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COUNCIL REGULATION (EC) No 769/2002

of 7 May 2002

imposing a definitive anti-dumping duty on imports of coumarin originating in the People's Republic of China

(OJ L 123, 9.5.2002, p. 1)

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NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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imposing a definitive anti-dumping duty on imports of coumarin originating in the People's Republic of China

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]), and in particular Article 11(2) thereof,

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

Whereas:

A. PREVIOUS PROCEDURE AND EXISTING MEASURES

(1) In March 1996, by Regulation No 600/96 ([2]) definitive anti-dumping measures were adopted with regard to imports of coumarin originating in the People's Republic of China. The measures imposed were in the form of a specific duty of ECU 3 479 per tonne.

B. PRESENT INVESTIGATION

1. Request for review

(2) Following the publication of a notice of impending expiry ([3]) of the anti-dumping measures in force on imports of coumarin originating in the People's Republic of China ('country concerned' or 'the PRC'), the Commission has received a request for review pursuant to Article 11(2) of Regulation (EC) No 384/96 ('the basic Regulation').

(3) The request was lodged on 4 January 2001 by the European Chemical Industry Council (CEFIC) ('the applicant') on behalf of the sole producer in the Community representing the totality of the Community production of coumarin.

(4) The request for an expiry review was based on the grounds that injurious dumping of imports originating in the PRC would be likely to continue or to recur if measures were allowed to expire.

2. Notice of initiation

(5) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated an investigation pursuant to Article 11(2) of the basic Regulation by a notice published in the *Official Journal of the European Communities* ([4]).

3. Period of investigation

(6) The investigation period ('IP') for the examination of continuation or recurrence of dumping and injury covered the period from 1 January 2000 to 31 December 2000. The examination of trends relevant for the assessment of continuation or recurrence of injury covered the period from 1 January 1996 up to the end of the IP ('period under review').

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Council Regulation (EC) No 2238/2000, OJ L 257, 11.10.2000, p. 2.
([2]) OJ L 86, 4.4.1996, p. 1.
([3]) OJ C 271, 22.9.2000, p. 3.
([4]) OJ C 104, 4.4.2001, p. 5.

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4. **Parties concerned by the investigation**

(7) The Commission officially advised the applicant Community producer, the exporting producers in the PRC and their representatives, the Chinese authorities and the importers, users and associations known to be concerned, of the initiation of the review. The Commission sent questionnaires to exporting producers, a producer in the United States (analogue country), the sole Community producer, importers, users and associations known to be concerned and to those parties who made themselves known within the time limit set in the notice of initiation of the review.

(8) The Community producer, the analogue country producer, one importers' association, and five users replied to the questionnaires. With respect to the PRC no reply to the questionnaire was received.

5. **Verification of information received**

(9) The Commission sought and verified all information it deemed necessary for the purpose of a determination of the continuation or recurrence of dumping and injury and of the Community interest. The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

(10) Verification visits were carried out at the premises of the following companies:

Community producer:

— Rhodia, (Lyon) France;

Importers:

— Quest International, (Ashford) United Kingdom;

Analogue country producer:

— Rhodia, (Cranbury NJ) USA.

C. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(11) The product concerned is the same as in the original investigation, i.e. coumarin, a whitish crystalline powder with the characteristic odour of newly mown hay. Its main uses are as an aroma chemical and as a fixative in the preparation of fragrance compounds, such compounds being used in the production of detergents, cosmetics and fine fragrances.

(12) Coumarin, which was originally a natural product obtained from tonka beans, is now produced synthetically. It can be obtained by a synthesis process starting from phenol to obtain salicilaldehyde (Perkin reaction) or by a synthesis from orthocresol (Raschig reaction). The main physical specification of coumarin is its purity, of which the melting point is the indicator. The standard quality coumarin marketed in the Community has a melting point varying between 68 ºC and 70 ºC which corresponds to 99 % purity.

(13) The product concerned falls within CN code ex 2932 21 00.

2. **Like product**

(14) As in the original investigation, coumarin produced and sold on the domestic market in the analogue country (USA) and that exported to the Community from the PRC as well as coumarin produced and sold by the Community industry in the Community market were found to have effectively identical physical characteristics and uses and are thus like products within the meaning of Article 1(4) of the basic Regulation.

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D. LIKELIHOOD OF A CONTINUATION OF DUMPING OR RECURRENCE OF DUMPING

(15) In accordance with Article 11(2) of the basic Regulation, it is necessary to examine whether the expiry of the measures would be likely to lead to a continuation of dumping.

