COMMISSION REGULATION (EC) No 283/2004

of 18 February 2004

initiating an investigation concerning the possible circumvention of countervailing measures imposed by Council Regulation (EC) No 2597/1999 on imports of polyethylene terephthalate (PET) film originating in India by imports of polyethylene terephthalate (PET) film consigned from Brazil and from Israel, whether declared as originating in Brazil or Israel or not and making such imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 1973/2002 [2], (the basic Regulation), and in particular Article 23(2) and Article 24(3) and (5) thereof,

After having consulted the Advisory Committee,

Whereas:

A. REQUEST

(1) The Commission has received a request pursuant to Article 23(2) of the basic Regulation to investigate the possible circumvention of the countervailing measures imposed on imports of polyethylene terephthalate (PET) film (PET film) originating in India.

(2) The request was lodged on 6 January 2004 by the following Community producers: DuPont Teijin Films, Mitsubishi Polyester Film GmbH and Nuroll SpA.

B. PRODUCT

(3) The product concerned by the possible circumvention is PET film originating in India, normally declared under CN codes ex 3920 62 19 and ex 3920 62 90 (the product concerned). These codes are given for information only.

(4) The product under investigation is polyethylene terephthalate (PET) film consigned from Brazil and from Israel (the product under investigation) normally declared under the same codes as the product concerned.

C. EXISTING MEASURES

(5) The measures currently in force and possibly being circumvented are countervailing measures imposed by Council Regulation (EC) No 2597/1999 [3].

D. GROUNDS

(6) The request contains sufficient prima facie evidence that the countervailing measures on imports of PET film originating in India are being circumvented by means of transhipment via Brazil and via Israel.

(7) The evidence submitted is as follows:

The request shows that a significant change in the pattern of trade involving exports from India, Brazil and Israel to the Community has taken place following the imposition of measures on the product concerned, and that there appears to be insufficient due cause or justification other than the imposition of the duty for such a change. This change in the pattern of trade appears to stem from the transhipment of PET film originating in India via Brazil and via Israel.

(8) Furthermore, the request contains sufficient prima facie evidence that the remedial effects of the existing countervailing measures on the product concerned are being undermined in terms of quantities. Significant volumes of imports of PET film from Brazil and from Israel appear to have replaced imports of the product concerned originating in India.

(9) Finally, the request contains sufficient prima facie evidence that the imported PET film still benefits from the subsidies as established in the original investigation.

(10) Should circumvention practices covered by Article 23 of the basic Regulation, other than transhipment, be identified in the course of the investigation, the investigation may cover these practices also.

E. PROCEDURE

(11) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 23 of the basic Regulation and to make imports of PET film consigned from Brazil and from Israel, whether declared as originating in Brazil or Israel or not, subject to registration, in accordance with Article 24(5) of the basic Regulation.

[1] OJ L 288, 21.10.1997, p. 1.
[2] OJ L 305, 7.11.2002, p. 4.
[3] OJ L 316, 10.12.1999, p. 1.