

# UPDATE ON TRADE PROTECTION MEASURES APPLICABLE TO IMPORTS OF PET AND PSF INTO THE EU

Yuri Rudiuk  
Van Bael & Bellis  
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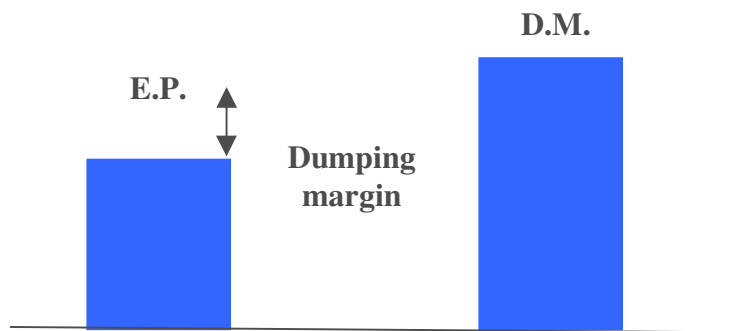
## ANTI-DUMPING - INTRODUCTION

- Council Regulation 384/96 2006 provides that anti- dumping duties are to be imposed if:
  - (i) there is a finding of dumping
  - (ii) there is a determination of material injury (or threat thereof) to EU industry and
  - (iii) the adoption of measures is in the interest of the EU as a whole.

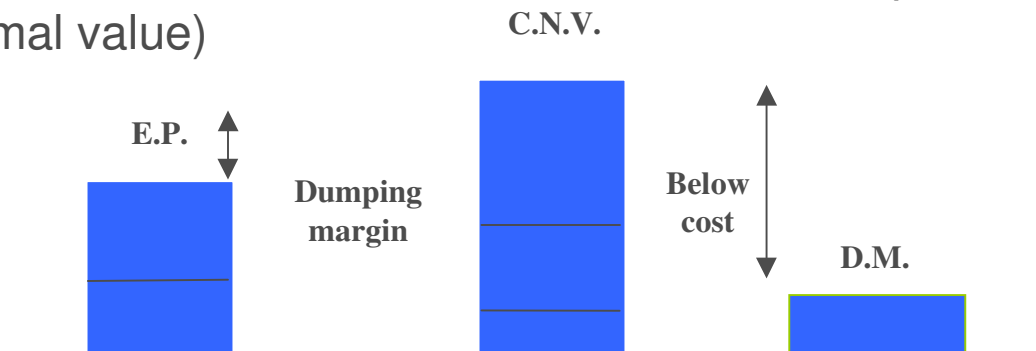
## When AD measures could be imposed?

- **Dumping:**

- Export prices are lower than domestic prices



- Or, in the absence of reliable domestic prices (constructed normal value)



## Main procedural stages in AD proceeding

- Filing of the complaint (the Commission considers the admissibility of the complaint within 45 days)
- Initiation of the investigation
- Provisional anti-dumping measures (within 9 months of the initiation)
- Definitive anti-dumping measures for 5 years (within 15 months of the initiation)

## AD measures imposed on imports of PET chips

| Country   | Normal expiry | Type of measures     | Level (min - max)    |
|-----------|---------------|----------------------|----------------------|
| Australia | 20.08.2009    | Definitive duty      | 66-128 EUR/tonne     |
| Australia | 20.08.2009    | Undertaking: no duty |                      |
| China     | 20.08.2009    | Definitive duty      | 0-184 EUR/tonne      |
| India     | 28.02.2012    | Definitive duty      | 88,9-200,9 EUR/T     |
| India     | 28.02.2012    | Undertaking: no duty |                      |
| Indonesia | 28.02.2012    | Definitive duty      | 92,1-187,7 EUR/T     |
| Indonesia | 28.02.2012    | Undertaking: no duty |                      |
| Korea     | 28.02.2012    | Definitive duty      | 0-148,3 EUR/T        |
| Malaysia  | 28.02.2012    | Definitive duty      | 36,0-160,1 EUR/T     |
| Taiwan    | 28.02.2012    | Definitive duty      | 36,3-143,4 EUR/tonne |
| Thailand  | 28.02.2012    | Definitive duty      | 83,2 EUR/T           |

## AD measures imposed on imports of PSF

| Country                    | Producer                   | AD duty rate             |
|----------------------------|----------------------------|--------------------------|
| China                      | Cixi Jiangnan Chemical     | 26.30%                   |
|                            | Far Eastern Industries     | 4.90%                    |
|                            | Hangzhou An Shun           | 18.60%                   |
|                            | Deqing An Shun             | 18.60%                   |
|                            | Kunshan An Shun            | 18.60%                   |
|                            | Jiangyin Changlong         | 24.60%                   |
|                            | <b>All other companies</b> | <b>49.70%</b>            |
|                            | Saudi Arabia               | National Polyester Fibre |
| Saudi Basic Industries     |                            | 20.90%                   |
| Arabian Industrial         |                            | 20.90%                   |
| <b>All other companies</b> |                            | <b>20.90%</b>            |

