



EUROPEAN COMMISSION

Brussels, 18.7.2011  
COM(2011) 438 final

2011/0189 (NLE)

Proposal for a

**COUNCIL REGULATION**

**imposing a definitive anti-dumping duty on imports of barium carbonate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009**

## EXPLANATORY MEMORANDUM

### **1. Context of the proposal**

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

This proposal concerns the application of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>1</sup> ('the basic Regulation') in the proceeding concerning the review of the measures applicable to imports of barium carbonate originating in the People's Republic of China.

#### **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**

In July 2005, the Council, by Regulation (EC) No 1175/2005<sup>2</sup>, imposed a definitive specific anti-dumping duty on imports of barium carbonate originating in China.

#### **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 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 provide for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

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<sup>1</sup> OJ L 343, 22.12.2009, p. 51.

<sup>2</sup> OJ L 189, 21.7.2005, p. 15.

### **3. Legal elements of the proposal**

#### **Summary of the proposed action**

The attached proposal for a Council Regulation is based on the findings of the investigation on the likelihood of continuation of dumping as well as the likelihood of continuation of injury to the Union industry.

It is therefore proposed that the Council adopt the attached proposal for a Regulation in order to extend the measures currently in force for a period of five years.

#### **Legal basis**

Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

#### **Subsidiarity principle**

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

#### **Proportionality principle**

The proposal complies with the proportionality principle because 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 Union, 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 instrument: Council Regulation.

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

### **4. Budgetary implication**

The proposal has no implication for the Union budget.

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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 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>3</sup> ('the basic Regulation') and in particular Articles 9(4) and 11(2), (5) and (6) thereof,

Having regard to the proposal submitted by the European Commission ('Commission'), after consulting the Advisory Committee,

Whereas:

### **A. PROCEDURE**

#### **1. Measures in force**

(1) By Regulation (EC) No 1175/2005<sup>4</sup> the Council, imposed a definitive anti-dumping duty on imports of barium carbonate ('BaCO<sub>3</sub>') originating in the People's Republic of China ('PRC'). The rate of the definitive specific duty ranged from 6.3 to 56.4€ per tonne.

#### **2. Request for an expiry review**

(2) Following the publication, in March 2010, of a notice of impending expiry of the anti-dumping measures applicable to imports of BaCO<sub>3</sub> originating in the PRC<sup>5</sup>, the Commission received on 19 April 2010 a request for an expiry review pursuant to Article 11(2) of the basic Regulation.

(3) The expiry review request was lodged by Solvay & CPC Barium Strontium GmbH & Co. KG ('the applicant'), the sole producer of BaCO<sub>3</sub> in the European Union, representing 100 % of the total Union production of BaCO<sub>3</sub>. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and continuation of injury to the Union industry.

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<sup>3</sup> OJ L 343, 22.12.2009, p. 51.

<sup>4</sup> OJ L 189, 21.7.2005, p. 15.

<sup>5</sup> OJ C 78, 27.3.2010, p. 4.

- (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 in the Official Journal of the European Union<sup>6</sup> ('notice of initiation').

### **3. Investigation**

#### *3.1. Review investigation period and period considered*

- (5) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 July 2009 to 30 June 2010 ('Review investigation period' or 'RIP').
- (6) The examination of the trends relevant for the assessment of a likelihood of a continuation of injury covered the period from 1 January 2007 up to the end of the RIP ('period considered').

#### *3.2. Parties concerned by the investigation*

- (7) The Commission officially advised the applicant Union producer, the exporting producers in the PRC, importers/traders, users in the Union known to be concerned and their associations, producers in the analogue country as well as the authorities of the PRC of the initiation of the review.
- (8) The Commission also gave interested parties 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. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (9) In view of the apparent large number of Chinese exporting producers listed in the request sampling was envisaged in the notice of initiation for the determination of dumping and the likelihood of continuation of dumping, in accordance with Article 17 of the basic Regulation.
- (10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period 1 July 2009 to 30 June 2010.
- (11) The Commission received replies from only 3 companies or company groups in the PRC and therefore it was decided that sampling was not necessary in respect of Chinese exporting producers.
- (12) The Commission sent questionnaires to all parties known to be concerned and to those who requested a questionnaire within the time limit set out in the notice of initiation.
- (13) Replies to the questionnaire were received from the applicant Union producer and its related agent, nine users, four importers, two exporters/producers in China and two

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<sup>6</sup> OJ C192, 16.7.2010, p. 4.

producers in possible analogue countries. One of the Chinese exporting producers that replied to the sampling exercise decided not to co-operate further in the proceeding.

