



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.10.2006
COM(2006) 634 final

Proposal for a

COUNCIL REGULATION

**terminating the partial interim review of anti-dumping measures on imports of silicon
originating in the Russian Federation**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal concerns the application of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005 ("the basic Regulation") in the proceeding concerning imports of silicon originating in the Russian Federation following an interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96.

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of a proceeding which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

- **Existing provisions in the area of the proposal**

There are no existing provisions in the area of the proposal.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Interested parties concerned by the proceeding have already had the possibility to defend their interests during the proceeding, in line with the provisions of the basic Regulation.

- **Collection and use of expertise**

There was no need for external expertise.

- **Impact assessment**

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not foresee a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

On 5 April 2006, the Commission announced by a notice published in the *Official Journal of the European Union* (OJ C 82, 5.4.2006, p.64) the initiation of a partial interim review of the anti-dumping measures applicable to imports of silicon originating in the Russian Federation.

The request for this review had been made by a Russian exporting producer of silicon, namely Sual Kremny Ural LLC and related company ("the applicant") and was limited in scope to the determination of the dumping margin applicable to it.

On 29 May 2006 the applicant formally withdrew its request.

Since the information provided for in the applicant's request had not brought to light any considerations showing that the termination of the present review would not be in the Community interest, it is suggested that the Council terminates the current review and maintains the level of the anti-dumping duty in force with regard to the applicant.

It is therefore proposed that the Commission adopt the attached proposal for a Council regulation, with a view to its transmission to the Council and subsequent publication in the Official Journal of the European Union.

- **Legal basis**

Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community, as last amended by Council Regulation (EC) No 2117/2005 of 21 December 2005.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Community, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason:

Other means would not be adequate because the basic Regulation does not foresee alternative options.

4) BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

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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 (the ‘basic Regulation’)¹ and in particular Article 11(3) thereof,

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

Whereas:

1. PROCEDURE

1.1 Previous investigations and measures in force

(1) By Council Regulation (EC) No 2229/2003², a definitive anti-dumping duty was imposed on imports of silicon originating in Russia. The rate of the definitive anti-dumping duty applicable to imports from SKU LLC, Sual-Kremny-Ural, Kamensk, Ural Region, Russia and its related company ZAO KREMNY, Irkutsk, Irkutsk Region, Russia is 22.7%. The Commission, by Decision 2004/445/EC³ accepted an undertaking offered by the applicant.

1.2 Request for an interim review

(2) On 6 February 2006, the Commission received a request for a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not member of the European Community⁴ (‘the basic Regulation’) concerning the anti-dumping measures applicable to imports of silicon originating in the Russian Federation.

¹ OJ L 56, 6.3.1996, p.1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ No L 340, 23.12.2005, p.17)

² OJ L 339, 24.12.2003, p.3

³ OJ L 127, 29.4.2004, p.114

⁴ OJ L 56, 6.3.1996, p.1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p.17).

- (3) The request was made by SKU LLC, Sual-Kremny-Ural, Kamensk, Ural Region, Russia and its related company ZAO KREMNY, Irkutsk, Irkutsk Region, Russia (“the applicant”) and was limited in scope to the determination of dumping as far as the applicant is concerned.
- (4) The request contained *prima facie* evidence that the circumstances on the basis of which measures were established have changed and that these changes are of a lasting nature.
- (5) The Commission, by a notice (‘notice of initiation’) published in the *Official Journal of the European Union*⁵, accordingly initiated a partial interim review of the anti-dumping measures applicable to imports of silicon, currently classifiable within CN code 2804 69 00 and originating in the Russian Federation.
- (6) The Commission officially advised the applicant, the representatives of the exporting country and the association of Community producers of 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 and questionnaires were sent to the applicant.
- (7) The investigation period was 1 April 2005 to 31 March 2006.

2. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE INTERIM REVIEW

- (8) On 29 May 2006, i.e. before the submission of a reply to the questionnaire, the applicant formally withdrew its request.
- (9) It was considered whether it would be warranted to continue the investigation *ex-officio* despite the above mentioned withdrawal. However, given that the request had been withdrawn at an early stage of the investigation, no evidence relating to the current IP was available and no preliminary findings were obtained at this stage which would have allowed continuing with the investigation.
- (10) Information provided for in the applicant’s request had not brought to light any considerations showing that the termination of the review would not be in the Community interest.
- (11) All interested parties were informed about the intention to terminate the present proceeding. One interested party argued that the applicant was still exporting the product concerned to the EC at dumped prices and that therefore the investigation should continue. However, it should be noted that the termination of this investigation does not result in the elimination of the anti-dumping measure which is already in force in order to re-establish fair trade practises. Therefore this argument had to be rejected.
- (12) Two other interested parties argued also in favour of continuing the present investigation in order to remove the measures, given the alleged shortage of supply in the EC. However, this argument is outside the scope of this investigation which is

⁵ OJ C 82, 5.4.2006, p.64

limited to the reassessment of the dumping margin of one exporter. Therefore, the continuation of this investigation would in any event not change the level of measures to which other exporters are subject to. It could not, consequently, address the issue of short supply in a non-discriminatory way.

- (13) It was therefore concluded that the current interim review of definitive anti-dumping measures imposed on imports into the Community of silicon originating in the Russian Federation should be terminated. The anti-dumping measures with regard to the applicant currently in force should be maintained without affecting the duration of the measures.

HAS ADOPTED THIS REGULATION:

Article 1

- (1) The partial interim review, pursuant to Article 11(3) of Council Regulation (EC) No 384/96, with regard to the anti-dumping measures applicable to imports of silicon originating in the Russian Federation by virtue of Council Regulation (EC) No 2229/2003 is hereby terminated.
- (2) The anti-dumping measures currently in force with regard to SKU LLC, Sual-Kremny-Ural, Kamensk, Ural Region, Russia and ZAO KREMNY, Irkutsk, Irkutsk Region, Russia are maintained.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

For the Council
The President
[...]