

**COMMISSION REGULATION (EC) No 1292/2003
of 18 July 2003**

initiating a 'new exporter' review of Council Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate (PET) originating, *inter alia*, in Thailand, repealing the duty with regard to imports from one exporting exporter in this country and making these imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 ⁽¹⁾ of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the Basic Regulation), as last amended by Council Regulation (EC) No 1972/2002 ⁽²⁾ and in particular Article 11(4),

After consulting the Advisory Committee,

Whereas:

A. REQUEST FOR A REVIEW

- (1) The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of the Basic Regulation. The application was lodged by Indo Pet (Thailand) Ltd. (the applicant), an exporting producer in Thailand (the country concerned).

B. PRODUCT

- (2) The product under review is polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728 originating in Thailand (the product concerned), currently classifiable within CN code 3907 60 20. This CN code is given only for information.

C. EXISTING MEASURES

- (3) The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 2604/2000 ⁽³⁾ under which imports into the Community of the product concerned, are subject to a definitive anti-dumping duty of EUR 83,2 per tonne.

D. GROUNDS FOR THE REVIEW

- (4) The applicant alleges that it did not export the product concerned to the Community during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 October 1998 to 30 September 1999 (the original investigation period) and that it is not related to any of the exporting producers of the product which are subject to the abovementioned anti-dumping measures.

- (5) The applicant further alleges that they have begun exporting the product concerned to the Community after the end of the original investigation period.

E. PROCEDURE

- (6) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment. No comments have been received.
- (7) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the Basic Regulation, with a view to determine the applicant's individual margin of dumping and, should dumping be found, the level of the duty to which their imports of the product concerned into the Community should be subject.

(a) Questionnaires

- (8) In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

- (9) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.
- (10) Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

F. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

- (11) Pursuant to Article 11(4) of the Basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the Community by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the Basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicants, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ L 301, 30.11.2000, p. 21.

G. TIME LIMITS*Article 3*

- (12) In the interest of sound administration, time limits should be stated within which:
- interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in paragraph E(a) of this Regulation or any other information to be taken into account during the investigation,
 - interested parties may make a written request to be heard by the Commission.

The customs authorities are hereby directed, pursuant to Article 14(5) of Council Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1 of this Regulation. Registration shall expire nine months following the date of entry into force of this Regulation.

*Article 4***H. NON-COOPERATION**

- (13) In cases in which any interested party refuses access to, or otherwise 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.
- (14) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available,

1. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in paragraph E(a) of this Regulation or any other information, unless otherwise specified, within 40 days of the entry into force of this Regulation. 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.

Interested parties may also apply in writing to be heard by the Commission within the same 40-day time limit.

2. 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, and/or telex number of the interested party. All written submissions, 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'.

HAS ADOPTED THIS REGULATION:

Any information relating to the matter, any request for a hearing should be sent to the following address:

Article 1

A review of Council Regulation (EC) No 2604/2000 is hereby initiated pursuant to Article 11(4) of Council Regulation (EC) No 384/96 in order to determine if and to what extent the imports of polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728 falling within CN code 3907 60 20, produced and sold for export to the Community by Indo Pet (Thailand) Ltd. should be subject to the anti-dumping duty imposed by Council Regulation (EC) No 2604/2000.

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*Article 5**Article 2*

The anti-dumping duty imposed by Council Regulation (EC) No 2604/2000 is hereby repealed with regard to the imports identified in Article 1 of the present Regulation (TARIC additional code: A468).

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*

⁽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 (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p. 1) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 July 2003.

For the Commission
Pascal LAMY
Member of the Commission
