

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

COMMISSION

**Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports
of certain plastic sacks and bags originating in the People's Republic of China**

(2008/C 176/05)

The Commission has received a request for a partial interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation').

1. Request for review

The request was lodged by CeDo Shanghai Limited ('the applicant'), an exporter from the People's Republic of China.

The request is limited in scope to the examination of dumping as far as the applicant is concerned.

2. Product

The product under review is plastic sacks and bags, containing at least 20 % by weight of polyethylene and of sheeting of a thickness not exceeding 100 micrometres (μm); originating in the People's Republic of China; and currently classifiable within CN codes ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 (Taric codes 3923 21 00 20, 3923 29 10 20 and 3923 29 90 20).

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1425/2006 ⁽²⁾ on

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 270, 29.9.2006, p. 4. Regulation as last amended by Regulation (EC) No 249/2008 (OJ L 76, 19.3.2008, p. 8).

imports of **certain plastic sacks and bags** originating in the People's Republic of China.

4. Grounds for the review

The request pursuant to Article 11(3) is based on *prima facie* evidence provided by the applicant that the circumstances on the basis of which measures were established have changed and that these changes are of a lasting nature.

The applicant alleges, *inter alia*, that its export prices of the product concerned to the Community have increased significantly and substantially more than the constructed normal value based on the applicant's cost of production in the People's Republic of China and that this has led to a reduction or elimination of dumping. Therefore, the continued imposition of measures at the existing levels, which were based on the level of dumping previously established, is no longer necessary to offset dumping.

5. Procedure for the determination of dumping

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission therefore hereby initiates a review in accordance with Article 11(3) of the basic Regulation to determine whether the applicant continues to operate under market economy conditions as defined in Article 2(7)(c) of the basic Regulation.

If so, the Commission will determine their individual margin of dumping based on their own costs/domestic prices, or alternatively, will determine their individual margin of dumping in accordance with Article 9(5) of the basic Regulation. Should dumping be found, the Commission will determine the level of the duty to which the applicant's imports of the product concerned into the Community should be subject.

If it is determined that measures should be removed or amended for the applicant, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from the cooperating exporting producers not in the sample in Article 1 of Regulation (EC) No 1425/2006.

(a) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the applicant. This information and supporting evidence should reach the Commission within the time limit set in point 6(a)(i).

(b) *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)(i).

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)(ii).

(c) *Market economy treatment or individual treatment claims*

In the event that the applicant provides sufficient evidence showing that it operates under market economy conditions, i.e. that it meets 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. For this purpose, a duly substantiated claim must be submitted within the specific time limit set in point 6(b) of this notice. The Commission will send a claim form to the applicant as well as to the authorities of the People's Republic of China. This claim form may also be used by the applicant to claim individual treatment, i.e. that it meets the criteria laid down in Article 9(5) of the basic Regulation.

(d) *Selection of the market economy country*

In the event that the applicant is not granted market economy treatment, an appropriate market economy country will be used for the purpose of establishing normal

value in respect of the People's Republic of China in accordance with Article 2(7)(a) of the basic Regulation. The Commission considers using Malaysia again for this purpose as was done in the investigation which led to the imposition of the current measures on imports of the product concerned from 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. Furthermore, in the event that the applicant is granted market economy treatment, the Commission may, if necessary, also use findings concerning the normal value established in an appropriate market economy country, e.g. for the purpose of replacing any unreliable cost or price elements in the People's Republic of China which are needed in establishing the normal value, if reliable required data are not available in the People's Republic of China. The Commission considers using Malaysia also for this purpose.

6. Time limits

(a) *General time limits*

- (i) 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 making itself known within the aforementioned period.

- (ii) *Hearings*

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

- (b) *Specific time limit for submission of claims for market economy treatment and/or individual treatment*

The applicant's duly substantiated claim for market economy treatment, as mentioned in point 5(c) of this notice and/or for individual treatment pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 15 days of the date of publication of this notice in the *Official Journal of the European Union*.

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

Parties to the investigation may wish to comment on the appropriateness of Malaysia which, as mentioned in point 5(d) of this notice, is considered 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 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 H
Office: J-79 4/23
B-1049 Brussels
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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, 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, in accordance with Article 18 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 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*.

10. **Processing of personal data**

It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of 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 ⁽²⁾.

11. **Hearing Officer**

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, see the Hearing Officer's web pages on the website of DG Trade (<http://ec.europa.eu/trade>).

⁽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 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 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

⁽²⁾ OJ L 8, 12.1.2001, p. 1.