

Commission Decision of 19 December 2005 termination of the anti-absorption proceeding concerning imports of sodium cyclamate originating in the People's Republic of China (2005/944/EC)

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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 ('the basic Regulation')⁽¹⁾, and in particular Articles 9 and 12 thereof,

Whereas:

A. PROCEDURE

1. Original measures

(1) In March 2004, the Council imposed a definitive anti-dumping duty ('the original measure') on imports of sodium cyclamate ('product concerned') originating in the People's Republic of China ('the PRC') by Regulation (EC) No 435/2004⁽²⁾. Individual duty rates ranging from 0 to EUR 0,11 per kilo were imposed on cooperating exporting producers in the PRC. The rate applicable to imports from all other companies is EUR 0,26 per kilo.

2. Request for reinvestigation

(2) On 14 March 2005 a request for a reinvestigation of the original measure was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by Productos Aditivos SA ('the applicant'), the sole Community producer of sodium cyclamate, which alleged and provided sufficient evidence showing that, following the imposition of the original measures, export prices have decreased and there has been insufficient movement in resale prices or subsequent selling prices in the Community.

3. The reinvestigation

(3) On 27 April 2005 the Commission announced the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of sodium cyclamate originating in the PRC by a notice published in the *Official Journal of the European Union*⁽³⁾.

- (4) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country, importers and users of the initiation of the reinvestigation. 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. The Commission sent questionnaires to all parties known to be concerned.
- (5) Complete replies to the questionnaire were received from one exporter and its two related producers in the PRC, and from three importers in the Community. It should be noted that exporting producers with 0 EUR duty rate represented around 60 % of the total exports of sodium cyclamate from the PRC during the investigation period of this reinvestigation.
- (6) The Commission sought and verified all the information deemed necessary for the purpose of this reinvestigation. Verification visits were carried out at the premises of the following companies:
- Exporter and its related producers in the PRC
- Rainbow Rich Industrial Ltd., Hong Kong
 - Golden Time Enterprises (Shenzhen) Co. Ltd. and Jintian Enterprises Nanjing Co. Ltd., Shenzhen, the PRC
- Importers
- Emilio Peña SA, Valencia, Spain
 - Kraemer & Martin GmbH, Sankt Augustin, Germany.
- (7) Three other importers declared that they did not import the product concerned during the investigation period. One importer declared that it would not reply to the questionnaire because it had only imported very marginal quantities of the product concerned during the investigation period.
- (8) The investigation period of this reinvestigation ('new IP') ran from 1 January 2004 to 31 December 2004. The new IP was used to determine the current level of export prices and the level of the resale prices in the Community. In establishing whether the export prices and the resale prices or subsequent selling prices in the Community had moved sufficiently, the price levels charged during the new IP were compared to those charged during the investigation period used in the investigation which led to the imposition of the original measures ('original IP'), which had covered the period from 1 October 2001 to 30 September 2002.

B. PRODUCT CONCERNED

- (9) The product concerned by the request and for which the reinvestigation was initiated is the same as in the original investigation, i.e. sodium cyclamate, currently classifiable under CN code ex 2929 90 00.
- (10) Sodium cyclamate is a commodity product used as a food additive, permitted in the European Community and in many other countries as a sweetener for

low-caloric and dietetic food and beverages. It is widely used as an additive by the food industry, as well as by the producers of low caloric and dietetic table-top sweeteners. Small volumes are also used by the pharmaceutical industry.

C. FINDINGS

- (11) The purpose of this reinvestigation was first, to establish whether or not export prices had decreased or whether there had been insufficient movement in resale prices or subsequent selling prices in the Community of sodium cyclamate originating in the PRC since the imposition of the original measures. If it were then found that absorption had occurred, the dumping margin would have to be recalculated.
- (12) In accordance with Article 12 of the basic Regulation, importers/users and exporters were provided with an opportunity to submit evidence to justify a decrease in export prices and lack of movement in resale prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duty.
1. Decrease in export prices
- (13) Sales of the product concerned originating in the PRC were, in the new IP, normally made directly to independent importers and/or distributors in the EU. Movements in export prices were assessed by comparing, for the same delivery conditions, the average price observed in the new IP with that determined during the original IP.
- (14) The comparison of prices of co-operating companies showed no decrease in the average export price of sodium cyclamate originating in the PRC.
2. Movement of resale prices in the Community
- (15) The movement of prices in the Community at the level of importer and/or distributor was assessed by comparing the average resale price for the same delivery conditions (DDP), including the conventional duty plus the anti-dumping duty, of the original IP with that determined in the new IP, including both the conventional duty and the anti-dumping duty. It should be noted that the average conventional duty rate applicable to imports of sodium cyclamate originating in the PRC decreased by 1,5 % between the two IPs. The resale price was established on the basis of information submitted by the importer in the Community which accounted for the majority of the imports of the co-operating exporter in the PRC.
- (16) The comparison showed that the average resale price in the Community, expressed in euro, of sodium cyclamate originating in the PRC, had decreased by 10 %.

Exchange rate variation

- (17) It was noted that sodium cyclamate imported from the PRC was invoiced in US dollars during both the original and the new IP. Therefore any decrease

in resale prices in the Community of sodium cyclamate should be estimated taking into account the USD/EUR exchange rate variation between the original IP and the new IP.

- (18) This was verified and it was found that the US dollar had depreciated against the euro by 35 % between the original IP and the new IP. Therefore, when the comparison was carried out by taking into account the effect of the above-mentioned depreciation of the US dollar against the euro, no decrease in the level of resale prices in the Community was observed between the original IP and the new IP in the sense of Article 12(2) of the basic Regulation.

3. Non co-operating companies

- (19) It was found that in this reinvestigation, a group of exporting producers who are not liable to anti-dumping duty on their imports into the Community accounted for around 60 % of current exports from the PRC to the EU and the co-operating exporting producer accounted for 35 % of the above-mentioned exports.

- (20) It was concluded that the non co-operating companies represented only a minor part, i.e. less than 5 %, of total exports of the product concerned to the Community during the new IP, the country-wide duty should therefore be left unchanged.

D. CONCLUSION

- (21) It was concluded that, in the sense of Article 12(2) of the basic Regulation, absorption of the anti-dumping duties had not occurred, since no decrease in the export price was found and the decrease observed in the resale prices in the Community of sodium cyclamate originating in the PRC was less than it could have been expected from the exchange rate fluctuations.
- (22) Therefore the absorption reinvestigation concerning imports into the Community of the product concerned originating in the PRC should be terminated,

HAS DECIDED AS FOLLOWS:

Article 1

The reinvestigation pursuant to Article 12 of Regulation (EC) No 384/96 of the anti-dumping measures applicable to imports of sodium cyclamate originating in the People's Republic of China is hereby terminated.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 19 December 2005.

For the Commission

Peter MANDELSON

Member of the Commission

Status: This is the original version (as it was originally adopted).

- (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 72, 11.3.2004, p. 1](#).
- (3) [OJ C 101, 27.4.2005, p. 26](#).