

## Notice of initiation of an anti-dumping proceeding concerning imports of ferro molybdenum originating in the People's Republic of China

(2000/C 320/03)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96 <sup>(1)</sup>, as last amended by Council Regulation (EC) No 2238/2000 <sup>(2)</sup> (hereinafter referred to as 'the Basic Regulation'), alleging that imports of ferro molybdenum, originating in the People's Republic of China are being dumped and are thereby causing material injury to the Community industry.

### 1. Complaint

The complaint was lodged on 25 September 2000 by Euroalliated, Le Comité de Liaison des Industries de Ferro-alliages ('the complainant') on behalf of producers representing a major proportion, in this case more than 66 %, of the total Community production of ferro molybdenum.

### 2. Product

The product allegedly being dumped is ferro molybdenum (hereinafter referred to as 'the product concerned'), currently classifiable within CN code 7202 70 00. This CN code is only given for information.

### 3. Allegation for dumping

In view of the fact that normal value for the People's Republic of China, will be determined on the basis of the rules set out in Article 2(7) of the Basic Regulation, the complainant has proposed that normal value be established on the basis of the price in a market economy country (see point 5.1.(d) of this notice). The allegation of dumping is based on a comparison of normal value, as set out above, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

### 4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the People's Republic of China have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on the market share held, the quantities sold and the level of prices charged by the Community producers, resulting in substantial adverse effects on the financial situation of the Community industry.

### 5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the Basic Regulation.

### 5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People's Republic of China is being dumped and whether this dumping has caused injury.

#### (a) Sampling

In view of the apparent number of parties involved in this proceeding, the Commission may decide to apply sampling in accordance with Article 17 of the Basic Regulation.

#### (i) Sampling for exporters/producers in the People's Republic of China

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all exporters/producers, or representatives acting on their behalf, are hereby requested to make themselves known by contacting the Commission and providing the following information on their company or companies within the time limit set in point 6(b)(i) of this notice:

- name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,
- the turnover in local currency and the volume in tonnes of the product concerned sold for export to the Community during the period 1 October 1999 to 30 September 2000,
- if the company intends to submit a claim for an individual margin or market economy status (individual margins and market economy status can only be claimed by producers),
- for companies claiming market economy status, the turnover in local currency and the sales volume in tonnes for the product concerned on the domestic market during the period 1 October 1999 to 30 September 2000,
- the precise activities of the company with regard to the production of the product concerned,
- the names and the precise activities of all related companies <sup>(3)</sup> involved in the production and/or selling (export and/or domestic) of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(2)</sup> OJ L 257, 11.10.2000, p. 2.

<sup>(3)</sup> For guidance on the meaning of related companies, please refer to Article 143(1) of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- an indication of whether the company or companies agree to their inclusion in the sample, which implies replying to a questionnaire and accepting an on-the-spot investigation of their response.

In order to obtain the information it deems necessary for the selection of the sample of exporters/producers, the Commission will, in addition, contact the authorities of the exporting country, and any known associations of exporters/producers.

(ii) Final selection of the sample

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 6(b)(i) of this notice.

The Commission intends to make the final selection of the samples after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the sample must reply to a questionnaire within the time limit set in point 6(b)(ii) and must cooperate within the framework of the investigation.

If sufficient cooperation is not forthcoming, the Commission will base its findings, in accordance with Articles 17(4) and 18 of the Basic Regulation, on the facts available.

(b) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the sampled exporters/producers in the People's Republic of China, to any association of exporters/producers, and to the importers and to any association of importers named in the complaint as well as to the authorities of the exporting countries concerned.

In any event, all parties should contact the Commission forthwith in order to find out whether they are listed in the complaint and if they are not, they should request a questionnaire within the time limit set in point 6(a)(i), given that the time limit set in point 6(a)(ii) of this notice applies to all interested parties.

Exporters/producers in the People's Republic of China claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the Basic Regulation have to submit a complete questionnaire within the time limit set in point 6(a)(ii) of this notice. However, such parties should be aware that if sampling is applied to exporters/producers, the Commission may decide not to grant them an individual margin, if it would be unduly burdensome and would prevent the timely completion of the investigation.

(c) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(a)(ii) of this notice.

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(a)(iii).

(d) Selection of the market economy country

In accordance with Article 2(7)(a) of the Basic Regulation, it is envisaged to choose the United States as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in point 6(c) of this notice.

(e) Market economy status

For those exporters/producers in the People's Republic of China which claim and provide sufficient evidence that they operated under market economy conditions, i.e. that they meet the criteria laid down in Article 2(7)(c) of the Basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the Basic Regulation. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in point 6(d) of this notice. The Commission will send claim forms to all exporters/producers in the People's Republic of China who have either been included in the sample or who have requested an individual margin as well as to the authorities of the People's Republic of China.

**5.2. Procedure for assessment of Community interest**

In accordance with Article 21 of the Basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-dumping measures would not be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the general time limits set in point 6(a)(ii) of this notice, make themselves known and provide the Commission with information. It should be noted that any information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

**6. Time limits**

(a) General time limits

(i) For parties to request a questionnaire

All interested parties should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Communities*.

(ii) For parties to make themselves known, to submit questionnaire replies and any other information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other information within 40 days of the date of publication of this notice in the *Official Journal of the European Communities*, unless otherwise specified.

Companies selected in a sample must submit questionnaire replies within the time limits specified in point 6(b)(ii) of this notice.

(iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

(b) *Specific time limit in respect of sampling*

(i) All information relevant for the selection of the sample should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Communities*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included therein on the final selection of the sample within a period of 21 days of the publication of this notice in the *Official Journal of the European Communities*.

(ii) The questionnaire replies from sampled parties must reach the Commission within 37 days from the date of the notification of their inclusion in the sample.

(c) *Specific time limit for the selection of the market economy country*

Parties to the investigation may wish to comment on the appropriateness of the United States which, as mentioned in point 5.1.(d) of this notice, is envisaged as a market-economy country for the purpose of establishing normal value in respect of the People's Republic of China. These comments must reach the Commission within 10 days of the date of publication of this notice in the *Official Journal of the European Communities*.

(d) *Specific time limit for submission of claims for market economy status*

Duly substantiated claims for market economy status, as mentioned in point 5.1.(e) of this notice, must reach the Commission within 21 days of the date of the selection of any sample or as determined by the Commission.

**7. Written submission, questionnaire replies and correspondence**

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified), and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party.

Commission address for correspondence:

European Commission  
Directorate General for Trade  
Directorates B and C  
TERV 0/13  
Rue de la Loi/Wetstraat 200  
B-1049 Brussels  
Fax (32-2) 295 65 05  
Telex COMEU B 21877.

**8. Non-cooperation**

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the Basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

**9. Schedule of the investigation**

The investigation will be concluded, according to Article 6(9) of the Basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Communities*. According to Article 7(1) of the Basic Regulation, provisional measures may be imposed no later than nine months from the publication of this notice in the *Official Journal of the European Communities*.