

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 639/2005**

**of 25 April 2005**

**imposing a definitive anti-dumping duty on imports of furfuraldehyde originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96**

THE COUNCIL OF THE EUROPEAN UNION,

2003 a request for a review pursuant to Article 11(2) of the basic Regulation.

Having regard to the Treaty establishing the European Community,

(3) The request was lodged by Furfural Español SA ('the applicant') representing a major proportion, in this case more than 25 %, of the total Community production of furfuraldehyde. The other Community producer, Lenzing AG, supported the request. The two producers represent 100 % of the Community production of furfuraldehyde. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.

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<sup>(1)</sup> ('the basic Regulation'), and in particular Article 11(2) thereof,

(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 of this review in the *Official Journal of the European Union*<sup>(5)</sup>.

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

Whereas:

**A. PROCEDURE**

**1. Measures in force**

(1) In January 1995, the Council, by Regulation (EC) No 95/95<sup>(2)</sup>, imposed definitive anti dumping measures in the form of a specific duty on imports of furfuraldehyde originating in the People's Republic of China ('PRC'). The specific duty rate amounts to EUR 352 per tonne. Following an interim review initiated in May 1997 upon request of a Chinese exporter, the measures were maintained by Regulation (EC) No 2722/1999<sup>(3)</sup> for a further period of four years.

**2. Initiation of expiry review investigation**

(2) Following the publication, in March 2003, of a notice of impending expiry of the anti dumping measures applicable to imports of furfuraldehyde originating in the PRC<sup>(4)</sup>, the Commission received on 19 September

**3. Parties concerned by the investigation**

(5) The Commission officially advised the authorities of the PRC, the exporting producers in the PRC, the producers in the suggested analogue country, Argentina, the producers, importers/traders and industrial users in the Community known to be concerned, of the initiation of the review. 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.

(6) Questionnaires were sent to all the parties that were officially advised of the initiation of the review and to those who requested a questionnaire within the time limit set out in the notice of initiation.

(7) Replies to the questionnaire were received from the two Community producers, one importer/trader, one industrial user and one producer in the analogue country, Argentina.

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

<sup>(2)</sup> OJ L 15, 21.1.1995, p. 11.

<sup>(3)</sup> OJ L 328, 22.12.1999, p. 1.

<sup>(4)</sup> OJ C 72, 26.3.2003, p. 2.

<sup>(5)</sup> OJ C 308, 18.12.2003, p. 2.

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

(a) **Producer in the analogue country**

— Indunor SA, Buenos Aires, Argentina

(b) **Community producer**

— Furfural Espanol SA, Alcantarilla, Spain

(c) **Unrelated importer**

— International Furan Chemicals B.V., Rotterdam, Netherlands.

(9) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 October 2002 to 30 September 2003 (IP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2000 up to the end of the IP ('period considered').

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. The product concerned

(10) The product concerned is the same as in the original investigation, i.e. furfuraldehyde originating in the PRC, falling within CN code 2932 12 00. Furfuraldehyde is also known as 2-furaldehyde or furfural.

(11) Furfuraldehyde is a light yellow liquid with a characteristic pungent odour, which is obtained by processing different types of agricultural waste. Furfuraldehyde has two main applications: as a selective solvent in petroleum refining for the production of lubricating oils and as raw material for processing into furfuryl alcohol, which is used to make synthetic resin for foundry moulds.

### 2. Like product

(12) As in the previous investigations, this investigation has shown that the furfuraldehyde produced in the PRC and exported to the Community, the furfuraldehyde produced and sold on the domestic market of the analogue country Argentina and the furfuraldehyde manufactured and sold in the Community by the Community producers have the same basic physical and chemical characteristics, and the same basic uses. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

## C. LIKELIHOOD OF CONTINUATION OF DUMPING

(13) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and, if so, whether or not the expiry of the measures would be likely to lead to a continuation of dumping.

### 1. Preliminary remarks

(14) Of the 24 Chinese exporting producers named in the complaint, none cooperated with the investigation and no information was submitted by any of these companies. In view of this non-cooperation by the Chinese exporting producers, the findings on dumping set out below had to be based on facts available, in particular Eurostat data and information submitted in the review request. In this respect, it is noted that Eurostat shows only imports for inward processing during the IP.

