

Notice of initiation of an expiry review of the antidumping measures applicable to imports of dead-burned (sintered) magnesia originating in the People's Republic of China

(2005/C 38/02)

Following the publication of a notice of impending expiry ⁽¹⁾ of the anti-dumping measures in force on imports of dead-burned (sintered) magnesia originating in **the People's Republic of China**, ('country concerned'), the Commission has received a request for review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 ⁽²⁾ ('the basic Regulation').

1. Request for review

The request was lodged on 16 November 2004 by Eurométaux ('the applicant') on behalf of producers representing a major proportion, in this case more than 25 % of the total Community production of dead-burned (sintered) magnesia.

2. Product

The product under review is dead-burned (sintered) magnesia originating in the People's Republic of China ('the product concerned'), currently classifiable within CN code 2519 90 30. This CN code is given only for information.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 360/2000 ⁽³⁾.

4. Grounds for the review

The request is based on the grounds that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

In view of the provisions of Article 2(7) of the basic Regulation, the applicant established normal value for the People's Republic of China on the basis of the price in an appropriate market economy country, which is mentioned in paragraph 5.1(d) of this notice. The allegation of continuation of dumping is based on a comparison of normal value, as set out in the preceding sentence, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

With regard to the recurrence of dumping it is also alleged that the exports to other third countries, i.e. the United States of America, are made at dumped prices.

The applicant further alleges the likelihood of further injurious dumping. In this respect the applicant presents evidence that, should measures be allowed to lapse, the current import level

of the product concerned is likely to increase due to the existence of unused capacity and the large reserves of dead-burned (sintered) magnesia in the country concerned.

In addition, the applicant alleges that the removal of injury is mainly due to the existence of measures and that any recurrence of substantial imports at dumped prices from the country concerned would likely lead to a recurrence of further injury to the Community industry should measures be allowed to lapse.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an expiry review, the Commission hereby initiates a review in accordance with Article 11(2) of the basic Regulation.

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

The investigation will determine whether the expiry of the measures would be likely, or unlikely, to lead to a continuation or recurrence of dumping and 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 paragraph 6(b)(i) and in the formats indicated in paragraph 7 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 from 1 January 2004 to 31 December 2004,

⁽¹⁾ OJ C 215, 27.8.2004, p. 2.

⁽²⁾ OJ L 56, 6.3.1996, p.1, Regulation as last amended by Council Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽³⁾ OJ L 46, 18.2.2000, p.1, Regulation as last amended by Council Regulation (EC) No 986/2003 (OJ L 143, 11.06.2003, p. 5).

- the turnover in local currency and the sales volume in tonnes for the product concerned sold to other third countries during the period from 1 January 2004 to 31 December 2004,
- the precise activities of the company with regard to the production of the product concerned and the production volume in tonnes of the product concerned, the production capacity and the investments in production capacity during the period from 1 January 2004 to 31 December 2004,
- the names and the precise activities of all related companies ⁽¹⁾ 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,
- 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) Sampling for importers

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all importers, or representatives acting on their behalf, are hereby requested to make themselves known to the Commission and to provide the following information on their company or companies within the time limit set in paragraph 6(b)(i) and in the formats indicated in paragraph 7 of this notice:

- name, address, e-mail address, telephone, and fax, and/or telex numbers and contact person,
- the total turnover in € of the company during the period from 1 January 2004 to 31 December 2004,
- the total number of employees,
- the precise activities of the company with regard to the product concerned,
- the volume in tonnes and value in EUR of imports into and resales made in the Community market during the period from 1 January 2004 to 31 December 2004 of the imported product concerned originating in the People's Republic of China,

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

- the names and the precise activities of all related companies ⁽¹⁾ involved in the production and/or selling of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample,
- 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 importers, the Commission will, in addition, contact any known associations of importers.

(iii) Final selection of the samples

All interested parties wishing to submit any relevant information regarding the selection of the samples must do so within the time limit set in paragraph 6(b)(ii) 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 samples must reply to a questionnaire within the time limit set in paragraph 6(b)(iii) of this notice and must co-operate within the framework of the investigation.

If sufficient co-operation is not forthcoming, the Commission may base its findings, in accordance with Articles 17(4) and 18 of the basic Regulation, on the facts available. A finding based on facts available may be less advantageous to the party concerned, as explained in paragraph 8 of this notice.

(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, to the sampled importers, to any association of importers named in the request or which co-operated in the investigation leading to the measures subject to the present review, and to the authorities of the exporting country concerned.

In any event, all interested parties should contact the Commission forthwith by fax in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time limit set in paragraph 6(a)(i) of this notice, given that the time limit set in paragraph 6(a)(ii) of this notice applies to all interested parties.

(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 must reach the Commission within the time limit set in paragraph 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 paragraph 6(a)(iii) of this notice.

(d) *Selection of the market economy country*

In the previous investigation Turkey was used as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. The Commission envisages to use Turkey again for this purpose. Interested parties are hereby invited to comment on the appropriateness of this country within the specific time limit set in paragraph 6(c) of this notice.

5.2. Procedure for the assessment of Community interest

In accordance with Article 21 of the basic Regulation and in the event that the likelihood of a continuation or recurrence of dumping and injury is confirmed, a determination will be made as to whether to maintain, or repeal the 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 paragraph 6(a)(ii) of this notice, make themselves known and provide the Commission with information. The parties which have acted in conformity with the previous sentence may request a hearing, setting the particular reasons why they should be heard, within the time limit set in paragraph 6(a)(iii) of this notice. 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 who did not co-operate in the investigation leading to the measures subject to the present review 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 Union*.

(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 Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Companies selected in a sample must submit questionnaire replies within the time limit specified in paragraph 6(b)(iii) 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) The information specified in paragraphs 5.1(a)(i) and 5.1(a)(ii) should reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, given that the Commission intends to consult parties concerned that have expressed their willingness to be included in the sample on its final selection within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(ii) All other information relevant for the selection of the sample as referred to in 5.1(a)(iii) must reach the Commission within a period of 21 days of the publication of this notice in the *Official Journal of the European Union*.

(iii) 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 Turkey which, as mentioned in paragraph 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 Union*.

7. Written submissions, 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. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited ⁽¹⁾' and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'FOR INSPECTION BY INTERESTED PARTIES'.

Commission address for correspondence:

European Commission
Directorate General for Trade
Directorate B
Office: J-79 5/16
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. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

9. Schedule of the investigation

The investigation will be concluded, according to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

⁽¹⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p. 1) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).