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

(a) *Applicant Union producer*

– Solvay & CPC Barium Strontium GmbH & Co. KG, Hannover and its related company Solvay Bario e Derivati SpA., Massa

(b) *Exporting producers in the PRC*

– Zaozhuang Yongli Chemical Co., Ltd., Shangdong Province

– Guizhou Red Star Developing Import & Export Co., Ltd., Guizhou Province

(c) *Producer in the analogue country (India)*

– Solvay Vishnu Barium Private Limited, Hyderabad

(d) *Importers*

– Norkem Limited, Knutsford, United Kingdom

– L'Aprochimide Srl, Muggio, Italy

(e) *Users*

– Technische Glass Illmenau GmbH, Illmenau, Germany

## **B. PRODUCT CONCERNED AND LIKE PRODUCT**

### **1. Product concerned**

(15) The product concerned is the same as that in the previous investigation and is defined as follows: barium carbonate with a strontium content of more than 0,07 % by weight and a sulphur content of more than 0,0015 % by weight, whether in powder, pressed granular or calcined granular form, originating in the PRC, currently falling within CN code ex 2836 60 00.

(16) BaCO<sub>3</sub> is used primarily in the brick and tile industry, the ceramics sector and in the production of ferrite. It was previously used in the production of cathode ray television tubes (CRT) but this application has disappeared in the EU following their replacement by LCD- and plasma-screens.

### **2. Like product**

(17) As in the original investigation, this procedure has shown that BaCO<sub>3</sub> produced in the PRC and exported to the Union, as well as the barium carbonate produced and sold on the domestic market of the analogue country (India) and that manufactured and sold in

the Union by the applicant Union producer have the same basic physical and chemical characteristics and the same basic uses.

- (18) Therefore these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

### C. DUMPING

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

#### 1. General

- (20) Of the 16 known Chinese exporting producers contacted at the initiation of the expiry review, three replied to the sampling exercise but only two fully co-operated with the Commission by replying to a full questionnaire.

#### 2. Analogue country

- (21) Since the PRC is an economy in transition and in accordance with Article 2(7)(a) of the basic Regulation, normal value for exporting producers not granted market economy treatment has to be determined on the basis of the price or constructed value in an appropriate market economy third country ('analogue country').

- (22) The USA was used as analogue country in the original investigation and proposed in the present investigation for the purposes of establishing normal value. However, it was considered necessary to verify if this country was still appropriate for the present expiry review. Letters were sent to all known producers of barium carbonate worldwide, i.e. in Brazil, India, Japan and the USA. Two replies were received, one from a producer in the USA and another from a producer in India.

- (23) After a careful analysis of criteria such as total production, number of producers, competition in the market, total imports, anti-dumping duties and customs duties in both the American and the Indian domestic markets it was decided to select India as analogue country. The choice of India, in accordance with Article 2(7) of the basic Regulation, was considered to be more appropriate than USA due to its bigger market size, the larger volumes of imports and the stronger competition in its domestic market for this product. No comments or objections were received from any interested party in that respect. As a result, the normal value for exporting producers not granted market economy treatment was based on the data provided by the producer in India.

#### 3. Dumping of imports during the RIP

##### 3.1. Normal value

- (24) For the company granted MET in the original investigation, in accordance with Article 2(2) of the basic Regulation, the Commission examined whether the domestic sales of barium carbonate to independent customers were representative during the RIP, i.e. whether the total volume of such sales represented at least 5 % of their export sales of the product concerned to the Union. The investigation showed that these sales were not representative and therefore the normal value had to be constructed. The established normal value was based on the total cost of manufacturing plus the

company's selling general and administrative costs (SGA) and profit achieved on domestic sales made in the ordinary course of trade of the like product.