### 2. Analogue country

(15) Since the PRC is an economy in transition, normal value had to be based on information obtained in an appropriate market economy third country in accordance with Article 2(7)(a) of the basic Regulation.

(16) As in the original investigation, in the notice of initiation Argentina was proposed as analogue country for the purposes of establishing normal value. Following the publication of the notice of initiation, no comments concerning the proposed analogue country were received.

(17) One producer of furfuraldehyde in Argentina cooperated with the investigation by replying to the questionnaire and accepting an on-spot verification of its reply. The investigation showed that Argentina has a competitive market for furfuraldehyde with around 72% of the market supplied by local production and the rest by imports from third countries. The production volume in Argentina constitutes more than 60% of the volume of Chinese exports of the product concerned to the Community for inward processing. The Argentinean market was therefore deemed sufficiently representative for the determination of normal value for the PRC.

(18) It is therefore concluded, as in the original investigation, that Argentina constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

### 3. Normal value

(19) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of verified information received from the cooperating producer in the analogue country, i.e. on the basis of the price paid or payable on the domestic market of Argentina to unrelated customers, since these sales were found to be made in the ordinary course of trade.

- (20) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in Argentina.

#### 4. Export price

- (21) As none of the Chinese exporters to the Community cooperated with the investigation, export prices were established on the basis of the facts available. The most appropriate basis was found to be Eurostat data in relation to Community imports of the product concerned. Though these imports were made under inward processing arrangements (Chinese furfuraldehyde was further processed into furfuryl alcohol for export), there was no reason to believe that they were not a reasonable basis for establishing export prices. Furthermore, the verification visit at the cooperating importer confirmed that the Eurostat data were in line with the verified data. The export price was thus established on the basis of the Eurostat data on Chinese imports for inward processing.

#### 5. Comparison

- (22) 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 insurance, which affected prices and price comparability.

#### 6. Dumping margin

- (23) 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. This comparison showed the existence of significant dumping. In fact, the dumping margin found for the IP is higher than the dumping margin of 62,6% established in the original investigation and in the previous review.

#### 7. Development of exports should measures be repealed

##### (a) Exports

- (24) The investigation has shown that the quantities exported from the PRC to the Community for inward processing have increased significantly from 2000 to the IP (see recital (33) below). If the measures were repealed, it can be expected that exports from the PRC would increase significantly also outside inward processing arrangements, given the significant price difference between the Chinese and the EC producer's furfuraldehyde and the unused capacity explained in recital (26) below.

##### (b) Unused capacity in the PRC

- (25) Since little public information is available about the Chinese industry of furfuraldehyde, the following

conclusions rely mainly on the information contained in the review request.

- (26) According to the request for the expiry review, the total Chinese production of furfuraldehyde is around 180 000 tonnes per year, which is more than four times higher than the total Community consumption of furfuraldehyde. The Chinese capacity utilisation rate is said to be around 70% which means that there is idle capacity of around 50-60 000 tonnes per year in the PRC, i.e. more than total consumption in the Community. According to the Community producers, the Chinese production is constantly changing in accordance with need. In this regard, some plants are closed for temporary periods and then reopened when needed. More than 80 production plants of furfuraldehyde are said to operate currently, mainly in the North-East part of the PRC.

- (27) Consequently, the large production capacity available in the PRC and the flexibility with regard to reopening plants demonstrate that producers are able to quickly increase production and direct it to any export market, including, if the measures were to be repealed, to the Community market.

##### (c) Exports for inward processing

- (28) It is noted that all the exports from the PRC of the product concerned to the Community during the IP were made for inward processing. The Chinese furfuraldehyde was further processed into furfuryl alcohol which was then exported. It is reasonable to assume that a repeal of the measures would result in a resumption of exports from the PRC to the Community outside the inward processing arrangements. Such additional exports would in all likelihood also be significantly dumped. Indeed, the current export prices made under inward processing arrangements are not affected by anti-dumping duties as such exports obviously do not bear any duty. The Community producers and the Chinese exporters competed for these sales on the basis as if there was no duty. Thus, it can be reasonably assumed that such prices are also indicative as to future price levels should measures be repealed. Moreover, it is also noted that Chinese export prices under inward processing were undercutting the Community producers' prices by 44% in the IP and that even if they did not undercut Community prices, they would still be dumped.

