

## Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of tartaric acid originating in the People's Republic of China

(2011/C 223/09)

The European Commission (Commission) has received a request for a partial interim review 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. Request for review

The request was lodged by the following producers in the Union: Distillerie Bonollo SpA, Industria Chimica Valenzana SpA, Distillerie Mazzari SpA, Caviro Distillerie S.r.l. and Comercial Quimica Sarasa s.l. (the applicants).

The review is limited in scope to the examination of dumping as far as two Chinese exporting producers are concerned, namely Changmao Biochemical Engineering Co., Ltd, Changzhou City, and Ninghai Organic Chemical Factory, Ninghai.

### 2. Product under investigation

The product subject to this investigation is tartaric acid, excluding D-(-)- tartaric acid with a negative optical rotation of at least 12,0 degrees, measured in a water solution according to the method described in the European Pharmacopoeia, originating in the People's Republic of China (the product under investigation).

### 3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 130/2006 <sup>(2)</sup> on imports of tartaric acid originating in the People's Republic of China, as last amended by Council Regulation (EC) No 150/2008 <sup>(3)</sup>. These measures continue to be in force due to an ongoing expiry review <sup>(4)</sup>.

### 4. Grounds for the review

The request pursuant to Article 11(3) is based on prima facie evidence, provided by the applicants, that, as far as the two Chinese exporting producers are concerned, the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of lasting nature.

The applicants provided prima facie evidence showing that, as far as the two exporting producers are concerned, the continued

imposition of the measures at their current level is no longer sufficient to counteract the injurious dumping. In particular, the applicants allege that both Chinese exporting producers participate in certain recent governmental programs from which they derive benefits which as a consequence distort the actual cost base of their production and put into question whether the companies can still be granted market economy treatment. A comparison of the exporting producers' normal value, either on a basis of a constructed normal value in the People's Republic of China or on domestic prices in an analogue country, in this case Argentina, with their export prices to the Union indicates that the dumping margins appear to be higher than the current level of the measures.

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 sufficient to counteract 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.

The investigation will assess the need for the continuation, removal or amendment of the existing measures in respect of the exporting producers.

#### (a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the above mentioned exporting producers 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).

#### (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)(i).

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

<sup>(2)</sup> OJ L 23, 27.1.2006, p. 1.

<sup>(3)</sup> OJ L 48, 22.2.2008, p. 1.

<sup>(4)</sup> OJ C 24, 26.1.2011, p. 14.

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/individual treatment*

In the event that the exporting producers 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, 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 exporting producers as well as to the authorities of the People's Republic of China. This claim form may also be used by the exporting producers to claim individual treatment, i.e. that they meet the criteria laid down in Article 9(5) of the basic Regulation.

(d) *Selection of the market economy country*

In the event that the exporting producers are not granted market economy treatment, but fulfil 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 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 choice within the specific time limit set in point 6(c) of this notice.

Furthermore, in the event that the exporting 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.

## 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 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.

(ii) *Hearings*

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

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

The exporting producers' duly substantiated claims for market economy treatment, 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 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 5(d), 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. Instructions for making written submissions and sending completed questionnaires and correspondence

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' <sup>(1)</sup>.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such confidential information may be disregarded.

<sup>(1)</sup> A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document 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).

For this investigation, the Commission will use an electronic document management system. Interested parties are requested to make all submissions and requests in electronic format (the non-confidential submissions via email, the confidential ones on CD-R/DVD), and must indicate the name, address, email address, telephone and fax numbers of the interested party. However, any powers of attorney and signed certifications accompanying questionnaire replies or any updates thereof shall be submitted on paper, i.e. by post or by hand, at the address below. Pursuant to Article 18(2) of the basic Regulation if an interested party cannot provide its submissions and requests in electronic format, it must immediately inform the Commission. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade (<http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence/>).

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: N105 04/092  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË  
Fax +32 22920480  
E-mail: TRADE-AD-TARTARIC-DUMPING@ec.europa.eu

### 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, 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 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*.

### 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 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>.

### 11. Hearing Officer

Interested parties may request the intervention of the Hearing Officer of the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes on the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

For further information and contact details interested parties may consult the Hearing Officer's web pages of the Directorate-General for Trade's website ([http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index\\_en.htm](http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm)).

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