

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

COMMISSION

Notice of initiation of an expiry review of the countervailing measures applicable to imports of sulphanilic acid originating in India

(2007/C 171/11)

Following the publication of a notice of impending expiry ⁽¹⁾ of the anti-subsidy measures in force on imports of sulphanilic acid originating in India, ('country concerned'), the Commission has received a request for review pursuant to Article 18 of Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ('the basic Regulation') ⁽²⁾.

1. Request for review

The request was lodged on 24 April 2007 by two Community producers: Sorochimie Chimie Fine and CUF, Quimicos Industriais, S.A. ('the applicants') representing 100 % of the Community production of sulphanilic acid.

2. Product

The product under review is sulphanilic acid originating in India ('the product concerned'), currently classifiable within CN code ex 2921 42 10 (TARIC 2921 42 10 60). This CN code is given only for information.

3. Existing measures

The measures currently in force are a definitive countervailing duty imposed by Council Regulation (EC) No 1338/2002 ⁽³⁾, as last amended by Council Regulation (EC) No 123/2006 ⁽⁴⁾.

4. Grounds for the review

The applicants have provided evidence that the expiry of the measures would lead to a continuation or recurrence of subsidisation and injury.

It is alleged that the producers of the product concerned have benefited and will continue to benefit from a number of subsidies granted by the Government of India. These alleged subsidies consists of schemes of benefits to industries located in export

processing zones/export oriented units; the post-export duty entitlement passbook scheme; the export promotion capital goods scheme; the export income tax exemption scheme; the advance licenses- advance release orders scheme; the income tax incentive for research and development scheme, the export credits scheme; and the duty-free replenishment certificate.

The total subsidy estimated is significant.

It is alleged that the above schemes are subsidies since they involve a financial contribution from the government of India or other regional governments and confer a benefit to the recipients, i.e. to exporters/producers of sulphanilic acid. They are alleged to be contingent upon export performance or explicitly limited to certain enterprises and therefore specific and counter-vailable.

The applicants further allege the likelihood of injurious subsidisation. The applicants have provided evidence that imports of the product concerned from India have continued to enter in significant quantities, and that such quantities would be likely to remain at their current levels, if not increase i.a. due to the measures in force on imports of the product originating in the country concerned in traditional markets other than the EU (i.e. the USA).

The applicants allege that the removal of injury is mainly due to the existence of measures and that any continuation or recurrence of substantial imports at subsidised prices from the country concerned would likely lead to a recurrence of further injury of 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 18 of the basic Regulation.

⁽¹⁾ OJ C 272, 9.11.2006, p. 18.

⁽²⁾ OJ L 288, 21.10.97, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽³⁾ OJ L 196, 25.7.2002, p. 1.

⁽⁴⁾ OJ L 22, 26.1.2006, p. 1.

5.1. *Procedure for the determination of likelihood of subsidization 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 subsidization 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 27 of the basic Regulation.

(i) *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 point 6(b)(i) and in the formats indicated in point 7:

- name, address, e-mail address, telephone, and fax numbers and contact person,
- the total turnover in EUR of the company during the period 1 April 2006 to 31 March 2007,
- 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 1 April 2006 to 31 March 2007 of the imported product concerned originating in India,
- 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,
- by providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion or inclusion in the sample, it will be deemed to not have co-operated in the investigation. The consequences of non-cooperation are set out in point 8 below.

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.

(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)(ii).

The Commission intends to make the final selection of the sample 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)(iii) 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 27(4) and 28 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 point 8.

(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 exporters/producers in India, 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.

(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 point 6(a)(ii).

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).

⁽¹⁾ For guidance on the meaning of related companies, please refer to Article 143 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 Community Customs Code (OJ L 253, 11.10.1993, p. 1).

5.2. Procedure for the assessment of Community interest

In accordance with Article 31 of the basic Regulation and in the event that the continuation or recurrence of subsidization and injury is confirmed, a determination will be made as to whether to maintain, amend or repeal the anti-subsidy 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), 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 point 6(a)(iii). It should be noted that any information submitted pursuant to Article 31 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 point 6(b)(iii).

(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 point 5.1(a)(i) 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)(ii) 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.

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 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 29(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 4/23
B-1049 Brussels
Fax (32-2) 295 65 05

8. Non-co-operation

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, findings, affirmative or negative, may be made in accordance with Article 28 of the basic Regulation, on the basis of the facts available.

⁽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 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 29 of the basic Regulation and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 28 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and use of facts available is made, 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 22(1) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

10. Possibility to request a review under Article 19 of the basic Regulation

As this expiry review is initiated in accordance with the provisions of Article 18 of the basic Regulation, the findings thereof will not lead to the level of the existing measures being amended but will lead to those measures being repealed or

maintained in accordance with Article 22(2) of the basic Regulation.

If any party to the proceeding considers that a review of the level of the measures is warranted so as to allow for the possibility to amend (i.e. increase or decrease) the level of the measures, that party may request a review in accordance with Article 19 of the basic Regulation.

Parties wishing to request such a review, which would be carried out independently of the expiry review mentioned in this notice, may contact the Commission at the address given above.

11. Processing of personal data

Please note that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.