

## V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

**Notice of initiation of an interim review of the anti-dumping measures applicable to imports of  
furfuraldehyde originating in the People's Republic of China**

(2011/C 196/05)

The European Commission (Commission) has decided on its own initiative to initiate an interim review of the anti-dumping measures applicable to imports of furfuraldehyde originating in the People's Republic of China pursuant to Article 11(3) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> (the basic Regulation).

**1. Product**

The product under review is 2-furaldehyde (also known as furfuraldehyde or furfural), originating in the People's Republic of China (the product concerned), currently falling within CN code 2932 12 00.

**2. Existing measures**

The measures currently in force are a definitive anti-dumping duty imposed by Council Implementing Regulation (EU) No 453/2011 <sup>(2)</sup> on imports of furfuraldehyde originating in the People's Republic of China.

**3. Grounds for the review**

The Commission has at its disposal sufficient prima facie evidence that, as far as dumping and injury are concerned, the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of lasting nature.

In particular, the information at the disposal of the Commission appears to indicate that, due to the increase in prices of imports originating in the People's Republic of China (the country

concerned) caused by the long-term growth in the domestic demand for furfuraldehyde and rising raw material costs in the country concerned, the continued imposition of the measure at its current level may no longer be necessary to counteract the injurious dumping. A comparison of the normal value of the product concerned with the export prices to the Union indicates that the dumping margin appears to be substantially lower than the current level of measures.

Furthermore, significant changes to the composition of the Union industry appear to have taken place. Nutrafur SA, the sole Union producer at the time of the original investigation, ceased production of furfuraldehyde at the end of 2008. Two other producers became part of the Union industry as a result of the EU enlargements in 1995 and 2004. The new composition of the Union industry, together with the specific nature of the production process applied by the two current Union producers, call for the need to reassess the injury findings.

Therefore, the continued imposition of measures at the existing level appears to be no longer necessary to offset the effects of injurious dumping.

**4. 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.

**4.1. Procedure for the determination of dumping and injury**

The investigation will assess whether there is a need for the continuation, removal or amendment of the existing measures.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 123, 12.5.2011, p. 1.

(a) *Sampling*

In view of the apparent large 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 People's Republic of China*

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 point 5(b)(i) and in the formats indicated in point 6:

- name, address, e-mail address, telephone and fax numbers, and contact person,
- the turnover in local currency and the volume in tonnes of the product concerned sold for export to the Union during the period 1 July 2010 until 30 June 2011 for each of the 27 Member States separately and in total,
- the turnover in local currency and the volume in tonnes of the product concerned sold on the domestic market during the period 1 July 2010 until 30 June 2011
- the turnover in local currency and the volume in tonnes for the product concerned sold to other third countries during the period 1 July 2010 until 30 June 2011
- the precise activities of the company worldwide with regard to the product concerned,
- the names and the precise activities of all related companies<sup>(1)</sup> involved in the production and/or sales (export and/or domestic) of the product concerned,
- any other relevant information that would assist the Commission in the selection of the sample.

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is chosen to be part of the sample, this will imply replying

<sup>(1)</sup> For guidance on the meaning of related companies, please refer to Article 143 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

to a questionnaire and accepting an on-the-spot investigation of its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed to not have cooperated in the investigation. The consequences of non-cooperation are set out in point 7 below.

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 People's Republic of China, and any known associations of exporters/producers.

Since a company cannot be certain that it will be selected in the sample, exporters/producers that wish to claim an individual margin pursuant to Article 17(3) of the basic Regulation are advised to request a questionnaire and the market economy treatment and/or individual treatment (MET/IT) claim form within the deadline foreseen in point 5(a)(i) of this notice, and file these within the deadlines specified in point 5(a)(ii) first paragraph and 5(c) respectively of this notice.

(ii) *Final selection of the sample*

All interested parties wishing to submit any relevant information regarding the selection of the sample must do so within the time limit set in point 5(b)(ii).

The Commission intends to make the final selection of the sample after having consulted the parties concerned that have expressed their willingness to be included in the sample.

Companies included in the sample must reply to a questionnaire within the time limit set in point 5(b)(iii) 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 point 7.

(b) *Questionnaires*

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Union industry and to any known association of producers in the Union, to the sampled exporters/producers in the People's Republic of China and to any known association of exporters/producers, to the known importers, to any known association of importers, 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 5(a)(ii).

Exporters/producers in the People's Republic of China claiming an individual margin, with a view to the application of Articles 17(3) and 9(6) of the basic Regulation, must submit a completed questionnaire within the time limit set in point 5(a)(ii) of this notice. They therefore have to request a questionnaire within the time limit set in point 5(a)(i). However, such parties should be aware that if sampling is applied to exporters/producers, the Commission may nonetheless decide not to calculate an individual margin for them, if the number of exporters/producers is so large that individual examination would be unduly burdensome and would prevent the timely completion of the investigation.

(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 point 5(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 5(a)(iii).

(d) *Market economy treatment/individual treatment*

For those exporters/producers in the People's Republic of China who claim and provide sufficient evidence showing 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. For this purpose, duly substantiated claims must be submitted within the specific time limit set in point 5(c) of this notice. The Commission will send claim forms to the sampled exporting producers as well as to the authorities of the People's Republic of China. These claim forms may also be used by the sampled exporting producers to claim individual treatment, i.e. that they meet the criteria laid down in Article 9(5) of the basic Regulation.

(e) *Selection of the market economy country*

In the event that exporters/producers are not granted market economy treatment, but fulfil the requirements to have individual duties 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 envisages using Argentina again for this purpose as was done in the investigation which led to the imposition of 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 country within the specific time limit set in point 5(d).

Furthermore, in the event that exporters/producers are granted market economy treatment, the Commission may, if necessary, 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 element in the People's Republic of China which is needed in establishing the normal value, if reliable necessary data is not available in the People's Republic of China. The Commission considers using Argentina also for this purpose.

#### 4.2. *Procedure for the determination of Union interest*

In accordance with Article 21 of the basic Regulation and in the event that the continuation or recurrence 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 Union interest. For this reason the Commission may send questionnaires to the known Union industry, importers, their representative associations, representative users and representative consumer organisations. 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 5(a)(ii), 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 point 5(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.

### 5. **Time limits**

(a) *General time limits*

- (i) For parties to request a questionnaire or other claim forms

All interested parties who did not cooperate 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 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. All exporters/producers concerned by this investigation, who wish to apply for individual examination in accordance with Article 17(3) of the basic Regulation,

must also submit a questionnaire reply within 37 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 point 5(b)(iii).

### (iii) Hearings

All interested parties may also apply to be heard by the Commission within the same 37-day time limit.

### (b) Specific time limit in respect of sampling

(i) The information specified in point 4.1(a)(i) 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 4.1(a)(ii) 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, unless otherwise specified.

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

The exporters/producers' duly substantiated claim for market economy treatment, as mentioned in point 4(d) 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*, unless otherwise specified.

### (d) 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 point

4.1(e), is envisaged as a market economy country for the purpose of establishing normal value in respect of 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*.

## 6. 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' <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'.

Commission address for correspondence:

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## 7. 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.

<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 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).

### 8. Schedule of the investigation

The investigation shall 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*.

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

### 10. 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 the Directorate-General for 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 the Directorate-General for Trade (<http://ec.europa.eu/trade>).

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<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.