- (25) For the company that was not granted MET in the original investigation, pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of the information received from the cooperating producer in the analogue country.
- (26) It was first established whether the total domestic sales of the like product to independent customers were representative in accordance with Article 2(2) of the basic Regulation, i.e. whether they accounted for 5 % or more of the total sales volume of the product concerned exported to the Union. The domestic sales of the cooperating producer in India were considered sufficiently representative during the RIP.
- (27) The Commission subsequently examined whether the domestic sales of the like product could be regarded as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for the like product sold on the Indian market the proportion of profitable domestic sales to independent customers during the RIP. Since there were no profitable sales of the like product during the RIP, the normal value had to be constructed. The normal value was based on the total cost of manufacturing of the producer concerned plus a reasonable amount for selling, general and administrative (SGA) costs and a reasonable amount of profit in accordance with Article 2(6)(c) of the basic Regulation. The SGA costs and the profit added to the manufacturing costs of the like product used were in line with those used in the original investigation and amounted to 10,6 % for SGA costs and 7,2 % for profit. No information was provided showing that these amounts would not be reasonable nor that the profit level used would exceed the profit normally realised by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

### 3.2. *Export price*

- (28) All export sales to the Union of the co-operating exporting producers concerned were made directly to independent customers in the Union and therefore, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable.

### 3.3. *Comparison*

- (29) The comparison between normal value and export price was made on an ex-works basis.
- (30) For the purposes of ensuring a fair comparison between the normal value and the export price, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made with regard to certain differences in transport and commissions, which affected prices and price comparability.

### 3.4. *Dumping margin*

- (31) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices at the same level of trade.

- (32) For the company that was granted MET in the original investigation this comparison showed that the company continued dumping at an even higher level.
- (33) For the company that was not granted MET in the original investigation the comparison conducted in accordance with Article 2(11) of the basic Regulation showed significant dumping. This company represents 98 % of exports subject to the residual duty, the remaining 2 % of exporting producers that did not co-operate in the proceeding cannot influence the dumping margin found. In addition in view of their non-co-operation it is considered that they cannot dump at a lower level than the co-operating company.

#### **D. LIKELIHOOD OF CONTINUATION OF DUMPING**

- (34) In accordance with Article 11(2) of the basic Regulation, it was examined whether it was likely that dumping would continue should measures be repealed.
- (35) With regard to the likelihood of continuation of dumping the development of production and production capacity in the PRC was examined as well as the likely development of export sales to the European Union and to other third country markets.
- (36) According to the complaint, the PRC is by far the biggest producer worldwide of Barium Carbonate. In addition the PRC is also the biggest producer of Barite which is the main raw material for the production of the product concerned. The two co-operating companies alone have a production capacity of 331 000 tonnes per year which is around 3 times the EU consumption in the RIP. In addition these two companies have a total spare capacity of 34000 tonnes which is enough to supply half of the EU consumption.
- (37) Three of the major worldwide producers of Barium carbonate (the USA, India and Brazil) have currently anti-dumping measures on Chinese imports of the PC. It can be concluded that given the significant spare production capacity in China and the dumping practices in several markets, should the measures be repealed, additional volumes would be directed to the EU market.
- (38) The fact that, despite the existence of anti-dumping measures on Chinese imports, the Chinese exporting producers have managed to export significant quantities to the EU in the RIP (at an average price of 251€/t) and to increase their market share in the EU, shows the continued interest of the Chinese exporters in the EU market.
- (39) It is even more clear on the basis of the Chinese export statistics that the EU is an attractive market for the Chinese exporting producers since they achieved some of their highest export prices (albeit dumped) when exporting to the EU. According to the Chinese export statistics the average selling price to the EU during the RIP was 269 USD FOB while the average export price to India was 220 USD.
- (40) The Chinese export statistics showed that despite the end of the main application for barium carbonate (CRT's production) Chinese exports have increased worldwide from 130 000 tonnes in 2009 to 158 000 tonnes in 2010.
- (41) Should measures be repealed, it is expected that, in view of the huge spare production capacity in China, Chinese exports will very likely be directed to the EU. The fact that

major markets around the world like the USA, India and Brazil are protected by high anti-dumping duty supports this conclusion.

