

**Notice of initiation of an interim review of the antidumping measures applicable to imports of polyester staple fibres originating in the Republic of Korea and Taiwan**

(2003/C 309/02)

The Commission has received a request for an interim review pursuant to Article 11(3) of Council Regulation (EC) No 384/96<sup>(1)</sup>, as last amended by Council Regulation (EC) No 1972/2002<sup>(2)</sup> ('the basic Regulation').

### 1. REQUEST FOR REVIEW

The request was lodged by the Comité International de la Rayonne et des Fibres Synthétiques (CIRFS) ('the applicant') on behalf of producers representing a major proportion, in this case more than 40 %, of the total Community production of polyester staple fibres.

### 2. PRODUCT

The product under review is synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning originating in the Republic of Korea and Taiwan ('the product concerned'), currently classifiable within CN code 5503 20 00. 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 2852/2000<sup>(3)</sup> and Council Regulation (EC) No 1728/1999<sup>(4)</sup>.

### 4. GROUNDS FOR THE REVIEW

The applicant claims that dumping and injury have recurred and that the existing measures are no longer sufficient to counteract the injurious dumping.

The allegation of dumping in respect of the Republic of Korea and Taiwan is based, in the absence of reliable data on domestic prices, on a comparison of a constructed normal value with the export prices of the product concerned to the Community.

On this basis, the dumping margins calculated are significantly higher than the dumping found in the previous investigation that led to the existing measures for all exporting countries concerned.

The applicant has provided evidence that imports of the product concerned from the Republic of Korea and Taiwan are significant in absolute terms and in terms of market share.

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

### 5. PROCEDURE

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an interim review, the Commission hereby initiates a review in accordance with Article 11(3) of the basic Regulation.

In the event that the present investigation is still in progress at the end of the five year period of application (as defined pursuant to Article 11(2) of the basic Regulation) of the measures specified under point 3 of this notice, the provisions of Article 11(7) of the basic Regulation shall apply accordingly.

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

The investigation will determine whether or not there is dumping and injury and if there is a need for the continuation, removal or amendment of the existing measures.

##### (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 Republic of Korea and Taiwan

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:

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

<sup>(2)</sup> OJ L 305, 7.11.2002, p. 1.

<sup>(3)</sup> OJ L 332, 28.12.2000, p. 17.

<sup>(4)</sup> OJ L 204, 4.8.1999, p. 3.

- 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 January 2003 to 30 November 2003,
- the turnover in local currency and the sales volume in tonnes for the product concerned on the domestic market during the period 1 January 2003 to 30 November 2003,
- whether the company intends to claim an individual margin <sup>(1)</sup> (individual margins can only be claimed by producers),
- the precise activities of the company with regard to the production of the product concerned and the volume in tonnes of the product concerned, the production capacity and the investments in production capacity during the period 1 January 2003 to 30 November 2003,
- the names and the precise activities of all related companies <sup>(2)</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,
- 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 countries, 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

<sup>(1)</sup> Individual margins may be claimed pursuant to Article 17(3) of the basic Regulation for companies not included in the sample, article 9(5) of the basic Regulation concerning individual treatment in cases involving non market economy countries, and article 2(7)(b) of the basic Regulation for companies claiming market economy status. Note that claims for individual treatment necessitate an application pursuant to Article 9(5) of the basic Regulation and that claims regarding market economy status necessitate an application pursuant to Article 2(7)(b) of the basic Regulation.

<sup>(2)</sup> 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).

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 Euro of the company during the period 1 January 2003 to 30 November 2003,
- the total number of employees,
- the precise activities of the company with regard to the product concerned and the volume in tonnes of the product concerned during the period 1 January 2003 to 30 November 2003,
- the volume in tonnes and value in Euro of imports into and resales made in the Community market during the period 1 January 2003 to 30 November 2003 of the imported product concerned originating in the Republic of Korea and Taiwan,
- the names and the precise activities of all related companies <sup>(2)</sup> 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 sample 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 cooperate within the framework of the investigation.

If sufficient cooperation 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 Republic of Korea and Taiwan 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 countries concerned.

Exporters in the Republic of Korea and Taiwan claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the basic Regulation, should request a questionnaire within the time limit set in point 6(a)(i) of this notice, given that they have to submit a duly completed questionnaire within the general time limit set in point 6(a)(ii) of this notice. However, parties should be aware that if sampling is applied to exporting producers the Commission may decide not to grant individual margins, if it would be unduly burdensome and would prevent the timely completion of the investigation.

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.

#### 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 of dumping and injury is confirmed, a determination will be made as to whether to maintain, amend 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 or other claim forms

All interested parties who did not co-operate in the investigation leading to the measures subject to the present review should request a questionnaire or other claim forms 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) H e a r i n g s

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 paragraph 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.

## 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' <sup>(1)</sup> 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'.

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## 8. NON-COOPERATION

In cases in which any interested party refuses access to or otherwise 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 co-operate, or co-operates only partially, and use of the facts available is made, the result may be less favourable than if it had co-operated.

## 9. INVESTIGATION PERIOD

The investigation period for dumping covers the period from 1 January 2003 to 31 December 2003. Article 6(1) of the Basic Regulation stipulates that the investigation period should normally end immediately prior to the initiation of the proceeding. However, given the particular circumstances of this case, the Commission considered that it was more appropriate to select an investigation period coinciding with the calendar year 2003. According to the information available to the Commission, the calendar year corresponds to the fiscal year of most exporters and Community producers, which facilitates the collection of data and subsequent verifications. For this reason, and furthermore taking into account that the present investigation is initiated almost at the end of the year 2003, it was considered appropriate to use data of the calendar year, rather than the 12 months immediately prior to the initiation.

<sup>(1)</sup> 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).