COMMISSION REGULATION (EC) No 2566/95

of 31 October 1995

initiating a review of Council Regulation (EEC) No 54/93 imposing a definitive duty on imports of synthetic fibres of polyesters originating in India and the Republic of Korea

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [1], as last amended by Regulation (EC) No 1251/95 [2], and in particular point (b) of Article 11 (4) thereof,

After consulting the Advisory Committee,

Whereas :

I. GENERAL

A. Review request

(1) The Commission has received an application for a 'new exporter' review pursuant to Article 11 (4) of Regulation (EC) No 3283/94. The request for this review was lodged on 27 January 1995 by Bongaigaon Refinery & Petrochemicals Ltd, India, a new exporter in India which claims it did not export the product concerned during the period of investigation on which the measures were based.

B. Product

(2) The product concerned is synthetic staple fibres of polyester, not carded, combed or otherwise processed for spinning, commonly referred to as polyester synthetic fibres, currently classifiable within CN code 5503 20 00. This CN code is only given for information and has no binding effect on the classification of the product.

C. Existing measures

(3) The measures currently in force on imports of the product concerned originating in India are a definitive anti-dumping duty of 7,2 % imposed by Council Regulation (EEC) No 54/93 [3], with the exception of several companies specifically mentioned which are subject to a lesser duty.

II. ADMISSIBILITY

A. Grounds for the review

(4) The applicant, Bongaigaon Refinery & Petrochemicals Ltd, has submitted evidence showing that it is not related to any of the exporters or producers in India and the Republic of Korea which are subject to anti-dumping measures on polyester synthetic fibres and that it started exporting to the Community following the period from 1 January to 31 August 1990, i.e. the investigation period on which the abovementioned measures were based with regard to the determination of dumping.

B. Procedure

(5) Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment.

C. Conclusion

(6) In the light of the foregoing, the Commission concludes that there is sufficient evidence to justify the initiation of a review pursuant to Article 11 (4) of Regulation (EC) No 3283/94 with a view to determining, should dumping be found, the applicant's individual margin of dumping and the level of duty to which its imports of the product concerned to the Community should be subject.

III. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

(7) Pursuant to point (b) of Article 11 (4) of Regulation (EC) No 3283/94, the anti-dumping duty in force has to be repealed with regard to imports of the product concerned originating in India which are produced and exported by the applicant. At the same time, such imports have to be made subject to registration in accordance with Article 14 (5) of that Regulation in order to ensure that, should the review result in a determination of dumping by the applicant, anti-dumping duties can be levied retroactively to the date of the initiation of this review; the amount of the applicant's possible future liability cannot, however, be estimated at this stage of the procedure.

[1] OJ No L 349, 31. 12. 1994, p. 1.
[2] OJ No L 122, 2. 6. 1995, p. 1.
[3] OJ No L 9, 15. 1. 1993, p. 2.

IV. **FINAL PROVISION**

(8) In the interest of sound administration, a period should be fixed within which interested parties, provided that they can show that they are likely to be affected by the results of the investigation, may make their views known in writing and provide supporting evidence. A period should also be fixed, within which interested parties may make a written request for a hearing, giving particular reasons why they should be heard. Furthermore, it should be noted that in cases in which any interested party refuses access to, or otherwise does not provide necessary information within the time limit, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of Regulation (EC) No 3283/94, on the basis of the facts available,

HAS ADOPTED THIS REGULATION :

Article 1

Pursuant to Article 11 (4) of Regulation (EC) No 3283/94, a review of Regulation (EEC) No 54/93 is hereby initiated in order to determine if and to what extent imports of synthetic staple fibres of polyesters, not carded, combed, or otherwise processed for spinning (synthetic fibres of polyester) falling within CN code 5503 20 00 and originating in India, produced and exported to the Community by Bongaigaon Refinery & Petrochemicals Ltd, P.O. Dhaligaon, Dist. Bongaigaon, Assam-783 385, India, shall be subject to the anti-dumping duty imposed by Regulation (EEC) No 54/93.

Article 2

The anti-dumping duty imposed by Regulation (EEC) No 54/93 is hereby repealed with regard to imports of the product concerned produced and exported to the Community by Bongaigaon Refinery & Petrochemicals Ltd (Taric additional code : 8873).

Article 3

The customs authorities are hereby directed, pursuant to Article 14 (5) of Regulation (EC) No 3283/94, to take the appropriate steps to register the imports identified in Article 1.

Article 4

Interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in writing and submit information within 37 days from the date of transmission of a copy of this Regulation to the authorities of the exporting country. Interested parties may also apply to be heard by the Commission within the same time limit. The transmission of a copy of this Regulation to the authorities of the exporting country shall be deemed to have taken place on the third day following its publication in the *Official Journal of the European Communities.*

Any information relating to the matter and any request for a hearing should be sent to the following address :

European Commission,
Directorate-General for External Economic Relations (Division I.C.2),
Attn : Mr A. J. Stewart,
CORT 100 4/44,
Rue de la Loi/Wetstraat 200,
B-1049 Bruxelles/Brussel (1).

Article 5

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 October 1995.

For the Commission
Leon BRITTAN
Vice-President

(1) Telex COMEU B 21877, telefax (32 2) 295 65 05.