- (42) The prices of these imports would likely continue to be at dumped prices as there is no indication that the exporters would change their pricing behaviour if measures were to be repealed.
- (43) It is therefore concluded that there is a likelihood of continuation of dumping.

#### E. DEFINITION OF THE UNION INDUSTRY

- (44) The sole co-operating Union producer accounted for 100 % of the Union production of BaCO<sub>3</sub> during the RIP. It is therefore deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

#### F. SITUATION OF THE UNION MARKET

##### 1. Union consumption

Table 1: Union consumption

	2007	2008	2009	RIP
Consumption (in tonnes)	123.354	104.037	62.637	76.560
Index	100	84	51	62

Source: Verified questionnaire replies of the Union industry and Eurostat statistics

- (45) Union consumption was based on the combined volume of sales by the Union industry in the Union and the volume of imports from third countries, based on Eurostat data.
- (46) On this basis and as shown in Table 1 above, Union consumption decreased significantly during the period considered, i.e. by 38 % which is mainly explained by the disappearance of the CRT manufacturing activity in the EU.

##### 2. Volume, market share and prices of imports from the PRC

Table 2: Imports from the PRC in volume, market share and import price

	2007	2008	2009	RIP
Import volume (tonne)	76.306	64.573	37.341	48.720
Index	100	85	49	64
Market share	61,9 %	62,1 %	59,6 %	63,6 %
Index	100	100	96	103
CIF Import price Eur per tonne	230	257	239	251
Index	100	112	104	109

Source: Eurostat statistics

- (47) During the period considered the import volumes from the PRC decreased by 36 % while consumption in the Union decreased by 38 %. Despite the anti-dumping measures in place, and against the background of decreasing consumption, the Chinese market share increased by three percentage points over the period considered.
- (48) Average import prices from the PRC increased by 9 % over the period considered. The highest increase in prices occurred between 2007 and 2008 as prices dropped in 2009 before increasing again in the RIP.
- (49) The Union industry's average ex-works price was compared with the Chinese CIF average import prices at the Union frontier. These prices were derived from Eurostat figures and included post-importation costs, customs and anti-dumping duties. The comparison showed that Chinese import prices undercut the Union industry's sales price by 37,9 % during the RIP. Based on the above it was found that if measures had not been in place Chinese import prices would have undercut those of the Union industry by 44,1 %.

### 3. Volume and market share of imports from other third countries

- (50) Total import volumes of BaCO<sub>3</sub> from third countries other than the PRC were insignificant and represented less than 1 % of the Union consumption over the period considered.
- (51) It should be noted that import prices from other third countries did not undercut Union prices in the RIP.

### 4. Economic situation of the Union industry

#### 4.1. Production, production capacity and capacity utilisation

- (52) It should be noted that since the Union industry consists in only one producer, data pertaining to production, capacity and utilisation had to be reported in the form of indexes.

Table 3: Union production, production capacity and capacity utilisation

Index	2007	2008	2009	RIP
Production	100	79	36	47
Production capacity	100	100	100	100
Capacity utilisation	100	79	36	47

Source: Verified questionnaire replies of the Union industry

- (53) The Union industry's production decreased by 53 % over the period considered. It should be noted that the Union industry has adapted its production model since 2003 in order to adequately meet the new market situation and the disappearance of the CRTT-screen activity in the EU. As a consequence, production capacity was reduced by more than 50 % as the product under review is now produced in alternating campaigns on the same equipment as strontium carbonate ('SrCO<sub>3</sub>').

- (54) The production capacity of the Union industry remained unchanged over the period considered. Capacity utilisation thus developed similarly to production volumes.

