

Notice of initiation of an anti-dumping proceeding concerning imports of tartaric acid originating in the People's Republic of China

(2004/C 267/05)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96⁽¹⁾, (the basic Regulation), alleging that imports of tartaric acid, originating in the People's Republic of China (the country concerned), are being dumped and are thereby causing material injury to the Community industry.

1. Complaint

The complaint was lodged on 24 September 2004 by the following producers (the complainant): Legré-Mante SA, Industria Chimica Valenzana SpA, Distillerie Mazzari Spa, Alcolohera Vinicola Europea SA. and Comercial Quimica Sarasa sl, representing a major proportion, in this case more than 50 %, of the total Community production of tartaric acid.

2. Product

The product allegedly being dumped is tartaric acid originating in the People's Republic of China (the product concerned), normally declared within CN code 2918 12 00. This CN code is only given for information.

3. Allegation of dumping

In view of the provisions of Article 2(7) of the basic Regulation, the complainant established normal value for the People's Republic of China on the basis of the price in a market economy country, which is mentioned in paragraph 5.1(c) of this notice. The allegation of dumping is based on a comparison of normal value, thus calculated, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the People's Republic of China have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on 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 the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

5.1. Procedure for the determination of dumping and injury

The investigation will determine whether the product concerned originating in the People's Republic of China is being dumped and whether this dumping has caused injury.

(a) 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 the People's Republic of China, to any association of exporters/producers, to the importers, to any association of importers named in the complaint and to the authorities of the exporting country concerned.

In any event, all parties should contact the Commission forthwith by fax, but not later than the time limit set out in paragraph 6(a)(i) of this notice, in order to find out whether they are listed in the complaint and, if necessary, request a questionnaire, given that the time limit set in paragraph 6(a)(ii) of this notice applies to all such interested parties.

(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 has to 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.

⁽¹⁾ 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.

(c) *Selection of the market economy country*

In accordance with Article 2(7)(a) of the basic Regulation, it is envisaged to choose Argentina as an appropriate market economy country for the purpose of establishing normal value in respect of 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 paragraph 6(b) of this notice.

(d) *Market economy status*

For those exporters/producers in the People's Republic of China who claim and provide sufficient evidence that they operate under market economy conditions, i.e. that they meet 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. Exporters/producers intending to submit duly substantiated claims must do so within the specific time limit set in paragraph 6(c) of this notice. The Commission will send claim forms to all exporters/producers in the People's Republic of China named in the complaint and to any association of exporters/producers named in the complaint, as well as to the authorities of the People's Republic of China.

5.2. *Procedure for assessment of Community interest*

In accordance with Article 21 of the basic Regulation and in the event that the allegations of dumping and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of 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 precedent 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 should request a questionnaire or other claim form 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.

- (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 for the selection of the market economy country**

Parties to the investigation may wish to comment on the appropriateness of Argentina which, as mentioned in paragraph 5.1(c) 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*.

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

Duly substantiated claims for market economy status, as mentioned in paragraph 5.1(d) of this notice and/or individual treatment pursuant to Article 9(5) of the basic Regulation, must reach the Commission within 21 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 6(9) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*. According to Article 7(1) of the basic Regulation, provisional measures may be imposed no later than nine months from 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).