

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

EUROPEAN COMMISSION

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

(2019/C 111/12)

The European Commission ('the Commission') has decided on its own initiative to initiate a partial interim review of the countervailing measures applicable to imports of certain polyethylene terephthalate originating in India pursuant to Article 19(1) 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').

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 ISO Standard 1628-5, currently falling under 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 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 ⁽²⁾ ('Regulation (EC) No 461/2013'), as amended by Commission Implementing Regulation (EU) 2018/1468 of 1 October 2018 amending Council Implementing Regulation (EU) No 461/2013 ('Regulation (EU) 2018/1468') ⁽³⁾. The measures in force consist of specific duties. On 22 May 2018, the Commission initiated an expiry review ⁽⁴⁾.

3. Grounds for the review

There is sufficient evidence that the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of a lasting nature.

This evidence is related to the specific context of prices evolution and of the anti-dumping and countervailing measures in the original investigation as well as the increased importance of subsidies providing financial benefits that are mostly proportional to the value of exports. Recital (134) of Regulation (EU) 2018/1468 specified that, in contrast to the original investigation, specific duties may no longer be the most appropriate form of measures. This is because the two main subsidy schemes that were identified during the review investigation period (Duty Drawback Scheme and Merchandise Exports from India Scheme) confer financial benefits that are mostly linked to the export price. This implies that the amount of countervailable subsidies increases with an increase in the export price.

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 form of the measures, the Commission initiates a review in accordance with Article 19(1) of the basic Regulation. The initiation is supported by the Committee of PET Manufacturers in Europe. The investigation

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ OJ L 137, 23.5.2013, p. 1.

⁽³⁾ OJ L 246, 2.10.2018, p. 3.

⁽⁴⁾ Notice of initiation of an expiry review of the of the countervailing measures applicable to imports of certain polyethylene terephthalate originating in India (OJ C 173, 22.5.2018, p. 9).

will examine whether the use of specific duties continues being appropriate or rather whether the countervailing measures would reflect the changed circumstances more appropriately by taking the form of ad valorem duties at the corresponding levels already established in previous investigations:

Company	Countervailing duty (EUR/tonne) ⁽¹⁾	Countervailing duty (%) ⁽²⁾
Reliance Industries Limited	29,21	4,0 %
Pearl Engineering Polymers Ltd	74,6	13,8 %
Senpet Ltd	22,0	4,43 %
Futura Polyesters Ltd	0	0 %
Dhunseri Petrochem Limited	18,73	2,3 %
IVL Dhunseri Petrochem Industries Private Limited	18,73	2,3 %
Micro Polypet Pvt. Ltd	18,73	2,3 %
All other companies	69,4	13,8 %

⁽¹⁾ Source: Regulation (EU) No 461/2013 as amended by Regulation (EU) 2018/1468.

⁽²⁾ Source: Regulation (EU) 2018/1468 (for Reliance Industries Limited, Dhunseri Petrochem Limited, IVL Dhunseri Petrochem Industries Private Limited and Micro Polypet Pvt. Ltd) and Council Regulation (EC) No 1286/2008 of 16 December 2008 amending Regulation (EC) No 193/2007, imposing a definitive countervailing duty on imports of certain polyethylene terephthalate, originating in India and amending Regulation (EC) No 192/2007 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate, originating in, inter alia, India (OJ L 340, 19.12.2008, p. 1).

In carrying out the investigation, the Commission may, inter alia, consider whether the circumstances have changed significantly.

The Government of India has been invited for consultations.

Regulation (EU) 2018/825 of the European Parliament and of the Council ⁽⁵⁾ which entered into force on 8 June 2018 (TDI Modernisation package) introduced a number changes to the timetable and deadlines previously applicable in anti-subsidy proceedings ⁽⁶⁾. Therefore, the Commission invites interested parties to respect the procedural steps and deadlines provided in this Notice as well as in further communications from the Commission.

4.1. 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 with regard to the appropriateness of changing the form of the measures. 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*.

4.2. Interested parties

In order to participate in the investigation interested parties, such as exporting producers, Union producers, importers and their representative associations, users and their representative associations, trade unions and representative consumer organisations first have to demonstrate that there is an objective link between their activities and the product under review.

Being considered as an interested party is without prejudice to the application of Article 28 of the basic Regulation.

Access to the file available for inspection for interested parties is made via Tron.tdi at the following address: <https://webgate.ec.europa.eu/tron/TDI>. Please follow the instructions on that page to get access.

⁽⁵⁾ Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

⁽⁶⁾ 'Short overview of the deadlines and timelines in the investigative process' in DG TRADE's website http://trade.ec.europa.eu/doclib/docs/2018/june/tradoc_156922.pdf.

4.3. Possibility to be heard by the Commission investigation services

All interested parties may request to be heard by the Commission's investigation services.

Any request to be heard must be made in writing and must specify the reasons for the request as well as a summary of what the interested party wishes to discuss during the hearing. The hearing will be limited to the issues set out by the interested parties in writing beforehand.

For hearings on issues pertaining to the initiation 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.

The outlined timeframe is without prejudice to the right of the Commission services to accept hearings outside the timeframe in duly justified cases and to the right of the Commission to deny hearings in duly justified cases. Where the Commission services refuse a hearing request, the party concerned will be informed of the reasons for such refusal.

In principle, hearings will not be used to present factual information which is not yet on file. Nevertheless, in the interest of good administration and to enable Commission services to progress with the investigation, interested parties may be directed to provide new factual information after a hearing.

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 for which confidential treatment is requested, should be labelled 'Limited' (7). Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

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 a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

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 (8). 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.

(7) 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).

(8) http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf

Commission address for correspondence:

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5. **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*.

6. **Possibility to comment on other parties' submissions**

In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues.

Comments on the information provided by other interested parties in reaction to the disclosure of the definitive findings should be submitted within 5 days from the deadline to comment on the definitive findings, unless otherwise specified.

In order to complete the investigation within the mandatory deadlines, the Commission will not accept submissions from interested parties after the deadline to provide comments on the final disclosure.

7. **Extension to time limits specified in this Notice**

Any extension to the time limits provided for in this Notice can only be requested in exceptional circumstances and will only be granted if duly justified.

Extensions to the deadline to reply to questionnaires may be granted, if duly justified, and will be normally limited to 3 additional days. As a rule, such extensions will not exceed 7 days. Regarding time limits for the submission of other information specified in this Notice, extensions will be limited, in principle, to 3 days unless exceptional circumstances are demonstrated.

8. **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 concerned shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. That interested party should immediately contact the Commission.

9. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services 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. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in section 4.3 to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of 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/>.

10. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁹⁾.

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://trade.ec.europa.eu/doclib/html/157639.htm>.

⁽⁹⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).