#### 4.2. Inventories

Table 4: Inventories

	2007	2008	2009	RIP
Index	100	97	41	41

Source: Verified questionnaire replies of the Union industry

- (55) Stocks decreased by 59 % during the period considered. This decrease is due to reduced demand and the ability for the EU industry to adapt to the new market situation.

#### 4.3. Sales volume and prices

Table 5: Sales volumes, values and unit selling price

	2007	2008	2009	RIP
Sales in volume (index)	100	84	53	59
Sales in value (index)	100	92	66	73
Unit selling price (index)	100	109	124	123

Source: Verified questionnaire replies of the Union industry

- (56) The Union industry sales volume decreased by 41 % over the period considered. The major decrease took place in 2009 due to the general economic downturn. Thus the Union industry sales volume decreased proportionally more than the EU consumption in the same period. Sales value decreased less significantly than volume as the Union industry managed to increase its price levels over the period considered where unit selling prices increased by 23 %.

#### 4.4. Market share and growth

Table 6: Union industry's market share

	2007	2008	2009	RIP
Index	100	100	105	95

Source: Verified questionnaire replies of the Union industry, adjusted Eurostat statistics

- (57) The Union industry's market share increased by 5 % in 2009 before dropping significantly by 10 % in the RIP. This indicates that in the absence of growth on the market, the Union industry could not maintain its market share.

#### 4.5. *Employment, productivity and wages*

Table 7: Employment, wages and productivity

	2007	2008	2009	RIP
Employment (index)	100	87	55	57
Wages (EUR/employee; index)	100	108	106	113
Productivity (index)	100	91	65	82

*Source: Verified questionnaire replies of the Union industry*

- (58) Employment decreased significantly over the period considered as a consequence of the economic downturn and the new market situation. Average wages increased by 13 % as a consequence of high inflation rate which directly impacted salary indexation. Productivity decreased by 18 % during the same period as a result of the decrease in production volume which could not be compensated by the headcount reduction.

#### 4.6. *Profitability*

Table 8: Profitability

	2007	2008	2009	RIP
Index	-100	-192	-351	-206

*Source: Verified questionnaire replies of the Union industry*

- (59) The profitability of the Union industry decreased by more than 106 % over the period considered as a consequence of the economic downturn and the disappearance of the CRTT-screen application which both affected sales volumes and costs of production. The industry was continually loss-making throughout the period considered.

#### 4.7. *Investments, return on investments and ability to raise capital*

Table 9: Investments and return on investments

	2007	2008	2009	RIP
Investment (index)	100	82	90	97
Return on investment (index)	-100	-251	-506	-176

*Source: Verified questionnaire replies of the Union industry*

- (60) Investments remained stable during the period considered. Investments made by the Union industry were expensed in the year when they were made. Return on investment (profit expressed as a percentage of investments per year) developed negatively over the period considered in line with profitability.
- (61) The investigation did not bring to light any evidence that the Union industry had any major problems in raising capital. It should however be noted that the investments made in the period considered were not significant.

4.8. *Cash flow*

Table 10: Cash flow

	2007	2008	2009	RIP
Index	-100	-83	25	32

*Source: Verified questionnaire replies of the Union industry*

- (62) Cash flow improved significantly over the period considered as a consequence of the reduction in inventory volumes.

4.9. *Magnitude of the dumping margin*

- (63) During the RIP, despite the measures in force substantial dumping continued at even higher levels than those established in the original investigation, based both on the data obtained from the cooperating exporting producers and EUROSTAT.

4.10. *Recovery from the effects of past dumping*

- (64) The Union industry, in a negative economic context explained by the general economic downturn and the disappearance of one important application, did not recover from past dumping, in particular in terms of sales volume, sales price and profitability. It was found moreover that dumping continued in the RIP.

4.11. *Export activity of the Union industry*

Table 11: Export volume of the Union industry

	2007	2008	2009	RIP
Index	100	86	45	66

*Source: Verified questionnaire replies of the Union industry*

- (65) Union industry exports of BaCO<sub>3</sub> decreased by 34 % over the period considered. The Union industry could only export limited volumes given the severe competition from Chinese exports on non-EU markets. The decrease in export volumes over the period considered is also explained by the economic downturn.