(16) In examining whether there is a likelihood of a continuation of dumping, it is necessary to verify whether dumping exists at present and whether any such dumping is likely to continue.

1. Preliminary remarks

(17) The findings on dumping set out below should be viewed in the light of the fact that the Chinese exporting producers did not cooperate in the investigation and findings therefore had to be based on facts available, i.e. Eurostat data, Chinese export trade data and information contained in the complaint.

2. Current level of dumping

(a) Analogue country

(18) The existing measures provide for a single country-wide duty on all imports into the Community of coumarin from the PRC. In accordance with Article 11(9) of the basic Regulation, the Commission employed the same methodology as in the original investigation. Accordingly, normal value was determined on the basis of information obtained in a market economy third country (the 'analogue country').

(19) The United States had served as an analogue country in the original investigation. In the notice of initiation of this expiry review it was therefore envisaged to again choose the United States as analogue country for the purpose of establishing normal value. Since it was also found that the original reasons for selecting the USA, i.e. the size of its domestic market, the openness of its market and its degree of access to basic materials, were still valid, the United States was considered to be an appropriate and not unreasonable choice of analogue country. Only one interested party objected to this choice of analogue country, in particular with regard to the difference in manufacturing the product, however they did not submit any alternative choice in due time. Therefore, since the United States producer which was contacted agreed to cooperate fully, and had sufficient representative domestic sales, the United States were, in accordance with Article 2(7) of the basic Regulation, considered to be an appropriate and not unreasonable choice of analogue country for establishing normal value in respect of the PRC for the product concerned.

(b) Normal value

(20) It was subsequently examined whether the domestic sales of the cooperating United States producer to independent customers could be considered to have been made in the ordinary course of trade, in accordance with Article 2(4) of the basic Regulation. It was found that the weighted average selling price of all sales during the investigation period was above the weighted average unit cost of production, and that the volume of individual sales transactions below unit cost of production was more than 20 % but less that 90 % of the sales being used to determine normal value; therefore only all the profitable domestic sales were regarded as having been made in the ordinary course of trade, and used for comparison. Normal value was therefore determined, as set out in Article 2(1) of the basic Regulation, on the basis of the price paid or payable, in the ordinary course of trade, by independent domestic customers of the cooperating United States producer during the investigation period.

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(c) Export price

(21) As regards the exports to the Community, for which there was no cooperation from the Chinese exporting producers, findings had to be based on the facts available, in accordance with Article 18(1) of the basic Regulation. An average export price for all transactions was thus determined on the basis of Chinese export trade data.

(d) Comparison

(22) For the purpose of a fair comparison, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made for differences in respect of inland freight, handling and loading, transport and credit costs, which affected prices and price comparability.

(23) Concerning inland transport, the relevant adjustments were based on the analogue country's costs.

(e) Dumping margin

(24) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value, on an ex-works basis, was compared to the weighted average export price on an ex-works Chinese basis, at the same level of trade.

(25) The above comparison showed the existence of very significant dumping. The dumping margin found was substantial and just below the level found in the original investigation (around 50 %).

(26) The investigation did not reveal any reason why this dumping would disappear if the measures were to be repealed. It was therefore concluded that there is a likelihood of continuation of dumping. However, given the low level of imports originating in the PRC during the IP, it was considered appropriate to examine whether there were a recurrence of dumping in increasing export volume should exhausting measures be repealed.

3. **Development of imports from the PRC**

(27) For the examination of a likelihood of recurrence of dumping the following factors were examined: existence of dumping, the evolution of production and capacity utilisation in the PRC, and the evolution of worldwide Chinese coumarin exports.

(a) Existence of dumping

(28) The dumping margin established in the initial investigation was high (more than 50 %, leading to a duty of ECU 3 479 per tonne). The investigation carried out under the present review indicates that dumping still persisted and was close to the level found in the initial investigation.

(b) Evolution of production and capacity utilisation in the PRC

(29) According to the information available, production capacity in the PRC is high, and could be even increased in a very short time due to the nature of the product and the production process. The information shows that the Chinese production capacity is about 1 900 tonnes (representing 40 % of the world wide capacity with seven producers, and 18 potential producers ready to re-enter in the markets. This is much larger than the entire EC consumption of 700 tonnes.

(30) Consequently, the enormous availability of unused production capacity (between 50 % and 60 % of production capacity) gives Chinese exporting producers a very high degree of flexibility in the production process. These producers are therefore able to quickly increase production and direct it to any export market, including, were the measures to be repealed, the Community market.