#### 8. Conclusion on the likelihood of a continuation of dumping

- (29) Since the PRC has significant unused production capacity and is currently only exporting to the Community for inward processing, it could reasonably be expected that, should the measures be repealed, additional volumes would be directed towards the Community market in significant quantities.

- (30) The investigation has shown that exports from the PRC are still made at dumped prices and that the dumping margin during the IP was found to be even higher than the dumping margin established in the previous review. Given the circumstances of the case, it is reasonable to expect that dumping is likely to continue in the future.

#### D. DEFINITION OF THE COMMUNITY INDUSTRY

- (31) There are two Community producers of the product concerned. In addition to the applicant, the other Community producer, Lenzing AG (the other Community producer), supported the request for a review. During the IP, the two producers represented 100 % of the Community production of furfuraldehyde. Both companies replied to the questionnaires and fully cooperated in the investigation. On this basis, the two Community producers constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. For reasons of confidentiality data concerning the performance of the Community industry are given only in indexed form.

#### E. SITUATION OF THE COMMUNITY MARKET

##### 1. Community consumption

Table 1

##### Community consumption

	2000	2001	2002	IP
Tonnes	38 699	45 005	38 007	41 513
Index	100	116	98	107
Y/Y trend		16	-16	9

- (32) Community consumption was based on the combined volume of sales made by the Community industry in the Community and imports from the PRC made under inward processing and imports from other third countries. Community consumption of furfuraldehyde increased significantly between 2000 and 2001. In 2002, Community consumption of furfuraldehyde fell back to approximately the same level as in 2000. Between 2000 and the IP, Community consumption of furfuraldehyde increased by 9%. The development of consumption is linked to the fact that furfuraldehyde is also used to produce furfuryl alcohol. The production and sales of furfuryl alcohol increased in 2001, but decreased significantly in 2002 and, as a result, consumption of furfuraldehyde dropped accordingly. In the IP, sales and production of furfuryl alcohol recovered as well as consumption of furfuraldehyde.

#### 2. Imports from the PRC

##### (a) Volume, market share and prices

- (33) Based on information from Eurostat, imports from the PRC were made since 2001 only under inward processing arrangements. This practice had already started in 2000, when around 75 % of Chinese imports were under inward processing. The volumes imported from the PRC increased from 3 198 tonnes to 5 167 tonnes during the period considered, which is an increase of 61,6 % between 2000 and the IP. It is noted that in 2002 the sales of furfuryl alcohol dropped significantly. However, this was followed by an increase in the IP. The market share of these Chinese imports increased over the period considered from 8,2 % to 12,4 %. While the fluctuations in these Chinese imports of furfuraldehyde may to a certain extent be due to fluctuations in the production of furfuryl alcohol, this cannot explain, however, the huge increase of import volumes, in particular during the IP, and of market share. The average price of the Chinese imports declined from EUR 648,68 per ton in 2000 to EUR 508,65 per ton in the IP, which is a decline of 21,6 % during the period considered. A trend of increased undercutting can also clearly be seen when comparing the Chinese and the Community producers' unit prices of furfuraldehyde. In the beginning of the period considered, in 2000, the Chinese prices were 4,4 % lower than those of Community producers. In the IP, they were 44,1 % lower.

Table 2

##### Imports from the PRC under inward processing

	2000	2001	2002	IP
Volume, tonnes	3 198	4 143	2 450	5 167
Indexed	100	130	77	162
Market share	8,3 %	9,2 %	6,4 %	12,4 %
Price, EUR/tonne	648,68	678,48	540,06	508,65
Indexed	100	104,6	83,3	78,4

#### 3. Economic situation of the Community industry

##### (a) Production

Table 3

##### Community production

	2000	2001	2002	IP
Index	100	94	87	85
Y/Y trend		-5,8	-7,3	-2,2

- (34) The Community industry's production decreased every year during the period considered, being 15 % lower in the IP than in 2000. One of the Community producers ceased the production of furfuraldehyde in one of its production plants in 2000.

