

COMMISSION IMPLEMENTING DECISION (EU) 2017/957**of 6 June 2017****terminating the anti-dumping proceeding concerning imports of purified terephthalic acid and its salts originating in the Republic of Korea**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 9 thereof,

Whereas:

1. PROCEDURE**1.1. Initiation**

- (1) On 3 August 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of purified terephthalic acid ('PTA') and its salts originating in the Republic of Korea ('the country concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 ('the basic Regulation'). It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 20 June 2016 by BP Aromatics Limited NV, Artland PTA SA and Indorama Ventures Quimica S.L.U. ('the complainants'), representing more than 25 % of the total Union production of purified terephthalic acid and its salts. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

- (3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other known Union producers, the known exporting producers, the South Korean authorities, known importers and users about the initiation of the investigation and invited them to participate.
- (4) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.3. Sampling

- (5) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

(a) *Sampling of exporting producers in the Republic of Korea*

- (6) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the Republic of Korea to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Republic of Korea to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Notice of initiation of an anti-dumping proceeding concerning imports of purified terephthalic acid and its salts originating in the Republic of Korea (OJ C 281, 3.8.2016, p. 18).

- (7) Five exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No objections to the proposed sample were made.

(b) Sampling of Union producers

- (8) In its Notice of Initiation, the Commission stated that it would send the questionnaire to all the six known producers of the product concerned. In view of the low number, the Commission decided that sampling was not necessary.

(c) Sampling of importers

- (9) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (10) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

(d) Replies to the questionnaire

- (11) The Commission sent questionnaires to the three sampled exporting producers, all six Union producers, nine known users and two known importers.
- (12) Questionnaire replies were received from the three sampled exporting producers, all six Union producers, twelve users and two importers.

(e) Verification visits

- (13) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Exporting producers in the Republic of Korea

- Hanwha General Chemical Co. Ltd, Seoul, Republic of Korea,
- Samnam Petrochemical Co. Ltd, Seoul, Republic of Korea,
- Taekwang Industrial Co. Ltd, Seoul, Republic of Korea,

Union producers

- Artlant PTA SA, Sines, Portugal,
- BP Aromatics Limited NV, Geel, Belgium,
- Indorama Ventures Europe B.V., Rotterdam, Netherlands,
- Indorama Ventures Quimica S.L.U., San Roque, Spain,
- PKN Orlen SA, Płock, Poland,

Users

- UAB Neo Group, Klaipeda, Lithuania,
- UAB Orion Global PET, Klaipeda, Lithuania.

1.4. Investigation period and period considered

- (14) The investigation of dumping and injury covered the period from 1 July 2015 to 30 June 2016 (‘the investigation period’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2013 to the end of the investigation period (‘the period considered’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (15) The product concerned is terephthalic acid of a purity by weight of 99,5 % or more and its salts originating in the Republic of Korea currently falling within CN code ex 2917 36 00 (TARIC code 2917 36 00 10) (‘the product concerned’).
- (16) PTA is obtained by the purification of crude terephthalic acid, which is a result of making paraxylene (PX) react with a solvent and a catalyst solution.
- (17) The product concerned is mainly used as a raw material to synthesise polymers used, for instance, in the production of polyester textile fibres and poly (ethylene terephthalate) (PET) bottles.

2.2. Like product

- (18) The investigation showed that the following products have the same basic physical and chemical characteristics as well as the same basic uses:
- the product concerned,
 - the product produced and sold on the domestic market of country concerned, and
 - the product produced and sold in the Union by the Union industry.
- (19) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding the product scope

- (20) The product scope defined in recital 15 above includes variants of PTA which in addition to the purest variation of PTA (‘purest PTA’) include also the so called qualified terephthalic acid (‘QTA’) and medium quality terephthalic acid (‘MTA’). The variants can be distinguished essentially by the levels of purity. MTA and QTA have higher levels of impurities than the purest PTA. In any event, the level of impurities in each of these variants does not exceed 0,5 % and therefore they are all included in the product definition set out in recital 15.
- (21) Several interested parties claimed that QTA should be excluded from the scope of the product under investigation. According to these parties the physical and chemical characteristics of QTA are different from those of the purest PTA and these differences lead to different uses. They also claimed that the processes for the production and the use of QTA are different from those of the purest PTA and that the production cost and selling price of QTA are lower than those of the purest PTA.
- (22) While the purest PTA contains up to 0,01 % of impurities, QTA may contain up to 0,2 % impurities and there is also some difference in the kind of impurities contained. However, regardless of this difference in impurities, the chemical formula of all the variants of PTA is the same. Therefore, the Commission considered that the relatively small difference in impurities does not alter the fact that the basic chemical and physical characteristics of all the variants of PTA are the same and consequently it would not as such justify excluding QTA from the scope of the product under investigation.
- (23) The same interested parties also claimed that QTA and the purest PTA have different uses. The Commission found that the differences were not significant in order to exclude QTA from the scope of the product under investigation.

