

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

COMMISSION

Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of sodium cyclamate originating in the People's Republic of China and Indonesia

(2009/C 56/10)

Following the publication of a notice of impending expiry ⁽¹⁾ of the anti-dumping measures in force on imports of sodium cyclamate originating in the People's Republic of China and Indonesia ('countries concerned'), the Commission has received a request for review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community ⁽²⁾ ('the basic Regulation').

1. Request for review

The request was lodged on 11 December 2008 by Productos Aditivos SA ('the applicant'), the sole producer in the Community of sodium cyclamate, representing 100 % of the Community production thereof.

2. Product

The product under review is sodium cyclamate originating in the People's Republic of China and Indonesia ('the product concerned'), currently classifiable within CN code ex 2929 90 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 435/2004 ⁽³⁾ on imports of sodium cyclamate originating in the People's Republic of China and Indonesia.

4. Grounds for the review

The request is 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.

In view of the provisions of Article 2(7) of the basic Regulation, the applicant established normal value for the People's Republic

of China on the basis of a constructed normal value in an appropriate market economy country, which is mentioned in point 5.1(c). The allegation of continuation of dumping for the People's Republic of China is based on a comparison of normal value, as set out in the preceding sentence, with the export prices of the product concerned when sold for export to the Community.

On this basis, the dumping margin calculated is significant.

In demonstrating the likelihood of recurrence of dumping for Indonesia, a comparison was done between the normal value and the export prices. The normal value was constructed. The export prices from Indonesia to Pakistan and the Philippines have been used by the applicant, in view of the current absence of significant import volumes from Indonesia into the EC.

The allegation of recurrence of dumping for Indonesia is based on a comparison of a constructed normal value with the export prices of the product concerned when sold for export to the abovementioned third countries.

On the basis of the above comparison, which shows dumping, the applicant argues that there is a likelihood of recurrence of dumping from Indonesia.

The applicant further alleges the likelihood of further injurious dumping from Indonesia. In this respect, the applicant presents evidence to the effect that, should measures be allowed to lapse, the current import level of the product concerned is likely to increase due to a likely redirection of exports from third countries to the Community, and this due to the attractiveness of the Community market given its size and price levels.

With regard to the People's Republic of China, the applicant alleges that imports of the product concerned have continued to cause injury to the Community industry due to their increase in volume and market share, and low prices.

⁽¹⁾ OJ C 253, 4.10.2008, p. 22.

⁽²⁾ OJ L 56, 6.3.1996, p. 1.

⁽³⁾ OJ L 72, 11.3.2004, p. 1.

In addition, the applicant alleges that the already fragile situation of the Community industry would further deteriorate if measures were allowed to lapse and that any recurrence of substantial imports at dumped prices from the countries concerned would likely lead to a continuation or recurrence of injury of the Community industry.

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 11(2) of the basic Regulation.

5.1. Procedure for the determination of likelihood of dumping 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 dumping and 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 and Indonesia to any association of exporters/producers, to the importers, to any known association of importers, and to the authorities of the exporting countries concerned.

(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)(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).

(c) Selection of the market economy country

In the previous investigation Indonesia was used as an appropriate market economy country for the purpose of establishing normal value in respect of the People's Republic of China. The Commission envisages using Indonesia again for this purpose. Interested parties are hereby invited to comment on the appropriateness of this country within the specific time limit set in point 6(b).

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 or recurrence of dumping and injury is confirmed, a determination will be made as to whether maintaining the anti-dumping measures would not be against the Community interest. For this reason the Commission may send questionnaires to the known Community industry, importers, their representative associations, representative users and representative consumer organizations. Such parties, including those not known to the Commission, 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 preceding sentence may request a hearing, setting out 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 21 of the basic Regulation 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 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 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 Indonesia which, as mentioned in point 5.1(c), 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*.

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: N105 04/92
1049 Brussels
BELGIQUE
Fax +32 22956505

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 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. **Possibility to request a review under Article 11(3) of the basic Regulation**

As this expiry review is initiated in accordance with the provisions of Article 11(2) 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 11(6) 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 11(3) 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**

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 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⁾.

12. **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 file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details interested parties may consult the Hearing Officer's web pages of 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.