of foundry moulds which are used to make metal castings for industrial purposes.

### 2. Like product

(14) As in the previous investigation, this investigation has shown that the basic physical and technical characteristics of FA produced and sold by the Union industry in the Union, FA produced and sold on the domestic Chinese market, FA imported into the Union from China as well as FA produced and sold in the USA are the same and that they have the same use.

(15) It was therefore concluded that all these products constitute one like product within the meaning of Article 1(4) of the basic Regulation.

## C. LIKELIHOOD OF CONTINUATION OF DUMPING

(16) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

(17) In accordance with Article 11(9) of the basic Regulation, the same methodology was used as in the original investigation. As an expiry review does not provide for any examination of changed circumstances, no further consideration was given to whether or not producers should be granted market economy treatment (MET).

### 1. Preliminary remarks

**Changes to legislation:** *There are currently no known outstanding effects for the Council implementing Regulation (EU) No 1202/2009. (See end of Document for details)*

(18) It is recalled that in the original investigation a total of four Chinese exporting producers cooperated with the investigation and requested MET pursuant to Article 2(7)(b) of the basic Regulation. However, none of these Chinese exporting producers fulfilled all of the required conditions for granting MET and therefore all claims for MET had to be rejected. All of them were granted individual treatment (IT) since the investigation revealed that they fulfilled the required criteria. It is noted that the only Chinese exporter which cooperated with the present expiry review was granted IT in the original investigation.

(19) The only cooperating Chinese exporting producer accounted for 23,1 % of imports into the Union during the RIP. No reliable information on imports of the product concerned to the Union during the RIP could be gathered directly from the other exporting producers. Under these circumstances, and in accordance with Article 18 of the basic Regulation, for total import quantities and prices the Commission had to use facts available, i.e. Eurostat and the documentation submitted by the applicant in the request for the initiation of the review.

(20) The existing anti-dumping duties, ranging from EUR 84 to EUR 160/tonne, with a country-wide residual duty of EUR 250/tonne, correspond to the level of injury established during the previous investigation.

## 2. Dumping in the investigation period

### 2.1. *Analogue country*

(21) In the original investigation the United States of America (the USA) was used as an appropriate market economy country for the purpose of establishing the normal value for China. In the notice of initiation of the current investigation the Commission indicated its intention to use the USA as analogue country. Interested parties were invited to comment on this intention. The USA was considered appropriate in view of the size and openness of its domestic market and the fact that one US producer had agreed to cooperate fully in the investigation.

(22) An importers' association opposed the choice of the USA as analogue country, arguing that there was only one main producer in the USA and that domestic prices were extremely high. One Chinese exporting producer claimed that the level of competition in the USA was lower than that on the Chinese domestic market and therefore the markets were not comparable. It was found, however, that while there was only one producer on the market in the USA, imports also played a role which ensured a sufficient level of competition on this sizeable market. Furthermore, none of the known producers contacted in other possible analogue countries, including Thailand, Turkey and South Africa, agreed to cooperate.

(23) Based on the above, it was concluded that the USA was the most appropriate and reasonable analogue country in accordance with Article 2(7) of the basic Regulation.

### 2.2. *Normal value*

(24) Pursuant to Article 2(7)(a) of the basic Regulation normal value was established on the basis of verified information received from the producer in the USA.

(25) The Commission first established that the total domestic sales of the US producer were made in sufficient quantities and could thus be considered representative within the meaning of Article 2(2) of the basic Regulation.

(26) It was subsequently examined whether the product concerned sold in representative quantities on the analogue country's domestic market could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. It was found that the sales volume on a per type basis, sold at a net sales price equal to or above the cost of production, represented 80 % or more of the total sales volume and the weighted average price of that type was equal to or above the cost of production. Therefore the actual domestic prices, calculated as a weighted average of the prices of all domestic sales made during the RIP, irrespective of whether these sales were profitable or not, could be used.

(27) Normal value was thus determined, as set out in Article 2(1) of the basic Regulation, on the basis of prices paid or payable, in the ordinary course of trade, by independent customers on the domestic market of the analogue country.

2.3. *Export price*

(28) The only Chinese exporting producer which cooperated was granted IT in the original investigation. In accordance with Article 2(8) of the basic Regulation the export price of the product concerned for this company was established on the basis of the export prices actually paid or payable to the first independent customer located in the Union.

(29) Given that cooperation from China was very low, the countrywide dumping margin applicable to all other exporters in China was calculated using the Chinese export statistics.

2.4. *Comparison*

(30) In order to ensure a fair comparison of the normal value and the export price, due allowance, in the form of adjustments, was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments concerning transport, insurance, and credit costs were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

2.5. *Dumping margin*

(31) In accordance with Article 2(11) of the basic Regulation the weighted average normal value established for the USA was compared with the weighted average export price of the cooperating Chinese exporting producer on an ex-works basis. This comparison showed the existence of significant dumping, the dumping margin amounting to more than 40 %.