

Notice of initiation of a partial interim review of the countervailing measures applicable to imports of certain polyethylene terephthalate (PET) originating in India

(2017/C 216/05)

The European Commission ('the Commission') has decided on its own initiative to initiate a partial interim review investigation pursuant to Article 19 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation').

The partial interim review is limited in scope to the examination of subsidisation for Dhunseri Petrochem Limited ('DPL') and its related companies in India ('the country concerned').

1. Product under review

The product subject to this review is polyethylene terephthalate (PET) having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, currently falling within CN code 3907 61 00 and originating in India ('the product under review').

2. Existing measures

The measures currently in force are a definitive countervailing duty imposed by Council Regulation (EU) No 461/2013 ⁽²⁾, as amended by Commission Implementing Regulation (EU) 2015/1350 ⁽³⁾.

3. Grounds for the review

In September 2016, DPL requested the Commission to change its name in the Regulation imposing the measures in force. The request however showed that DPL entered into an equal joint venture partnership with Indorama Ventures Public Company Limited ('IVL'), resulting in the following:

- (a) Indorama Ventures Global Services Limited, a subsidiary of IVL, acquired a 50 % stake in the PET resin business of DPL, through the establishment of a new company, now called IVL Dhunseri Petrochem Industries Limited ('IVDPIL');
- (b) DPL acquired a 50 % stake in Micro Polypet Pvt. Ltd, an Indian manufacturer of PET which has never exported to the EU and does not have an individual countervailing duty.

In the light of the above, the Commission considers that there is sufficient prima facie evidence that the circumstances with regard to subsidisation of DPL and its related companies have changed significantly and are of a lasting nature and, therefore, the measures should be reviewed.

4. Procedure

Having determined, after informing the Member States, that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of subsidisation as far as DPL and its related companies are concerned, the Commission initiates a review in accordance with Article 19 of the basic Regulation. The purpose of the review is to establish the rate of subsidisation for the company's new structure.

Following the review, it may be necessary to amend the rate of duty imposed on imports of certain polyethylene terephthalate (PET) originating in India by 'All other companies' in India.

The Government of India has been invited for consultations.

4.1. Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to DPL, its related companies and to the authorities of the exporting country concerned. This information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Council Implementing Regulation (EU) No 461/2013 of 21 May 2013 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India following an expiry review pursuant to Article 18 of Regulation (EC) No 597/2009 (OJ L 137, 23.5.2013, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2015/1350, of 3 August 2015 amending Council Implementing Regulation (EU) No 461/2013 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) originating in India (OJ L 208, 5.8.2015, p. 10).

4.2. Other written submissions

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

4.3. Possibility to be heard by the Commission investigation services

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must 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 the specific deadlines set by the Commission in its communication with the parties.

4.4. Instructions for making written submissions and sending completed questionnaires and correspondence

Information submitted to the Commission for the purpose of trade defence investigations should be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties on a confidential basis should be labelled 'Limited' ⁽¹⁾. Any request for confidential treatment must be duly justified.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 29(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 information on a confidential basis does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

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⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 29 of Regulation (EU) 2016/1037 (OJ L 176, 30.6.2016, p. 55.) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures. It is also a document protected in accordance with Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

5. Non-cooperation

In cases where 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 on the basis of facts available, in accordance with Article 28 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 28 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

6. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. 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 regarding 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.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues relating to the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>.

7. Schedule of the investigation

The investigation will be concluded, pursuant to Article 22(1) of the basic Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*.

8. Processing of personal data

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 ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.