

Notice concerning a partial reopening of the anti-dumping investigation concerning imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia

(2013/C 58/08)

In May 2011, by Regulation (EU) No 446/2011⁽¹⁾, the Commission imposed a provisional anti-dumping duty on imports of certain fatty alcohols and their blends (FOH) originating in India, Indonesia and Malaysia, and in November 2011 a definitive anti-dumping duty was imposed on the same imports by Council Implementing Regulation (EU) No 1138/2011⁽²⁾ (‘the definitive Regulation’).

On 21 January 2012, PT Ecogreen Oleochemicals, an Indonesian exporting producer of FOH, Ecogreen Oleochemicals (Singapore) Pte. Ltd and Ecogreen Oleochemicals GmbH (herein jointly referred to as ‘Ecogreen’) lodged an application (case T-28/12) before the General Court for the annulment of the definitive Regulation as far as the anti-dumping duty with regard to Ecogreen was concerned. Ecogreen contested the adjustment made on the basis of Article 2(10)(i) of the basic Regulation to its export price for the purpose of comparing that export price with the company’s normal value.

In case T-249/06 (Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT (Interpipe Niko Tube ZAT) and Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (Interpipe NTRP VAT) v. Council of the European Communities), the General Court annulled Article 1 of Regulation (EC) No 954/2006 with regard to Interpipe NTRP VAT inter alia on the grounds of a manifest error of assessment in making the adjustment based on Article 2(10)(i) and with regard to Interpipe Niko Tube ZAT on other grounds. On 16 February 2012, the Court of Justice rejected the appeal lodged by the Council and the Commission (Joined Cases C-191/09 P and C-200/09 P).

Given that the factual circumstances for Ecogreen are similar to those of Interpipe NTRP VAT in respect of the adjustment made pursuant to Article 2(10)(i) of the basic Regulation, it was considered appropriate to re-calculate the dumping margin of Ecogreen without making an adjustment pursuant to Article 2(10)(i). Council Implementing Regulation (EU) No 1241/2012 of 11 December 2012 was therefore published on 21 December 2012⁽³⁾, amending Implementing Regulation (EU) No 1138/2011 imposing a definitive duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia, with retroactive application as from 12 November 2011. The dumping margin therein established for Ecogreen was *de minimis* in accordance with Article 9(3) of the basic Regulation. The investigation in respect of Ecogreen was therefore terminated without the imposition of measures.

The dumping margin for all companies in Indonesia, other than for the other exporting producer with an individual margin (P.T. Musim Mas — ‘PTMM’), based on that of the cooperating Indonesian exporting producer with the highest dumping margin, was revised to take account of the re-calculated dumping margin of Ecogreen.

1. Partial reopening of the anti-dumping investigation

It has to be re-examined whether the re-calculated dumping margin of Ecogreen, the exports of which are now considered as non-dumped, and the change in the level of the dumping margins of the Indonesian companies, other than PTMM, introduced by Council Implementing Regulation (EU) No 1241/2012 of 11 December 2012 may have any impact on the findings of Implementing Regulation (EU) No 1138/2011 imposing a definitive duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia, relating to injury and causation.

The Commission has therefore decided to reopen the anti-dumping investigation concerning imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia in order to examine the impact of these changes on those findings.

2. Procedure

Having determined, after consulting the Advisory Committee, that a partial reopening of the anti-dumping investigation is justified, the Commission hereby partially reopens the anti-dumping investigation concerning imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia, initiated pursuant to Article 5 of the basic Regulation by a notice published in the *Official Journal of the European Union*⁽⁴⁾.

The reopening is limited in scope to the examination of the impact of the changes introduced by Council Implementing Regulation (EU) No 1241/2012 of 11 December 2012 on the findings relating to injury and causation.

All interested parties are hereby invited to make their views known, submit information and provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 3(a).

⁽¹⁾ OJ L 122, 11.5.2011, p. 47.

⁽²⁾ OJ L 293, 11.11.2011, p. 1.

⁽³⁾ OJ L 352, 21.12.2012, p. 1.

⁽⁴⁾ OJ C 219, 13.8.2010, p. 12.

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 3(b).

3. Time limits

(a) For parties to make themselves known and to submit information

All interested parties, if their representations are to be taken into account during this investigation, must make themselves known by contacting the Commission, present their views and submit any information within 20 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.

(b) Hearings

All interested parties may also apply to be heard by the Commission within the same 20-day time limit.

4. Written submissions 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 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'.

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5. Non-cooperation

In cases in which any interested party refused 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 cooperate only partially, and use of facts available is made, the result may be less favourable to that party than if it had cooperated.

6. 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 ⁽²⁾.

7. 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 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 the Directorate-General for Trade (http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm).

⁽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.