Commission Regulation (EC) No 607/2006 of 19 April 2006 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 398/2004 on imports of silicon originating in the People's Republic of China by imports of silicon consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, and making such imports subject to registration

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 (the basic Regulation)[(1)], and in particular Article 13(3) and Article 14(5) thereof,

After having consulted the Advisory Committee,

Whereas:

A. REQUEST

(1) The Commission has received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of silicon originating in the People’s Republic of China.

(2) The request was lodged on 6 March 2006 by Euro Alliages on behalf of producers representing a major proportion, i.e. 100 % of the Community production of silicon.

B. PRODUCT

(3) The product concerned by the possible circumvention is silicon originating in the People’s Republic of China, normally declared under CN code ex 2804 69 00 (the product concerned). This code is given for information only.

(4) The product under investigation is silicon consigned from the Republic of Korea (the product under investigation) normally declared under the same code as the product concerned.

C. EXISTING MEASURES

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 607/2006. (See end of Document for details)*

(5) The measures currently in force and possibly being circumvented are antidumping measures imposed by Council Regulation (EC) No 398/2004[(2)].

D. GROUNDS

(6) The request contains sufficient *prima facie* evidence that the anti-dumping measures on imports of silicon originating in the People's Republic of China are being circumvented by means of the transhipment via Republic of Korea of silicon.

(7) The evidence submitted is as follows:

The request shows that a significant change in the pattern of trade involving exports from the People's Republic of China and the Republic of Korea to the Community has taken place, and that there is insufficient due cause or economic justification other than the imposition of the duty for such a change.

This change in the pattern of trade appears to stem from the transhipment of silicon originating in the People's Republic of China via the Republic of Korea.

Furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of silicon from the Republic of Korea appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that this increase in imports is made at prices well below the non-injurious price established in the investigation that led to the existing measures.

Finally, the request contains sufficient *prima facie* evidence that the prices of silicon are dumped in relation to the normal value previously established for the product concerned.

Should circumvention practices via the Republic of Korea covered by Article 13 of the basic Regulation, other than transhipment, be identified in the course of the investigation, the investigation may cover these practices also.

E. PROCEDURE

(8) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of silicon consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) Questionnaires

(9) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in the Republic of Korea, to the exporters/producers and to the associations of exporters/producers in the People's Republic of China, to the importers and to the associations of importers in the Community which cooperated in

the investigation that led to the existing measures and to the authorities of the People's Republic of China and Republic of Korea. Information, as appropriate, may also be sought from the Community industry.

(10) In any event, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3 of this Regulation in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time-limit set in Article 3(1) of this Regulation, given that the time limit set in Article 3(2) of this Regulation applies to all interested parties.

(11) The authorities of the People's Republic of China and Republic of Korea will be notified of the initiation of the investigation.

(b) Collection of information and holding of hearings

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Exemption of imports from registration or measures

(13) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if such importation does not constitute circumvention.

(14) Since the possible circumvention takes place outside the Community, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product concerned that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Article 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time-limit indicated in Article 3(3) of this Regulation.

F. REGISTRATION

(15) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of registration of such imports consigned from the Republic of Korea.

G. TIME-LIMITS

(16) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,