## AD measures imposed on imports of PSF

| Country | Producer                   | AD duty rate  |
|---------|----------------------------|---------------|
| Korea   | Huvis Corporation          | 5.70%         |
|         | Saehan Industries Inc.     | 10.60%        |
|         | Dongwoo Industry Co. Ltd.  | 6%            |
|         | Sung Lim Co. Ltd.          | 0%            |
|         | East Young Co. Ltd.        | 6%            |
|         | Estal Industrial Co.       | 6%            |
|         | Geum Poog Corp.            | 6%            |
|         | Keon Baek Co. Ltd.         | 6%            |
|         | Samheung Co., Ltd.         | 6%            |
|         | <b>All other companies</b> | <b>10.60%</b> |

## AD measures imposed on imports of PSF justified?

- Broad definition of the product concerned: “*synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning (CN code 5503 20 00)*”
- Specialty types (Low Melt and Hollow Conjugate PSF) are included into the definition of the *product concerned*
- Investigation (triggered by Saehan in 2005) into the possible exclusion of LMP from the definition of the product concerned was terminated by the Commission in early 2007 without modification of the scope of the measures. The Commission’s findings in this regard were severely criticized by EU users and importers
- Such an approach of the Commission contradicts that of the US authorities which excluded specialty PSF from the AD measures applicable in the USA

## AD measures imposed on imports of PSF justified?

- AD measures against Malaysia and Taiwan were repealed on 21 June 2007 further to a **withdrawal of the Complaint** by CIRFS at the final stage of the investigation (after the provisional measures of 12.4%-23% for Malaysia and 14.7%-29.5% for Taiwan were imposed) and the Commission's findings that imposition of the AD measures would not be in the **Community interest**:
  - ✓ Shortage of supply (in particular for non-woven applications: HCS and LMP)
  - ✓ Potential further price increases of PSF
  - ✓ Negative impact on manufactures of pillows, quilts, cushions, upholstery, etc. where profit margins are below 5%
  - ✓ Competition with finished products from China incorporating PSF (39% increase of ready goods imports from China)

## AD measures imposed on imports of PSF justified?

- AD measures against Belarus expired on 11 October 2007
- “Community interest” interim review of the PSF measures against imports from China, Korea and Saudi Arabia was terminated by the Commission on 16 September 2008 and **the anti-dumping measures were maintained:**
  - unexpected U-turn and a serious blow to the principle of non-discrimination
  - business reality does not support the Commission’s findings.

**Example: “The total consumption of LMP in the Community is in range of 85 000 – 90 000 MT and the total consumption of HCS is in range of 65 000 – 70 000 MT. The Community industry is currently supplying 2 155 MT of LMP and 21 543 MT of HCS”**

## AD measures imposed on imports of PSF justified?

- Employment issue:

PSF production industry: **2 053**

PSF users industry (direct employment): **40 000 - 45 000**

PSF users industry (incl. indirect employment): **70 000**

- Virgin PSF vs. recycled PSF:

The Commission did not address the growing dependency of the EC market on imports of virgin PSF

Price differences between virgin and recycled PSF have not been properly assessed by the Commission

## ANTI-DUMPING MEASURES – Reviews

- Expiry review
- Interim review
- New exporter review
- Anti-circumvention review
- Anti-absorption review
- Temporary suspension of the measures

## ANTI-DUMPING MEASURES – Reviews

- **Expiry reviews**
  - **Initiation:** on the basis of a substantiated request evidencing that injurious dumping will recur should measures be removed
  - **Procedure:** should be concluded within 15 months (mandatory)
  - **Scope:** full (dumping and injury)
  - **Outcome:** confirmation or termination of the existing measures

## ANTI-DUMPING MEASURES – Reviews

- **Interim reviews**
  - **Initiation:** on the basis of a substantiated request evidencing a significant change in circumstances
  - **Procedure:** should be concluded within 15 months (mandatory)
  - **Scope:** full (dumping and injury), partial
  - **Outcome:** confirmation, modification or termination of the measures imposed

## ANTI-DUMPING MEASURES – Reviews

- **New exporter reviews**
  - **Initiation:** available to exporters which did not export PET or PSF to the EU during the original investigation period
  - **Procedure:** should be concluded within 15 months (mandatory)
  - **Scope:** dumping only
  - **Outcome:** no duty imposed, an undertaking can be granted, duties can be imposed or review can be terminated

## ANTI-DUMPING MEASURES – Reviews

- **Anti-absorption and anti-circumvention reviews**
  - Operations/actions which undermine the effectiveness of AD measures. Example: PSF tow from Belarus
- **Temporary suspension of AD measures**
  - Temporary changes of the market conditions. AD measures are suspended for a period of 9 months (could be extended for a further 12 months period)
  - Suspension should be in the Community interest

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**Yuri Rudiuk  
Senior Associate**

**Van Bael & Bellis  
165 Avenue Louise  
B-1050 Brussels  
Tel. + 32.2.6477350  
Fax. + 32.2.6406499**

**E-mail: [yrudiuk@vanbaelbellis.com](mailto:yrudiuk@vanbaelbellis.com)**