(b) *Production capacity and capacity utilisation*

Table 4

**Community capacity**

	2000	2001	2002	IP
Index	100	104	100	99
Y/Y trend		3,9	-3,4	-1,2

- (35) Production capacity decreased slightly during the period considered, after having increased by 3,9 % in 2001 compared to 2000. The cessation of furfuraldehyde production in one production plant in 2000 is not reflected in the above capacity figures, because the company still considers this plant as part of their production capacity, i.e. the production can be restarted within a short period if necessary.

Table 5

**Capacity utilisation**

	2000	2001	2002	IP
Index	100	91	87	86

- (36) The above table shows that capacity utilisation decreased every year during the period considered, being 14 % lower in the IP than in 2000.

(c) *Sales in the Community*

Table 6

**Sales volume**

	2000	2001	2002	IP
Index	100	96	87	87
Y/Y trend		-4,4	-9,4	0,3

- (37) The Community industry's sales to unrelated customers in the Community decreased by 13 % between 2000 and the IP. The fall was particularly significant between 2000 and 2002 as the industry increased the prices in order to compensate for drastically increased raw material costs.

During the IP this trend could be stopped as the Community industry reduced prices in order to avoid further losses of sales volumes.

(d) *Prices*

Table 7

**Community industry sales prices**

	2000	2001	2002	IP
Index	100	127	135	134
Y/Y trend		27,2	6,0	-0,6

- (38) The average sales prices of furfuraldehyde increased by 35 % from the year 2000 to 2002, when the Community industry tried to compensate for drastically increased raw material costs by increasing their sales prices.

(e) *Market share*

Table 8

**Community industry's market share**

	2000	2001	2002	IP
Index	100	82	88	81

- (39) The market share held by the Community industry decreased by 19 % between 2000 and the IP. The biggest decline in the Community producer's market share was between 2000 and 2001. The Community consumption of furfuraldehyde decreased significantly in 2002, mainly due to declining production of furfuryl alcohol. The Community industry's sales of furfuraldehyde decreased as well in 2002. However, the decline in the sales of the Community industry was relatively lower than the drop in the consumption of furfuraldehyde in 2002. Therefore, the market share of the Community industry increased in 2002. In the IP, consumption of furfuraldehyde as well as the Chinese imports increased again, while the sales of the Community industry remained roughly at the same level as the previous year. As a result, the Community industry's market share decreased.

(f) *Stocks*

Table 9

**Stocks**

	2000	2001	2002	IP
Index	100	103	128	122
Y/Y trend		3,5	23,3	-4,1

- (40) The above table shows that the stocks of the Community industry increased by 22 % during the period considered. The increase of stocks was particularly significant between 2001 and 2002, when stocks increased by 24 %. Stocks represented 9,4 % of the Community industry's EU sales volume in 2000, but increased to 13,3 % during the IP.

(g) Profitability

Table 10

**Profitability**

	2000	2001	2002	IP
Index	100	235	133	146
Y/Y trend		135,1	-43,5	9,3

- (41) The total profitability of the Community industry has remained at a relatively good level during the period considered. However, the main reason for this is the fact that the other Community producer supporting the complaint shows exceptionally high profitability in all years under consideration, whereas the applicant's profitability has declined drastically (8,2 percentage points) during the same period. The other Community producer obtains furfuraldehyde as a by-product when producing pulp viscose, while the applicant uses almond shells as a principal raw material in the furfuraldehyde production. The price of almond shells increased drastically between 2000 and 2002 (by 51 %), worsening significantly the profit margin of the applicant, while the raw material cost of the other Community producer increased only modestly. The increase in the applicant's selling, general and administrative expenses in absolute terms was modest, i.e. 5,5 % from year 2000 to the IP. Thus, the decline in profitability was mainly caused by the increased raw material costs. The attempt to compensate the higher raw material costs by increased sales prices of furfuraldehyde resulted in reduced sales.