#### 4.12. *Conclusion on the situation of the Union industry*

- (66) While all main injury indicators, such as sales volume, profitability, production, employment and productivity showed negative developments during the period considered, the anti-dumping measures had a softening impact on the situation of the Union industry.
- (67) As far as the market share of the Union industry is concerned, the slight decreasing trend shows that, despite existing measures and while market consumption decreased, Chinese imports not only excluded other countries from the market but also gained market share at the expense of the Union industry.
- (68) In conclusion, in view of the negative development of the indicators pertaining to the Union industry, it is considered that the Union industry continued to suffer material injury during the period concerned. It was therefore examined whether there was a likelihood of continuation of injury should measures be allowed to lapse.

### G. LIKELIHOOD OF CONTINUATION OF INJURY

#### 1. **Summary of the analysis of the likelihood of the continuation of dumping and the recurrence of injurious dumping**

- (69) It is recalled that consumption on the EU market decreased significantly since the original investigation due to the disappearance of the CRT and to the economic downturn. In these circumstances, the market share of Chinese imports has increased by more than 15 % while the market share of the Union industry and third country imports decreased significantly. This demonstrates that, despite the measures in force and the decreasing EU consumption, the Chinese exporting producers showed a continuous interest in the EU market and were able to exclude third countries from the EU market.
- (70) It is also recalled that the exporting producers in the PRC continued to dump and undercut Union industry prices at very significant levels in the RIP. Based on this, there is no reason to believe that the Chinese will not continue to dump and undercut Union industry prices in the future.
- (71) The investigation showed that the Chinese producers had significant spare capacities during the RIP i.e. around 280.000 tonnes. This represents more than 3 times the size of the EU market in the RIP. Despite the expected increase in demand in the PRC, overcapacity is expected to persist and remain very significant in the coming years.
- (72) The Union market is the main export destination for the PRC. Other major export markets such as the USA and India, have high<sup>7</sup> anti-dumping measures in place against BaCO<sub>3</sub> originating in the PRC. These markets are therefore practically inaccessible to Chinese exports. In view of the Chinese exporting producers' interest in the Union market, it is expected that, if measures were repealed, a significant volume of exports would flood into the Union market, with a strong overall depressing effect on prices.

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<sup>7</sup> Indian anti-dumping duties against Chinese BaCO<sub>3</sub> range from 76.06 USD to 236 USD per ton; US anti-dumping duties against Chinese BaCO<sub>3</sub> range from 34,4 to 81,3 %.

## **2. Conclusion on likelihood of continuation of injury**

- (73) On the basis of the above, it is considered that if measures were repealed, there would be a likelihood of a significant increase in dumped imports from the PRC to the Union, with downward pressure on prices. Such situation would likely lead to the disappearance of the Union industry in the medium term as on the one hand, the reduced sales volumes would not allow the EU industry to dilute fixed costs sufficiently, and on the other hand, it would not be able to reach sufficient price levels. The continuation of injury was magnified in the period considered by the economic downturn and the disappearance of an important application.

## **3. Post RIP developments**

- (74) Although PRC import prices increased by 17,8 % from the end of the RIP to February 2011 while Union industry selling prices increased by only around 7 % in the same period, PRC imports were still undercutting EU prices by more than 15 % after the RIP.

## **H. UNION INTEREST**

### **1. Preliminary remark**

- (75) In accordance with Article 21 of the basic Regulation it was examined whether the continuation of the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of Union interest was based on an appreciation of the various interests involved, i.e. those of the Union industry, importers and users of the product concerned.
- (76) As the present investigation is an expiry review, it requires analysis of a situation in which anti-dumping measures have already been in place and the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (77) On this basis it was examined whether there were compelling reasons which would lead to the conclusion that it was not in the Union interest to maintain measures in this particular case, despite the above conclusions on the likelihood of continuation of dumping and the likelihood of continuation of injury.

