COUNCIL REGULATION (EC) No 823/2004

of 26 April 2004

amending Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating, *inter alia*, in Thailand

THE COUNCIL OF THE EUROPEAN UNION,

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 11(4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. MEASURES IN FORCE

(1) The measures currently in force are definitive anti-dumping duties imposed by Regulation (EC) No 2604/2000 [2], according to which imports into the Community of certain polyethylene terephthalate (the product concerned) originating in Thailand are subject to a duty, in the form of the specific amount of EUR 83,2 per tonne. Pursuant to the same Regulation, anti-dumping duties were also imposed against imports of the product concerned from India, Indonesia, Malaysia, the Republic of Korea and Taiwan.

(2) It should be noted that the imports originating in Thailand are also subject to a definitive countervailing duty of EUR 49,1 per tonne, imposed by Regulation (EC) No 2603/2000 [3]. Countervailing duties were also imposed concerning imports from India and Malaysia.

B. CURRENT INVESTIGATION

1. Request for a review

(3) The Commission subsequently received a request to initiate a 'new exporter' review of Regulation (EC) No 2604/2000, pursuant to Article 11(4) of the basic Regulation, from the Thai producer Indo Pet (Thailand) Ltd (Indo Pet). This company claimed that it was not related to any of the exporting producers in Thailand subject to the anti-dumping measures in force with regard to the product concerned. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (i.e. from 1 October 1998 to 30 September 1999), but had exported the product concerned to the Community since then.

(4) It should be noted that the Commission simultaneously received, from the same Thai producer, a request to initiate an accelerated review of Regulation (EC) No 2603/2000. This parallel proceeding is subject to a separate Council Regulation.

2. Initiation of a 'new exporter' review

(5) The Commission examined the evidence submitted by the Thai exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 1292/2003, a review of Regulation (EC) No 2604/2000 with regard to Indo Pet and commenced its investigation.

(6) Pursuant to the regulation initiating the review, the anti-dumping duty imposed by Regulation (EC) No 2604/2000 with regard to imports of the product concerned produced by the company concerned were repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. Product concerned

(7) The product covered by the current review is the same as in the original investigation, i. e. polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728. It is currently classifiable within CN code 3907 60 20.

4. Parties concerned

(8) The Commission officially advised the company concerned and the representatives of the exporting country of the initiation of the review. Furthermore, it gave other parties concerned the opportunity to make their views known in writing and to request a hearing. No such request was however received.

---

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

[2] OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Commission Regulation (EC) No 1292/2003 (OJ L 181, 19.7.2003, p. 20).

[3] OJ L 301, 30.11.2000, p. 1. Regulation as amended by Regulation (EC) No 822/2004 (see page 3 of this Official Journal).