Council Regulation (EC) No 785/2005 of 23 May 2005 terminating the partial interim review of the anti-dumping measures applicable to imports of silicon originating in the People's Republic of China

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THE COUNCIL OF THE EUROPEAN UNION,

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)] (basic Regulation), and in particular Articles 11(3) and 22(c) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In March 2004 following an expiry review, the Council, by Regulation (EC) No 398/2004[(2)], imposed a definitive anti-dumping duty on imports of silicon metal (silicon) originating in the People's Republic of China (the PRC). The rate of the definitive duty applicable to the net, free-at-Community frontier price, before duty, was 49 %.

2. Initiation

(2) On 20 March 2004 the Commission announced through the publication of a notice[(3)] in the *Official Journal of the European Union*, the initiation of a partial interim review of the measures applicable to, *inter alia*, imports of silicon originating in the PRC pursuant to Articles 11(3) and 22(c) of the basic Regulation.

(3) The review was launched on the initiative of the Commission in order to examine whether, as a consequence of the enlargement of the European Union on 1 May 2004 (enlargement), and bearing in mind the aspect of Community interest, there was a need to adapt the measures in order to avoid a sudden and excessively negative effect on interested parties, including users, distributors and consumers.

3. Product under consideration

(4) The product under consideration is the same as in the investigation which led to the imposition of the existing measures, i.e. silicon metal originating in the PRC,

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classifiable within CN code 2804 69 00 (silicon content less than 99,99 % by weight). Purely by reason of the current classification set out in the Customs nomenclature, it should read 'silicon'. Silicon with a higher purity, that is containing by weight not less than 99,99 % of silicon, used mostly in the electronic semiconductor industry, falls under a different CN code and is not covered by this proceeding.

4. Investigation

(5) The Commission officially advised the importers, the users and the exporters known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the investigation. 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) China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC), the Community industry association (Euroalliages), importers/traders, the authorities of some new Member States which joined the European Union on 1 May 2004 (the EU-10) and users of silicon in the EU-10 made their views known in writing. All parties which so requested within the time limit, and which demonstrated that there were particular reasons why they should be heard, were granted the opportunity to be heard.

(7) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

B. FINDINGS OF THE INVESTIGATION AND TERMINATION OF THE PARTIAL INTERIM REVIEW

1. Imports of silicon from the PRC to the EU-10

(8) The investigation has shown that an average yearly increase in import volumes of silicon from the PRC into the EU-10, as reported by Eurostat, was around 13 % in 2001 and 2002. In 2003 import volumes increased by around 54 % due to the significant increase in the period October to December.

(9) Furthermore, an abnormal increase in import volumes of around 120 % as compared to the same period of the previous year was found just before enlargement, that is to say January to April 2004.

(10) The investigation has further shown that imports of silicon from the PRC into the EU-10 have decreased after enlargement. The decrease could be explained by the abnormal increases in import volumes prior to enlargement.

(11) Moreover, statistics on imports into the EU-10 in the post-enlargement period show that the decrease of import volumes from the PRC coincides with a progressive increase of imports originating in Norway and Brazil, as well as sales from the 15 Member States which composed the European Union before enlargement (the EU-15).

2. Demand of silicon in the EU-10

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 785/2005. (See end of Document for details)*

(12) Demand for silicon in the EU-10 has been established on the basis of the total imports less total exports. It is to be noted that there is no declared production of silicon in the EU-10.

(13) Taking into account the abnormal increases in import volumes from the PRC before enlargement, it was considered necessary to make some adjustments to the import volumes during 2003 and 2004 in order to determine what would normally be the import levels during these periods in the absence of enlargement.

(14) In this regard, an average yearly increase in import volumes from the PRC in 2001 and 2002 was found to have been 13 %. On this basis, the level of normal imports from the PRC in 2003 and 2004 was determined by applying a 13 % yearly increase to the import volumes in the previous years, which could normally have been expected to be the import levels during these periods in the absence of enlargement.

(15) Following the same methodology, exports from the EU-10 in 2004 were estimated by adding to the total exports in 2003 a normal increase of 80 % which was found to be the average yearly increase in export volumes in 2002 and 2003.

Table 1

Demand of silicon in the EU-10

(tonnes)

Year	**2000**	**2001**	**2002**	**2003**	**2004 (estimated)**
Import to the EU-10	18 815	19 802	22 661	23 855 (estimated)	26 957
Export from the EU-10	37	6	84	153	275
Total demand in the EU-10	18 778	19 795	22 576	23 703	26 682

Source: Eurostat and estimated data for 2003 and 2004.

(16) In the light of the above, it was found that demand in the EU-10 is around 6 % of the level of demand in the EU-15 as estimated in the last expiry review investigation of the anti-dumping measures on imports of silicon originating in the PRC made in Regulation (EC) No 398/2004.

3. Alternative sources of supply to meet the demand in the EU-10

(17) The investigation has shown that there are enough potential sources of supply, alternative to the supply from the PRC, available to meet the demand in the EU-10 even

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if the extension of the anti-dumping duty from the EU-15 to the 10 new Member States would completely eliminate or result in a decrease in imports from the PRC.

(18) There are around 18 000 tones of potential supply of silicon from the EU-15. This calculation has been made on the basis of the last expiry review investigation of the anti-dumping measures on imports of silicon originating in the PRC. It was found that production in the EU-15 of silicon amounted to around 148 000 tonnes in 2001. The same expiry review investigation found that there were around 166 000 tonnes of production capacity in the EU-15, indicating spare capacities of around 18 000 tonnes.

(19) Furthermore, other potential sources of supply of silicon (not subject to anti-dumping duties) are, among others, Norway (with spare capacity of 18 000 tonnes), Brazil, Canada and the USA.

(20) As outlined in recital 11, it was also found that in the post-enlargement period, that is to say May to November 2004, for which reliable data has already been reported by Eurostat, imports from other sources, in particular Norway and Brazil, as well as sales from the EU-15 gradually increased. Sales from the EU-15 increased four-fold, import volumes from Norway increased five-fold and from Brazil six-fold, as compared to the same period in 2003.

Table 2

Import volumes to the EU-10 from Norway, Brazil and sales from the EU-15

(tonnes)

Period of the year	**Sales from the EU-15**	**Import volumes from Norway**	**Import volumes from Brazil**
May-November 2003	2 070	238	152
May-November 2004	7 772	1 144	975

(21) In the light of the above, there is no compelling reason to believe that there will be a shortage of silicon on the EU-10 market.

4. Cost impact assessment

(22) As stated by various interested parties, silicon is an intermediary product used by only a handful of processing industries in the new Member States, in particular for the production of secondary aluminium alloys.

(23) Aluminium producers in the EU-10 confirm that the average proportion of silicon consumed in the production process of secondary aluminium alloys ranges between 3 % and 13,5 %.