(h) Cash flow

Table 11

**Cash flow**

	2000	2001	2002	IP
Index	100	141	104	107
Y/Y trend		41,1	-26,0	2,5

- (42) Cash flow followed a similar trend as profitability, increasing significantly between 2000 and 2001, but worsening in the following years. In line with the profit-

ability, the other Community producer supporting the complaint showed exceptionally good cash flow during the period considered, while the applicant showed a clear decline in its cash flow (-42,7 %) during the same period.

(i) Investments, return on investments and ability to raise capital

Table 12

**Investments**

	2000	2001	2002	IP
Index	100	93	63	98
Y/Y trend		-6,8	-32,8	55,9

- (43) The investments considerably declined between 2000 and 2002, increasing again during the IP, when the other Community producer made significant investments in the viscose pulp production line (furfuraldehyde is a by-product in the pulp production process). The investments of the applicant fell by 80 % during the period considered. The investigation showed that the operating return on investments deteriorated in line with the development of profitability during the period considered.

Table 13

**Return on investments and ability to raise capital**

	2000	2001	2002	IP
Index	100	207	38	34
Y/Y trend		107,4	-81,7	-11,0

- (44) The return on investment figures in the table above shows only the development of the applicant. This table shows a clear deterioration in its return on investment during the period considered. As for the other Community producer supporting the complaint, it belongs to a group of companies which focus on products other than furfuraldehyde. In fact, furfuraldehyde is a small by-product of one of its main production processes. Therefore, the company is not able to calculate any meaningful return on investment for furfuraldehyde. As a result of the deterioration in profitability and cash flow, the applicant's ability to raise capital has worsened significantly during the period under consideration. This worsening can also be clearly seen in the applicant's investments, which fell by 80 % during the period considered.

(j) *Employment, productivity and wages*

Table 14

**Employment**

	2000	2001	2002	IP
Index	100	75	84	82
Y/Y trend		-25,0	12,1	-2,7

(45) The above table shows that employment decreased by 18 % during the period considered. The decrease in employment in 2000/2001 reflects the cessation of production of furfuraldehyde in one production plant.

(46) The productivity increased by 4 % over the period considered, as shown in the table below:

Table 15

**Productivity**

	2000	2001	2002	IP
Index	100	126	104	104
Y/Y trend		25,6	-17,4	0,5

(47) During the period considered, the average wages of the employees of the Community industry increased by 6 %, i.e. less than the average inflation rate in the Community:

Table 16

**Wages**

	2000	2001	2002	IP
Index	100	99	97	106
Y/Y trend		-0,8	-1,9	8,7

(k) *Magnitude of the dumping margin and effects of past dumping or subsidization*

(48) Since dumping continued at levels similar to, if not higher than, that established in the previous investigations (see recital (1)), the impact on the situation of the Community industry of the magnitude of the actual margin of dumping could not be considered different from that established during these investigations.

(l) *Growth*

(49) While Community consumption grew by 7 % during the period considered, the Community industry's production, sales volume and market share decreased over the same period. At the same time, the volume and market share of imports from the PRC increased considerably. This meant that the Community industry did not fully benefit from the growth of the market over the period considered.

**4. Effect of other factors**(a) *Prices of raw materials*

(50) The considerable rise in the price of the raw material used by the applicant in 2001 and 2002 had naturally a negative impact on its profitability in these years. However, the situation changed in the IP when the raw material prices dropped. Therefore, although fluctuations of raw material prices may have contributed to the precarious situation of the Community industry during the period considered, they were not so significant as to have caused any injury suffered during the IP.

(b) *Export activity of the Community*

(51) According to Eurostat data, the total exports from the Community during the period considered were insignificant, i.e. one to two tonnes per year. Therefore, the export activity of the Community industry could not have contributed to any injury suffered during the period considered.

