Commission Regulation (EC) No 896/2007 of 27 July 2007 imposing a provisional anti-dumping duty on imports of dihydromyrcenol originating in India

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[(1)] (the 'basic Regulation') and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation of the proceeding

(1) On 11 November 2006, the Commission announced by a notice published in the *Official Journal of the European Union*[(2)] (notice of initiation), the initiation of an anti-dumping proceeding concerning imports into the Community of dihydromyrcenol originating in India.

(2) The anti-dumping proceeding was initiated following a complaint lodged on 29 September 2006 by the following Community producers: Destilaciones Bordas Chinchurreta S.A. and Sensient Fragrances S.A. (the complainants) representing a major proportion, in this case more than 25 %, of the total Community production of dihydromyrcenol. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned and verification visits

(3) The Commission officially advised the complainants, other known producers in the Community, exporting producers in India, importers and users known to be concerned and their associations and the representatives of India of the initiation of the investigation. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

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(4) In view of the apparent high number of Indian exporting producers and importers into the Community, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all Indian exporting producers and all importers in the Community were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period 1 October 2005 to 30 September 2006. However, only two Indian exporting producers and two importers of the product concerned in the Community came forward and provided the requested information for sampling within the deadlines set out in the notice of initiation. Therefore, it was decided that sampling was not necessary.

(5) The Commission sent questionnaires to all parties known to be concerned and to all other parties that requested so within the deadlines set out in the notice of initiation.

(6) Questionnaire replies were received from two Indian exporting producers, from four Community producers of the like product, from two importers not related to the exporting producers and from one user in the Community.

(7) The Commission sought and verified all the information it deemed necessary for a provisional determination of dumping, resulting injury and Community interest and carried out verification visits at the premises of the following companies:

a) *Community producers*
- — Destilaciones Bordas Chinchurreta S.A., Granada, Spain,
- — Sensient Fragrances S.A., Dos Hermanas (Sevilla), Spain,
- — Takasago International Chemicals (Europe) S.A., Murcia, Spain.

b) *Exporting producers in India*
- — Neeru Enterprises, Rampur,
- — Privi Organics Limited, Mumbai.

1.3. Investigation period

(8) The investigation of dumping and injury covered the period from 1 October 2005 to 30 September 2006 (the ‘investigation period’ or ‘IP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2003 to the end of the IP (the ‘period considered’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(9) The product concerned is dihydromyrcenol of a purity by weight of 93 % or more, originating in India (the ‘product concerned’), normally declared within CN code ex 2905 22 90.

(10) The product concerned is a colourless to pale yellow liquid with a powerful, fresh lime-like, citrusy-floral and sweet odour with little or no terpenic undertones, soluble in paraffin oil and alcohol and insoluble in water. It belongs to the family of acyclic terpenic alcohols. Its chemical name is 2,6-dimethyloct-7-en-2-ol (CAS RN 18479-58-8).

(11) Typical applications of the product concerned are in detergents, soap fragrances and as a powerful supporting note in citrus and lime-type perfumes.

2.2. Like product

(12) The product concerned and dihydromyrcenol produced and sold on the domestic market of India, as well as dihydromyrcenol produced and sold in the Community by the Community industry, were found to have the same basic chemical and technical characteristics and end-uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Normal value

(13) For the determination of normal value the Commission first established, for each of the two co-operating exporting producers, whether their total domestic sales of the like product were representative in comparison with their total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, the domestic sales of the like product were found to be representative for only one of the cooperating companies since the domestic sales volume of this company exceeded 5 % of its total export sales of the product concerned to the Community.

(14) The Commission subsequently identified for this company on the basis of purity the types of the like product sold domestically which were identical or directly comparable to the types sold for export to the Community. For each of those types, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable type exported to the Community. This was the case for all domestic types comparable to those exported to the Community.

(15) The Commission subsequently examined whether the domestic sales of each type of the product concerned, sold domestically in representative quantities, could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers, of each exported product type.