- (24) The same interested parties also claimed that the QTA and purest PTA are produced by different production processes, namely that production techniques to produce the purest PTA primarily focus on oxidation reaction, refining and reduction reaction, which belongs to a two-step production technique whereas QTA's production technique mainly focuses on precise oxidation reaction and refining, which belongs to a one-step production technique. The Commission found that both production processes use the same raw materials and processes and are for most of their parts similar.
- (25) The same interested parties finally claimed that due to the difference between the abovementioned one-step and two-step techniques, the production cost of QTA is between 18 and 36 EUR/MT cheaper than that of the purest PTA. The investigation found that the difference in the production cost was not significant. In any event, differences in the cost of production as such are not relevant in order to define the product scope but rather similar technical, chemical and physical characteristics and basic uses. Therefore, this claim was rejected.
- (26) After the disclosure one interested party reiterated its claims that QTA should be excluded from the scope of the product under investigation due to the differences in composition and content of impurities, differences in production process and production cost and uses. The Commission however considered that these differences are relatively small and do not alter the conclusion that the technical, chemical and physical characteristics and basic uses of both QTA and the purest PTA are essentially the same. Therefore, this claim was rejected.
- (27) For the reasons above, the claims to exclude QTA from the scope of the product scope were rejected.

3. DUMPING

3.1. Normal value

- (28) The Commission first examined whether the total volume of domestic sales for each sampled exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.
- (29) The Commission then examined whether the domestic sales by each sampled exporting producer on its domestic market were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales to independent customers during the investigation period represents at least 5 % of the total volume of export sales to the Union. The Commission established that for each sampled exporting producer the total volume of domestic sales represented at least 5 % of the total volume of export sales to the Union.
- (30) The Commission next defined the proportion of profitable sales to independent customers on the domestic market during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (31) The normal value is based on the actual domestic price, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume; and
 - (b) the weighted average sales price is equal to or higher than the unit cost of production.
- (32) In this case, the normal value was the weighted average of the prices of all domestic sales during the IP.
- (33) For one of the exporting producers the conditions mentioned in recital 31 were met and the volume of profitable sales of the like product represented more than 80 % of the total domestic sales volume of the like product. For this exporting producer the normal value was based on the actual domestic price, calculated as a weighted average of all domestic sales.

- (34) The normal value was the actual domestic price of only the profitable domestic sales of the product types during the IP, if:
- (a) the volume of profitable sales represents 80 % or less of the total sales volume; or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (35) For two exporting producers the analysis of domestic sales showed that less than 80 % of all domestic sales were profitable. Accordingly, for these two exporting producers the normal value was calculated as a weighted average of the profitable sales only.
- (36) One party argued that its entity producing PTA forms a single economic entity with its related main raw material supplier. The related supplier also pays dividends to the sampled PTA producer. The Commission should therefore deduct the profit realised by the related supplier on the raw material sold to the sampled PTA producer for the production of PTA for the purpose of the dumping calculation. The company had calculated the profit to be deducted as the difference between the purchase price and the total cost of production of the raw material.
- (37) The Commission rejected the claim that the sampled PTA producer and the related raw material supplier form a single economic entity for the following reasons. First, the investigation confirmed that the sampled PTA producer does not hold a majority stake in the related supplier which means that it does not have sole decision-making power over the related supplier. Second, since the sales of the raw material represented only a minor part of the total sales of the related raw material supplier during the investigation period, there is no direct link between the profit margin for the raw material and the dividends received.
- (38) Third, the related supplier does not sell the raw material exclusively to the sampled PTA producer, but also to other clients. In addition, it also sells a number of other products to other clients. Thus, there is no direct link between the sales of the raw material by the related supplier to the sampled PTA producer and the dividends it pays to the sampled PTA producer.
- (39) Fourth, the sampled PTA producer buys the raw material from the related supplier at prices including profit. These prices are in line with prices at which it purchases the same raw material from other unrelated suppliers.
- (40) Fifth, the annual financial statements of the sampled PTA producer are not consolidated with the financial statements of the related supplier.
- (41) On the basis of the above, the claim that the sampled PTA producer forms a single economic entity with the related raw material supplier was rejected. Consequently the percentage of the profit charged by the related supplier to the sampled PTA producer was not deducted from the purchase price.
- (42) After disclosure two interested parties questioned why the Commission did not apply a target profit in order to define the proportion of profitable sales on domestic market in determining normal value. In accordance with Article 2(4) of the basic Regulation, the relevant benchmark for transactions being profitable is the unit production costs (fixed and variable) plus selling, general and administrative costs. The concept of target profit is not relevant in this context and therefore this claim was rejected.
- (43) The same parties also questioned why the Commission did not perform the analysis of the proportion of profitable sales on a monthly basis. The investigation did not establish any grounds why the analysis of the profitable sales or determination of the normal value should deviate from the standard methodology, which is using the weighted average of the normal value based on the transactions which took place during the entire investigation period. Therefore, this claim was rejected.

