

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 trichloroisocyanuric acid originating in the People's Republic of China

(Text with EEA relevance)

(2009/C 150/15)

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 Heze Huayi Chemical Co., Ltd ('the applicant'), an exporting producer 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 trichloroisocyanuric acid and preparations thereof, also referred to as 'symclosene' under the international non-proprietary name (INN), originating in the People's Republic of China ('the product concerned'), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20. These CN codes are given only for information.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1631/2005 ⁽²⁾ on imports of **trichloroisocyanuric acid** originating, inter alia, 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 the existing measures were imposed have changed and that these changes are of a lasting nature.

The applicant provided *prima facie* evidence that the continued imposition of the measure at its current level is no longer necessary to offset dumping. A comparison of the applicant's domestic prices and constructed normal values (calculated on the basis of costs of production, selling, general and administrative costs and profits) with its export prices to the Community indicates that the dumping margin appears to be substantially lower than the current level of the measure.

Therefore, the continued imposition of measures at the existing level, which was based on the level of dumping previously established, appears to be 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 hereby initiates a review in accordance with Article 11(3) of the basic Regulation with a view to determining whether the measures should be removed or amended for the applicant.

If so, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from exporting producers in the country concerned not individually mentioned in Article 1(2) of Council Regulation (EC) No 1631/2005, i.e. the duty therein specified as applying to 'all other companies' in the People's Republic of China.

(a) Questionnaires

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

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 261, 7.10.2005, p. 1.

(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 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

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 a copy 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, but fulfils the requirements to have an individual duty established in accordance with Article 9(5) of the basic Regulation, 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 Japan 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 Japan 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's 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/individual treatment

The applicant's duly substantiated claim for market economy treatment and/or for individual treatment pursuant to Article 9(5) of the basic Regulation, as mentioned in point 5(c) of this notice, 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 Japan 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 labeled 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 labeled 'For inspection by interested parties'.

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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. 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⁾.

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, interested parties may consult 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.