Commission Regulation (EC) No 862/2005 of 7 June 2005 imposing provisional anti-dumping duties on imports of granular polytetrafluoroethylene (PTFE) originating in Russia and the People's Republic of China

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imposing provisional anti-dumping duties on imports of granular polytetrafluoroethylene (PTFE) originating in Russia and the People's Republic of China

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)] (basic Regulation), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

(1) On 9 September 2004, the Commission announced by a notice (notice of initiation) published in the *Official Journal of the European Union*[(2)], the initiation of an anti-dumping proceeding with regard to imports into the Community of granular polytetrafluoroethylene resin (PTFE) originating in Russia and the People's Republic of China (PRC).

(2) The anti-dumping proceeding was initiated following a complaint lodged on 26 July 2004 by the European Chemical Industry Council (CEFIC or the complainant) on behalf of producers representing a major proportion, in this case more than 80 %, of the total Community production of PTFE. 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.

2. Parties concerned by the proceeding

(3) The Commission officially advised the exporting producers in Russia and in the PRC, importers/traders and their associations, suppliers and users known to be concerned, the representatives of the exporting countries concerned and the complainant and all known Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) In view of the apparent large number of Chinese exporting producers listed in the complaint, sampling was envisaged in the notice of initiation for the determination of dumping, in accordance with Article 17 of the basic Regulation.

(5) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers from the PRC 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 PTFE during the investigation period (1 July 2003 to 30 June 2004).

(6) After examination of the information submitted by exporting producers and due to the low number of replies to the sampling questions, it was decided that sampling was not necessary with regard to the exporters in the PRC.

(7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Claims for MET, or for IT in case the investigation establishes that they do not meet the conditions for MET, were received from three exporting producers.

(8) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from three Chinese exporting producers, from two Russian exporting producers, from three Community producers, and from one unrelated importer.

(9) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) Community producers:
- Dupont de Nemours BV, the Netherlands,
- Dyneon, Germany,
- Solvay Solexys, Italy.

(b) Unrelated importer:
- Resyncom, Germany.

(c) Exporting producers in the PRC:
- Shandong Dongyue Polymer Material Co. Ltd,
- Shanghai 3F New Material Company Co. Ltd,
- Zheijiang Jusheng Fluorochemicals Co. Ltd and its related company Zheijang Juhua Group Imp. & Exp. Co. Ltd.

(d) Exporting producers in Russia:

— Kirovo-Chepetsky Khimichesky Kombinat and its related company Priborlab Ltd,

— Open Joint Stock Company 'Halogen'.

(e) Related importers

— Chemical Goods Ltd, United Kingdom.

(10) In view of the need to establish a normal value for exporting producers in the PRC to which MET might not be granted, a verification visit to establish normal value on the basis of data from an analogue country, the United States of America (USA), took place at the premises of the following companies:

— AGC Chemicals Americas, Inc., USA,

— E. I. DuPont de Nemours & Company, Inc., USA.

3. Investigation period

(11) The investigation of dumping and injury covered the period from 1 July 2003 to 30 June 2004 (investigation period or IP). The examination of trends in the context of the injury analysis covered the period from 1 January 2001 to the end of the IP (period under consideration or period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. General

(12) Fluoropolymers are a group of high performance plastics, of which polytetrafluoroethylene (PTFE) is the best known and most widely used.

(13) Granular PTFE is a chemical product (a fluoropolymer) which bears a number of high resistance properties (such as high melting point, high thermal stability, insolubility, non-inflammability, low dielectric constant). It is used as a component in a wide number of industrial sectors, e.g. the chemical, mechanical, electrical (inner shield of cables), automotive, construction (as isolation agent), cookware (pans), textile, or biomedical (surgery instruments) sectors. The most known trade mark under which this product is commercialised is Teflon.

2. Product concerned

(14) The product concerned is so called granular polytetrafluoroethylene (PTFE), containing not more than 3 % of other monomer unit than tetrafluoroethylene, without fillers, in the form of powder or pellets, with the exclusion of micronised materials, and its raw polymer (reactor bead). The latter can be in wet or dry form. Notwithstanding the different possible product types due to different form, average particle size, thermo treatment or co-monomer content, all of them constitute one product for the purpose of this proceeding because they have the same physical characteristics and essentially the same basic uses. The product concerned is currently classifiable within CN code ex 3904 61 00.

3. Like product

(15) The product concerned, and the PTFE produced and sold in the Community by the Community industry, the PTFE produced and sold on the domestic market of both exporting countries and the PTFE produced and sold on the domestic market of the analogue country were found to have essentially the same physical and technical characteristics and the same basic uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

(16) The two importers claimed that for certain applications, the product imported from Russia and China is not in competition at all with the PTFE produced and sold in the Community market. This concerns mainly PTFE scrap or 'off-spec' which is used to produce fine particle size PTFE. This fine particle size product is used e.g. as an additive in processing plastics or in printing inks as well as in coatings for metals. This had to be rejected, as it was found that the Community industry also produces scrap or 'off-spec' material which is sold to the same customers.

C. DUMPING

1. General methodology

(17) Below, the general methodology is described. The subsequent presentation of the findings on dumping for the countries concerned therefore only describes issues specific to each exporting country.

1.1. Normal value

(18) In accordance with Article 2(2) of the Basic Regulation, it was first examined for each cooperating exporting producer whether its domestic sales of PTFE were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume of the producer to the Community.

(19) The Commission subsequently identified those types of PTFE sold domestically that were identical or directly comparable with the types sold for export to the Community. With regard to the examination on a product type basis, the Commission considered as identical or directly comparable the product types sold domestically and exported, which were of similar average particle size, thermo treatment and co-monomer content.

(20) For each type sold by the exporting producers on their domestic markets and found to be directly comparable with the type of PTFE sold for export to the Community, 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 of PTFE 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 of PTFE exported to the Community.

(21) The Commission subsequently examined whether the domestic sales of each type of PTFE, sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade in accordance with Article 2(4) of the Basic Regulation, by establishing the proportion of profitable sales to independent customers

of the PTFE type in question. Since the sales volume of each PTFE type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not.

1.2. Export price

(22) In all cases the export price was established in accordance with Article 2(8) of the Basic Regulation, namely on the basis of export prices actually paid or payable.

1.3. Comparison

(23) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

1.4. Dumping margin

(24) According to Article 2(11) of the basic Regulation the dumping margin for each exporting producer was established on the basis of a comparison between the weighted average normal value with the weighted average export price per product type.

1.5. People's Republic of China

1.5.1. Market Economy Treatment (MET)

(25) In anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of Article 2 of the basic Regulation for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(26) Briefly, and for ease of reference only, the criteria in Article 2(7)(c) of the basic Regulation, fulfilment of which the applicant companies have to demonstrate, are set out in summarised form below:

1. business decisions and costs are made in response to market conditions, and without significant State interference;

2. accounting records are independently audited in line with international accounting standards and applied for all purposes;

3. there are no significant distortions carried over from the former non-market economy system;

4. legal certainty and stability are provided by bankruptcy and property laws;

5. currency exchanges are carried out at the market rate.