(c) *Import volumes and prices from other third countries*

(52) According to Eurostat, import volumes of furfuraldehyde into the Community from countries other than the PRC, together with their average prices, developed as follows:

Table 17

**Imports into the Community from other third countries (volume)**

	2000	2001	2002	IP
Thailand	167	551	1 481	888
Slovenia	1 227	1 290	1 204	1 410
South Africa	4 183	7 852	2 601	3 706
Dominican Republic	24 017	25 509	25 157	25 213
Total	29 594	35 202	30 443	31 217

(tonnes)

Table 18

**Imports into the Community from other third countries  
(average price)**

	(EUR/t)			
	2000	2001	2002	IP
Thailand	2 150	1 849	5 271	635
Slovenia	694	618	647	635
South Africa	1 158	1 558	543	832
Dominican Republic	543	1 235	541	452
Average	645	1 294	775	510

- (53) The import volumes of furfuraldehyde from all third countries other than the PRC have remained relatively stable during the period considered, except in 2001, when imports from South Africa and Dominican Republic, in particular, increased due to increased consumption of furfuraldehyde in the production of furfuryl alcohol. It should be noted that, as in the original investigation, the imports from the Dominican Republic are entirely shipments from a mother company to its European subsidiary to produce furfuryl alcohol. Thus, the prices used in these transactions are transfer prices between related companies and may not reflect real market prices. It is noted that furfuraldehyde from the Dominican Republic is not available on the free Community market. Therefore, no indications had been found that these imports would have contributed to the precarious situation of the Community industry. Imports from South Africa, the second biggest exporting country, decreased during the period considered by 11%. During the IP the average import prices from all third countries, with the exception of the Dominican Republic, were significantly higher than import prices under inward processing from the PRC. It is therefore concluded that although other imports could have contributed to the precarious situation of the Community industry, their volumes and prices are such that their effect cannot be considered to be substantial.

**5. Conclusion on the situation of the Community industry**

- (54) Following the imposition of the anti-dumping measures, the situation of the Community industry has stabilised, but remains fragile. Production, production capacity and sales have decreased, as well as sales prices and the market share of the Community industry. Investments, return on investment and employment have also decreased, whereas the stocks have increased, in particular between 2001 and 2002, in line with decreased sales and market share. Profitability and cash flow have improved on average during the period considered, but they have declined since 2001. The injury indicators therefore do not allow to conclude that there is a clear injury picture. Moreover, it needs

to be stressed that the situation of the two Community producers differs considerably, with the applicant in a much more precarious position than the other supporting Community producer. For the former producer, some injury may have been caused partially by prices of raw materials. Under these circumstances, and in particular also the fact that imports from the PRC were made only under inward processing, a situation of continuation of injury caused by dumped imports could not be established. Therefore it was examined whether there would be recurrence of injury if the measures lapsed.

**F. LIKELIHOOD OF RECURRENCE OF INJURY**

- (55) It is recalled that in recitals (29) and (30) it was concluded that the expiry of the measures would be likely to lead to a significant increase of dumped exports from the PRC to the Community.
- (56) Indeed, the volume of dumped imports under inward processing considerably increased during the period considered. As pointed out above, it is likely that without anti-dumping measures in place further increased volumes would be shipped to the Community market at very low prices significantly undercutting the Community industry prices. Currently, the difference of prices of the imported Chinese product and the one produced by the Community industry is more than 40%.
- (57) As outlined in recital (26), it is estimated that the idle capacity in the PRC is sufficient to supply the whole Community demand for furfuraldehyde. If the current measures were allowed to lapse, there is a real threat that a significant proportion of unused production capacity in the PRC would be used to flood the Community market with furfuraldehyde. It appears that there are no other markets available to absorb the Chinese capacity.
- (58) When examining the impact of such additional low-priced imports on the situation of the Community industry it is noted that the sudden arrival of a large quantity of dumped imports would immediately cause a severe price depression on the Community market as the Community industry would be likely to first try to maintain its market share and its production. This would in turn erode the Community industry's profitability, and risk losses. It is clear that in this scenario the Community producers would suffer material injury caused by the dumped imports or even risk not to survive this situation.
- (59) On the basis of the above, it is concluded that a repeal of measures would in all probability lead to a recurrence of injury resulting from the dumped imports from the PRC.