### **2. Interests of the Union industry**

- (78) The investigation revealed that the Union industry was operating very cost-efficiently. Indeed, it reduced headcount and changed production models in order to adapt to the new market situation and ensure the sustainability of the plant where, as indicated in recital (53), BaCO<sub>3</sub> and SrCO<sub>3</sub> are produced in alternating campaigns. Although the measures did not contribute to the recovery of the financial situation of the Union industry, they had a softening effect on its financial situation. Indeed, without the measures in place, it is likely that the EU market would have been flooded by low-priced imports originating in PRC and the Union industry would have had to close down.
- (79) As mentioned above, the production model of the Union industry is based on two products that are interdependent; i.e. sufficient sales volumes for both products are necessary in order to dilute fixed costs. Should measures be allowed to lapse, the

expected increased volume of dumped imports will lead to a substantial reduction of the BaCO<sub>3</sub> activity, which, itself, will make the SrCO<sub>3</sub> activity less profitable, leading eventually to the dismantlement of the whole plant.

- (80) On the basis of the above, it was concluded that it is in the interest of the Union industry that measures against the dumped imports from the PRC be maintained.

### **3. Interests of unrelated importers**

- (81) The Commission sent questionnaires to all known unrelated importers. Replies were received from four unrelated importers. Two of these importers were active in the production of slurry, a solution composed of BaCO<sub>3</sub>, additives and water, destined to the brick industry.

- (82) Importers indicated that the imposition of anti-dumping duties had pushed prices upward at the time of imposition. In this regard, it should be noted that such difference was no longer noticeable as export prices to the EU when compared to average prices to all non-EU markets were found to be at similar levels during the RIP<sup>8</sup>.

- (83) Importers also indicated that there was no shortage of BaCO<sub>3</sub> on the EU market even though they were facing increasing difficulties to source BaCO<sub>3</sub> from the PRC due to increased domestic demand. Import statistics do however not show any decrease in volume of exports of the product concerned to the Union during or after the RIP. This is also confirmed by the findings concerning overcapacity of recital (71).

- (84) It was also found that the measures in force did not have any negative effects on the financial situation of the importers.

- (85) On the basis of the above, it was concluded that the current measures in force had no substantial negative effect on their financial situation and that the continuation of the measures would not unduly affect the importers.

### **4. Interests of users**

- (86) The Commission sent questionnaires to all known users. Replies were received from nine users of the product concerned. As indicated in recital (16), the main industrial users of BaCO<sub>3</sub> in the Union are active in the brick and tile industry, the ceramics sector and in the production of ferrite.

- (87) One user has submitted that the existence or continuation of the measures would not be in the interest of users, however it did not substantiate their claim... None of the other users replying to the questionnaire indicated that the measures had a significant impact on their businesses and that they should be lifted.

### **5. Conclusion on Union interest**

- (88) Given the above, it is concluded that there are no compelling reasons against the prolongation of the anti-dumping measures in force.

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<sup>8</sup> Source: Chinese export statistics.

## I. ANTI-DUMPING MEASURES

- (89) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the measures be maintained. They were also granted a period to submit comments and claims subsequent to disclosure. No comments were received following disclosure.
- (90) It follows from the above that, as provided for under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of barium carbonate originating in China, imposed by Regulation (EC) No 1175/2005 should be maintained,

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of barium carbonate, currently falling within CN code ex 2836 60 00 (TARIC code 2836 60 00 10), originating in the People's Republic of China.
2. The amount of the definitive anti-dumping duty shall be equal to a fixed amount as specified below for products produced by the following manufacturers:

Company	Rate of duty (EUR/t)	TARIC additional code
Hubei Jingshan Chutian Barium Salt Corp. Ltd, 62, Qinglong Road, Songhe Town, Jingshan County, Hubei Province, PRC	6,3	A606
Zaozhuang Yongli Chemical Co. Ltd, South Zhuzibukuang Qichun, Zaozhuang City Center District, Shandong Province, PRC	8,1	A607
All other companies	56.4	A999

3. In cases where the goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Customs Community Code<sup>9</sup>, the amount of the anti-dumping duty, calculated on the basis of the fixed amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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<sup>9</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union* and shall be in force for a period of five years.

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

Done at Brussels,

*For the Council  
The President*