COMMISSION REGULATION (EC) No 499/2006

of 28 March 2006

on initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Council Regulation (EC) No 769/2002 on imports of coumarin originating in the People's Republic of China by imports of coumarin consigned from Indonesia and Malaysia, whether declared as originating in Indonesia and Malaysia 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 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 Articles 13(3), 14(3) and 14(5) thereof,

After having consulted the Advisory Committee,

Whereas:

A. **REQUEST**

(1) The Commission has received a request pursuant to Article 13(3) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of coumarin originating in the People's Republic of China.

(2) The request was lodged on 13 February 2006 by the European Chemical Industry Council (CEFIC) on behalf of the sole producer representing 100 % of the Community production of coumarin.

B. **PRODUCT**

(3) The product concerned by the possible circumvention is coumarin originating in the People's Republic of China, normally declared under CN code ex 2932 21 00 (the product concerned). This code is given for information only.

(4) The product under investigation is coumarin consigned from Indonesia and Malaysia (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 anti-dumping measures imposed by Council Regulation (EC) No 769/2002 [2].

D. **GROUNDS**

(6) The request contains sufficient *prima facie* evidence that the anti-dumping measures on imports of coumarin originating in the People's Republic of China are being circumvented by means of the transhipment via Indonesia and Malaysia of coumarin.

(7) The evidence submitted is as follows:

The request shows that a significant change in the pattern of trade involving exports from the People's Republic of China, Indonesia and Malaysia to the Community has taken place following the imposition of measures on the product concerned, and that there is 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 coumarin originating in the People's Republic of China via Indonesia and Malaysia.

Furthermore, the request contains sufficient *prima facie* evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of coumarin from Indonesia and Malaysia appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that this increase in imports is made at prices well below the non-injurious price established in the investigation that led to the existing measures.

Finally, the request contains sufficient *prima facie* evidence that the prices of coumarin are dumped in relation to the normal value previously established for the product concerned.

Should circumvention practices via Indonesia and Malaysia covered by Article 13 of the basic Regulation, other than transhipment, be identified in the course of the investigation, the investigation may cover these practices also.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

[2] OJ L 123, 9.5.2002, p. 1. Regulation as amended by Regulation (EC) No 1854/2003 (OJ L 272, 23.10.2003, p. 1).

E. **PROCEDURE**

(8) In the light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13 of the basic Regulation and to make imports of coumarin consigned from Indonesia and Malaysia, whether declared as originating in Indonesia and Malaysia or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) **Questionnaires**

(9) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the exporters/producers and to the associations of exporters/producers in Indonesia and Malaysia, to the exporters/producers and to the associations of exporters/producers in the People's Republic of China, to the importers and to the associations of importers in the Community which cooperated in the investigation that led to the existing measures or which are listed in the request and to the authorities of the People's Republic of China, Indonesia and Malaysia. Information, as appropriate, may also be sought from the Community industry.

(10) In any event, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3 of this Regulation in order to find out whether they are listed in the request and, if necessary, request a questionnaire within the time-limit set in Article 3(1) of this Regulation, given that the time-limit set in Article 3(2) of this Regulation applies to all interested parties.

(11) The authorities of the People's Republic of China, Indonesia and Malaysia will be notified of the initiation of the investigation.

(b) **Collection of information and holding of hearings**

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) **Exemption of imports from registration or measures**

(13) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if such importation does not constitute circumvention.

(14) Since the possible circumvention takes place outside the Community, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product concerned that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time-limit indicated in Article 3(3) of this Regulation.

F. **REGISTRATION**

(15) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied retroactively from the date of registration of such imports consigned from Indonesia and Malaysia.

G. **TIME-LIMITS**

(16) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— producers in Indonesia and Malaysia may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

(17) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits mentioned in Article 3 of this Regulation.

H. **NON-COOPERATION**

(18) In cases in which any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(19) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated,

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is hereby initiated pursuant to Article 13(3) of Regulation (EC) No 384/96, in order to determine if imports into the Community of coumarin consigned from Indonesia and Malaysia, whether originating in Indonesia and Malaysia or not, falling within CN code ex 2932 21 00 (TARIC code 2932 21 00 16), are circumventing the measures imposed by Regulation (EC) No 769/2002.

Article 2

The Customs authorities are hereby directed, pursuant to Article 13(3) and Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports into the Community identified in Article 1 of this Regulation.

Registration shall expire nine months following the date of entry into force of this Regulation.

The Commission, by Regulation, may direct Customs authorities to cease registration in respect of imports into the Community of products manufactured by producers having applied for an exemption of registration and having been found not to be circumventing the anti-dumping duties.

Article 3

1. Questionnaires should be requested from the Commission within 15 days of the date of publication of this Regulation in the *Official Journal of the European Union*.

2. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views in writing and submit questionnaire replies or any other information within 40 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Producers in Indonesia and Malaysia requesting exemption of imports from registration or measures should submit a request duly supported by evidence within the same 40-day time-limit.

4. Interested parties may also apply to be heard by the Commission within the same 40-day time-limit.

5. Any information relating to the matter, any request for a hearing or for a questionnaire as well as any request for exemption of imports from registration or measures must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited*' ([1]) and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled '*For inspection by interested parties*'.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate B
Office: J-79 5/16
B-1049 Brussels
Fax (32-2) 295 65 05.

Article 4

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

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

Done at Brussels, 28 March 2006.

For the Commission
Peter MANDELSON
Member of the Commission

([1]) This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).