## G. COMMUNITY INTEREST

### 1. Preliminary remark

- (60) In accordance with Article 21 of the basic Regulation it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders as well as the users and suppliers of the product under consideration.
- (61) It should be recalled that, in the previous investigations, the adoption of measures was considered not to be against the interest of the Community. Furthermore, the present investigation is an expiry review, thus analysing a situation in which anti-dumping measures are in place.
- (62) On this basis it was examined whether, despite the conclusion that there exists a likelihood of continuation of dumping and recurrence of injury, there are compelling reasons which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

### 2. Interest of the Community industry

- (63) The Community industry has proven to be a viable industry, able to adapt to changing conditions on the market. This was confirmed in particular by the positive development and stabilisation of its situation at a time when effective competition had been restored after the imposition of anti-dumping measures on imports originating in the PRC. The Community industry should be able to continue recovering through its sales prices, any increase in the prices of raw materials. However, it can be concluded that, without the continuation of anti dumping measures, its situation will in all likelihood severely deteriorate, with a distinct possibility of further plant closures.

### 3. Interest of unrelated importers/traders

- (64) The Commission sent out questionnaires to seven unrelated importers/traders. Only one importer/trader cooperated with the investigation. In its questionnaire reply the importer/trader explained that the removal of measures would increase its choice of suppliers, because then it could also sell Chinese furfuraldehyde in the Community market. Anti-dumping measures are not intended to prevent imports from the PRC but to ensure that they are not made at injuriously dumped prices. In addition, there are many other sources of supply available in the market. Furthermore, it is noted

that the continuation of measures would not have a serious impact on the business of this importer/trader in question and that the latter has been profitable every year during the period considered.

- (65) Considering the low rate of cooperation by the Community importers and traders, and the comments received from the cooperating importer/trader, it is concluded that the measures in force do not unduly affect importers and/or traders and that therefore the continuation of measures would have the same result.

### 4. Interest of users

- (66) The Commission sent out questionnaires to 16 industrial users of furfuraldehyde. Only one user cooperated with the investigation. In its questionnaire reply the company explained that most of the furfuraldehyde the company uses as a raw material for the production of furfuryl alcohol is supplied by its parent company situated in the Dominican Republic. Only a shortfall of this supply would oblige the company to look for other suppliers. According to the company, the existing Community producers would be its first choice to cover any shortage of supply.
- (67) In light of the low response rate to the questionnaires sent and the comments of the sole cooperating user, it is concluded that the continuation of the measures would not have a significant effect on users.

### 5. Competition aspects

- (68) It is noted that, in addition to the two Community producers, imports originating in Thailand, Slovenia (then not member of the European Community), South Africa and Dominican Republic, are competing in the Community market. Should the existing measures be lifted, this would be unlikely to improve the competitive situation on the Community market. To the contrary, it would risk eliminating the Community producers, at least in part, from the market because they would have great difficulty in operating at the price level currently existing for the Chinese furfuraldehyde. Other suppliers would be likely to find it equally difficult to compete with the Chinese product. Consequently, there is no indication that the continuation of the measures would have a negative effect on the competitive situation in the Community market.

### 6. Conclusion on Community interest

- (69) Given the above, it is concluded that there are no compelling reasons, on the grounds of Community interest, against the prolongation of the anti-dumping measures.

**H. FINAL PROVISION**

- (70) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the existing anti-dumping duty in respect of imports of furfuraldehyde originating in the PRC. No comments were received within the period granted to make representations following this disclosure which could alter the conclusions.
- (71) It follows from the above that the anti-dumping measures currently in force with regard to imports of furfuraldehyde originating in the PRC, i.e. a specific duty of EUR 352 per tonne, should be maintained,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of 2-furaldehyde (also known as furfuraldehyde or

furfural) falling within CN code 2932 12 00 originating in the People's Republic of China.

2. The amount of duty applicable is EUR 352 per tonne.
3. In cases where 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<sup>(1)</sup>, the amount of the anti-dumping duty, calculated on the basis of paragraph 2 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.
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*.

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

Done at Luxembourg, 25 April 2005.

*For the Council*  
*The President*  
J. ASSELBORN

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<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).