3.2. Export price

- (44) The sampled exporting producers exported to the Union either directly to independent customers or through unrelated and related trading companies located outside the Union.

- (45) In case the exporting producers exported the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (46) In case the exporting producers exported the product concerned to the Union through related companies, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation.
- (47) In case the exporting producers exported the product concerned through unrelated trading companies located outside of the Union it was first established that sales to the unrelated trading companies were indeed sales for export to the Union. In this case the export price was, as well, the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

3.3. Comparison

- (48) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (49) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling and loading, packing, bank charges, credit costs and commissions.

3.4. Dumping margins

- (50) For the sampled exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (51) On this basis, the weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Dumping margin (%)
Hanwha General Chemical Co. Ltd	3,5
Samnam Petrochemical Co. Ltd	0,3
Taekwang Industrial Co. Ltd	0,0

- (52) The five cooperating exporting producers referred to in recital 7 represented all exports originating in the Republic of Korea to the Union during the investigation period based on Eurostat data, and the three sampled exporting producers represented more than 75 % of the total exports to the Union during the investigation period.
- (53) The Commission took into consideration the high level of cooperation, the high level of representativeness of the sample referred to in recital 52 above and also the fact that only one of the sampled exporters had a dumping margin above *de minimis* as referred to in Article 9(3) of the basic Regulation. Therefore, in order to assess whether the dumping margin for the exporting producers outside the sample was below *de minimis*, a weighted average countrywide dumping margin was established. It was found that this margin was below *de minimis* level, namely 0,8 %.

- (54) After disclosure two interested parties questioned why the dumping margin established for Hanwha (3,5 %) was not applied to the two cooperating but non-sampled exporting producers. As explained in recital 53 above, the Commission took into consideration the high level of cooperation, the high level of representativeness of the sample and also the fact that only one of the sampled exporters had a dumping margin above *de minimis*. In the light of this, the Commission considered that the most reasonable estimate for the dumping margin for the cooperating but non-sampled exporting producers and for the countrywide dumping margin should be established on the basis of a comparison of a weighted average normal value with a weighted average export price for the sampled exporting producers as described above. It is also recalled that the same methodology was applied in a similar case previously ⁽¹⁾. Therefore this claim was rejected.
- (55) After disclosure one interested party claimed that there were differences between the South Korean export statistics and the Eurostat import statistics. Further, in the light of this, this party questioned the reliability of the data provided by the exporting producers and used by the Commission in order to determine the dumping margin. The Commission confirmed that following the established practise and as explained in recital 52 above, the exports originating in the Republic of Korea to the Union during the investigation period were based on Eurostat data. It is also recalled that as explained in recital 13 above, the Commission sought and verified all the information deemed necessary for a determination of dumping, and that the data provided by the exporting producers was duly verified in accordance with the established practise. Therefore this claim was rejected.
- (56) After disclosure one interested party presented different hypotheses and alternative scenarios concerning the relationship between the normal value and the export price and questioned whether applying constructed export price and normal values on the basis of these scenarios would have resulted in different dumping margins. The Commission recalled that the dumping calculations were based on actual verified transaction data and that they must be established using the methodology laid down in Article 2 of the basic Regulation. The alternative scenarios presented by this interested party were not in accordance with the basic Regulation and therefore they were rejected.
- (57) In view of the countrywide *de minimis* dumping margin, measures on imports of PTA originating in the Republic of Korea should not be imposed.

4. INJURY, CAUSATION AND UNION INTEREST

- (58) In view of the above findings with respect to dumping it is not considered necessary to present any analysis on injury, causation and Union interest.
- (59) After the disclosure, one interested party questioned the reasons for increase of the exports originating in the Republic of Korea to the Union from 2012. As explained above, in the view of the findings with respect to dumping it was not considered necessary to present any analysis on injury. Therefore this request was rejected.

5. TERMINATION OF THE PROCEEDING

- (60) In accordance with Article 9(3) of the basic Regulation, the proceeding should therefore be terminated as the dumping margin determined for the Republic of Korea is less than 2 %. Interested parties were informed accordingly and were given the opportunity to comment.
- (61) In light of all the above, the Commission therefore concluded that the anti-dumping proceeding concerning imports into the Union of purified terephthalic acid and its salts originating in the Republic of Korea should be terminated without the imposition of anti-dumping measures.
- (62) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

⁽¹⁾ See recitals 27 to 30 of Commission Decision 2011/32/EU of 19 January 2011 terminating the anti-dumping proceeding concerning imports of purified terephthalic acid and its salts originating in Thailand (OJ L 15, 20.1.2011, p. 22).

HAS ADOPTED THIS DECISION:

Article 1

The anti-dumping proceeding concerning imports of terephthalic acid of a purity by weight of 99,5 % or more and its salts currently falling within CN code ex 2917 36 00 (TARIC code 2917 36 00 10) and originating in the Republic of Korea is hereby terminated.

Article 2

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

Done at Brussels, 6 June 2017.

For the Commission
The President
Jean-Claude JUNCKER
