



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.6.2007
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Proposal for a

COUNCIL REGULATION

extending the suspension of the definitive anti-dumping duty imposed by Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the People's Republic of China

(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 23 December 2005 (the basic Regulation) in the proceeding concerning imports of ferro molybdenum originating in the People's Republic of China (PRC).

- **General context**

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation 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**

Council Regulation (EC) No 215/2002, imposing a definitive anti-dumping duty on imports of ferro molybdenum originating in the PRC.

Commission Decision of 23 October 2006, suspending for a period of nine months the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the PRC.

- **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 investigation, 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 the requirement that the measures should not be contrary to the “Community interest” means that the assessment of the wider impact of the measures forms an integral part of the investigation.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

In February 2002, a definitive anti-dumping duty of 22,5% was imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the PRC.

In October 2006 the Commission, by Commission Decision of 23 October 2006 suspended for a period of nine months the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the PRC.

The enclosed Commission proposal for a Council Regulation extends until 31 January 2008 the suspension of the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum originating in the PRC.

Member States were consulted and raised no objection to the proposal.

It is proposed that the Council adopt the attached proposal for a Regulation which should be published in the Official Journal of the European Union by 21 July 2007 at the latest.

- **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 23 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 reason(s).

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, but the basic Regulation limits the level of the duties that may be imposed to that necessary to redress the injury caused by the dumping found.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

The above-mentioned 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 Community¹ (the basic Regulation) and in particular Article 14 thereof,

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

Whereas:

A. PROCEDURE

- (1) The Council, by Regulation (EC) No 215/2002², imposed a definitive anti-dumping duty on imports of ferro molybdenum originating in the People's Republic of China (PRC), falling under CN code 7202 70 00 (the product concerned). The rate of the anti-dumping duty is 22,5 %.
- (2) In October 2006, the Commission by Decision (2006/714/EC) of 23 October 2006³ suspended for a period of nine months the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of the product concerned originating in the PRC.
- (3) The decision to suspend the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 was taken in line with the provisions of Article 14(4) of the basic Regulation which provides that, in the Community interest, anti-dumping measures may be suspended on the grounds that market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension, provided that the Community industry has been given an opportunity to comment and these comments have been taken into account.

¹ 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).

² OJ L 35, 6.2.2002, p.1.

³ OJ L293, 24.10.2006,p.15.

- (4) The Commission concluded in the Commission Decision of 23 October 2006 that the injury linked to the imports of the product concerned originating in the PRC was unlikely to resume as a result of the suspension because of the temporary change in market conditions, and in particular the high level of prices of the product concerned practised on the Community market, which was far above the injurious level found in the original investigation, together with the alleged demand-supply imbalance of the product concerned.
- (5) The Commission undertook in the Commission Decision of 23 October 2006 the obligation to monitor the development of imports and the prices of the product concerned and to repeal the suspension in case increased volumes at dumped prices of the product concerned from the PRC resume and consequently cause injury to the Community industry.
- (6) On 31 October 2006 an *ex officio* full interim review was initiated by a notice published in the *Official Journal of the European Union*⁴ since the *corpus* of evidence at the Commission disposal indicated that the circumstances on the basis of which the existing measures were established have changed to an extent that the existing measures may no longer be adequate and that certain of these changes appeared to be of a lasting nature.

B. GROUNDS

- (7) Article 14(4) of the basic Regulation provides that, in the Community interest, anti-dumping measures may be suspended for a period of nine months but the suspension may be extended for a further period, not exceeding one year, if the Council so decides, acting on a proposal of the Commission.
- (8) Since the suspension of measure there was no change in the situation set out in recitals (5) to (10) of the Commission Decision of 23 October 2006 with respect to imports and prices of the product concerned. Only insignificant volumes of ferro molybdenum originating in the PRC were imported into the EC.
- (9) With regard to the *ex officio* full interim review it is recalled that this should be concluded within 15 months of initiation, i.e. by 31 January 2008.

C. CONCLUSION

- (10) Given that the situation in the EC market has remained unchanged following the suspension of the anti-dumping duty in October 2006 and since the interim review has not been concluded yet, it is considered appropriate to extend the suspension of the measures in force in accordance with Article 14(4) of the basic Regulation. On the basis of the general principle of predictability of trade inflows and in anticipation of the results of the currently conducted interim review it is concluded that the suspension of the measures in force should be extended until 31 January 2008, i.e. until the final time limit for the conclusion of the interim review. No indications have been found as to why the extension of the suspension would not be in the Community interest.

⁴ OJ C262,31.10.2006, p.28.

- (11) Pursuant to Article 14(4) of the basic Regulation, the Commission has informed the Community industry of its intention to extend the suspension of the anti-dumping measures in force. The Community industry has been given an opportunity to comment but its comments did not alter the conclusion that the situation has remained as set out in the Commission Decision of 23 October 2006.
- (12) The Commission therefore considers that all requirements for extending the suspension of the anti-dumping duty imposed on the product concerned are met, in accordance with Article 14(4) of the basic Regulation. Consequently, the suspension of the anti-dumping duty imposed by Regulation (EC) No 215/2002 should be extended until 31 January 2008.
- (13) The Commission will monitor the development of imports and the prices of the product concerned. Should a situation arise at any time in which increased volumes at dumped prices of the product concerned from the PRC resume and consequently cause injury to the Community industry, the Commission will propose reinstating the anti-dumping duty by repealing the present suspension,

HAS ADOPTED THIS REGULATION:

Article 1

The suspension of the definitive anti-dumping duty imposed by Council Regulation (EC) No 215/2002 on imports of ferro molybdenum, falling within CN code 7202 70 00, and originating in the People's Republic of China is hereby extended until 31 January 2008.

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