(16) Since for all product types more than 80 % by volume of sales on the domestic market were sold at a net sales price equal to or above the calculated cost of production, and since at the same time the weighted average sales price was equal to or higher than the cost of production, normal value, by product type, was calculated as the weighted

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average of all domestic sales prices of the type in question, irrespective of whether these sales were profitable or not.

(17) For the exporting producer which did not have representative domestic sales of the like product during the IP (see recital 13 above), normal value was determined on the basis of the domestic prices in the ordinary course of trade of the other exporting producer (see recitals 14 to 16 above), pursuant to Article 2(1) of the basic Regulation.

3.2. Export price

(18) All sales of the two cooperating exporting producers were made directly to unrelated customers in the Community. For those sales, the export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of prices actually paid or payable by these independent customers in the Community.

3.3. Comparison

(19) The comparison between normal value and export price was made on an ex-works basis. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which affect price comparability. Allowances for differences in transport costs, ocean freight and insurance costs, handling costs, loading and ancillary costs, discounts, commissions, credit costs and import charges were granted where applicable and justified.

3.4. Dumping margins

(20) Pursuant to Article 2(11) and (12) of the basic Regulation, dumping margins for the two co-operating exporting producers were established on the basis of a comparison of a weighted average normal value by product type with a weighted average export price by product type as established above.

(21) On this basis, the provisional dumping margins expressed as a percentage of the CIF Community frontier price, duty unpaid, are:

Company	**Provisional dumping margin**
Neeru Enterprises, Rampur	3,3 %
Privi Organics Limited, Mumbai	7,5 %

(22) For those exporting producers which did not cooperate, the dumping margin was established on the basis of facts available in accordance with Article 18 of the basic Regulation. To this end, the level of cooperation was first established. A comparison between Eurostat data concerning imports originating in India and the volume of exports to the Community reported by the cooperating exporting producers showed that the level of cooperation was high (more than 80 %). Therefore, and since there were no indications that the non-cooperating companies were dumping at a lower level, it was considered appropriate to set the dumping margin for the remaining companies, which had not cooperated with the investigation, at the level of the higher dumping margin

found for the two cooperating companies. This approach is in accordance with the standing practice of the Community institutions and was also considered necessary in order not to provide an incentive for non-cooperation. Therefore, the residual dumping margin was calculated at the rate of 7,5 %.

4. INJURY

4.1. Community production and Community industry

(23) Within the Community, the like product is manufactured by five producers. The output of these five Community producers is therefore deemed to constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

(24) Of these five producers, a total of four replied to the questionnaire. However, one of these respondents did not expressly support the complaint, i.e. it did not take a position on it. Therefore, this company could not form part of the Community industry and, consequently, of the injury analysis. Nevertheless, the situation of this company was taken into account and examined as another factor of injury in part 5 — Causation.

(25) The three remaining co-operating producers represent more than 40 % of the total Community production of the like product. It is noted that one of them had made substantial imports of dihydromyrcenol from India in the IP. However, importation was not its core business and these imports were considered to have been made in reaction to the influx of dumped imports significantly depressing prices, in particular in order to improve its financial situation and to maintain its own production of the like product viable. Therefore, it was not considered appropriate to exclude this producer from the definition of the Community industry.

(26) On this basis it is considered that the three Community producers referred to in recital 25 above are deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. They will hereinafter be referred to as the 'Community industry'.

4.2. Determination of the relevant Community market

(27) In order to establish whether or not the Community industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Community industry, it was examined whether and to what extent the subsequent use of the Community industry's production of the like product had to be taken into account in the analysis.

(28) Dihydromyrcenol is used as an intermediate material for production of derivates, such as tetrahydromyrcenol and myrcetol, or in compounding fragrances. It was found in the investigation that the Community industry used certain quantities of dihydromyrcenol (around 10 % of its total production volume) internally, for the aforesaid purposes. To this end, dihydromyrcenol was simply transferred without invoice within the same company; it did not enter the free market, because it was used by the producer itself for further processing and/or compounding. Such situations are referred to as captive use.