

Commission Decision of 5 December 2005 accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India (2006/37/EC) (repealed)

COMMISSION DECISION

of 5 December 2005

accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India
(2006/37/EC) (repealed)

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 anti-dumping Regulation), and in particular Article 8 thereof,

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⁽²⁾ (the basic anti-subsidy Regulation), and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) In July 2002, the Council, by Regulation (EC) No 1338/2002⁽³⁾ imposed definitive countervailing duties on imports of sulphanilic acid originating in India. On the same day, the Council, by Regulation (EC) No 1339/2002⁽⁴⁾, imposed definitive anti-dumping duties on imports of sulphanilic acid originating in the People's Republic of China and India.
- (2) Within the framework of these proceedings, the Commission, by Decision 2002/611/EC⁽⁵⁾ accepted a price undertaking offered by an Indian company, i.e. Kokan Synthetics and Chemicals Pvt Ltd (the company).
- (3) In December 2003, the company informed the Commission that it wished to withdraw its undertaking voluntarily. Accordingly, the Commission Decision accepting the undertaking was repealed by Commission Decision 2004/255/EC⁽⁶⁾.
- (4) In February 2004, an anti-absorption investigation concerning imports of sulphanilic acid originating in China has been concluded by Council Regulation (EC) No 236/2004⁽⁷⁾, which increased the rate of the definitive anti-dumping duty for the People's Republic of China from 21 % to 33,7 %.

B. REQUEST FOR A REVIEW

- (5) In December 2004, the company lodged a request for a partial interim review pursuant to Article 11(3) of the basic anti-dumping Regulation and Article 19 of the basic anti-subsidy Regulation respectively, limited in scope to the examination of the acceptability of the reinstatement of its undertaking.
- (6) The request contained sufficient evidence of a significant change in circumstances which had occurred since the company voluntarily withdrew its undertaking. The company therefore wished to offer again its original undertaking and submitted that, in view of the changes circumstances, such an undertaking would be both effective and workable.
- (7) A notice of initiation of a partial interim review was published in the *Official Journal of the European Union* accordingly⁽⁸⁾.

C. ACCEPTANCE OF THE UNDERTAKING

- (8) Details of the procedural aspects and findings of the review investigation are set out in Council Regulation (EC) No 123/2006⁽⁹⁾ amending both, Regulation (EC) No 1338/2002 imposing a definitive countervailing duty and Regulation (EC) No 1339/2002 imposing a definitive anti-dumping duty on imports of sulphanilic acid originating, *inter alia*, in India.
- (9) It is the conclusion of the investigation that the revised undertaking offered by the company can be accepted since it eliminates the injurious effects of dumping and subsidisation.
- (10) In this revised offer, the company agreed to index the minimum price originally offered in order to address the cyclical nature of the price of one of the key ingredients used in the production of sulphanilic acid.
- (11) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this company is such that the Commission considers the risk of circumventing the agreed undertaking is limited.
- (12) In view of this, the undertaking is acceptable.
- (13) In order to enable the Commission to monitor effectively the compliance with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) 123/2006. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is presented, or when it

does not correspond to the product presented to customs, the appropriate rate of countervailing and anti-dumping duty shall instead be payable.

- (14) To further ensure the effective respect of the undertaking, the importers have been made aware by the above Council Regulation that any violation of the undertaking may lead to the retrospective application of the anti-dumping and countervailing duty for the relevant transactions.
- (15) In the event of a breach or withdrawal of the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the anti-dumping and countervailing duty imposed in accordance with Article 9(4) of the basic anti-dumping Regulation and Article 15(1) of the basic anti-subsidy Regulation shall automatically apply pursuant to Article 8(9) of the basic anti-dumping Regulation and Article 13(9) of the basic anti-subsidy Regulation,

HAS DECIDED AS FOLLOWS:

Article 1

The undertaking offered by the exporting producer mentioned below, in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India is hereby accepted.

Country	Company	Taric Additional Code
India	Kokan Synthetics and Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028	A398

Article 2

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

Done at Brussels, 5 December 2005.

For the Commission

Peter MANDELSON

Member of the Commission

- (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 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.
- (3) OJ L 196, 25.7.2002, p. 1. Regulation as amended by Regulation (EC) No 492/2004 (OJ L 80, 18.3.2004, p. 6).
- (4) OJ L 196, 25.7.2002, p. 11. Regulation as last amended by Regulation (EC) No 492/2004.
- (5) OJ L 196, 25.7.2002, p. 36.
- (6) OJ L 80, 18.3.2004, p. 29.
- (7) OJ L 40, 12.2.2004, p. 17.
- (8) OJ C 101, 27.4.2005, p. 34.
- (9) See page 5 of this Official Journal.