

Re: Kind reminder: Gerber Steel, Submission Open for Inspection, R797, R798

Björn Kammeyer | Gerber Steel GmbH <bk@gerber-steel.com>

Thu 2023-11-23 18:06

To: VELASCO MARTINS Pedro <Pedro.Velasco-Martins@ec.europa.eu>

Cc: TRADE-SSCR-AC@ec.europa.eu <TRADE-SSCR-AC@ec.europa.eu>; LUKAS Martin

<Martin.Lukas@ec.europa.eu>; Trade-Hearing-Officer@ec.europa.eu <Trade-Hearing-Officer@ec.europa.eu>

 3 attachments (3 MB)

Tron R798 1 marked.pdf; Tron R797 2 marked.pdf; Tron R797 1 marked.pdf;

Dear Mr Velasco Martins,

Thank you for your feedback. We have now added the Hearing Officer to the distribution list.

The justification to which you are once again referring and the repeated ignoring of our detailed objections to this shows that you yourself, intentionally or unintentionally, have caused massive procedural errors and unequal treatment of the interested parties in proceedings R797 and R798. Which, to our great regret, you are now repeatedly trying to brush aside with the same old phrases. We summarise the whole matter once again and present further evidence that your department committed serious errors in these proceedings.

- Gerber Steel GmbH had registered as an interested party on 17 August 2023 via the TRON.tdi for cases R797 and R798.
- However, Gerber Steel GmbH was only accepted as an interested party on 4 October 2023.
- This means that Gerber Steel GmbH had already automatically submitted a request for access to the non-confidential files (NCF) in accordance with REGULATION (EU) 2016/1036 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 8 June 2016 on protection against dumped imports from countries not members of the European Union pursuant to Article 6 (7) on 17 August.
- You did not comply with this immediately, but intentionally or unintentionally delayed publication and activation as an interested party until 4 October 2023, thus depriving Gerber Steel GmbH of the opportunity to inspect the open documents.
- You were already informed on 12 September 2023 by Van Bael and Bellis, the representative of EURANIMI, that they had not yet been given access to the case. This information was only published in TRON on 4 October 2023.

- We noted that you should have realised by then that something was wrong with your cases.
- We also informed you that Gerber Steel GmbH conspicuously does not appear in the list of importers and was therefore not informed in advance.
- Now let's go through the TRON messages and take a look at a selection of entries with Doc dates Rec/sent and NCF dates.
 - Registration Form_open.pdf, Doc Date 17 Aug 2023, Rec/sent 17 Aug 2023, Gerber Steel GmbH, NCF date 04 Oktober 2023_
 - Registration Form_open.pdf, Doc Date 14 Aug 2023, Rec/sent 14 Aug 2023, Trade Remedies Authority of Viet Nam, NCF date 16 Aug 2023_
 - Registration Form_open.pdf, Doc Date 16 Aug 2023, Rec/sent 16 Aug 2023, INITIATION/Interested party status request/reply, Nikel Paslanmaz Çelik San. ve Tic. A.S., NCF date 18 Aug 2023
 - Registration Form_open.pdf, Doc Date 21 Aug 2023, Rec/sent 21 Aug 2023, INITIATION/Interested party status request/reply, Yue Seng Industrial Co.,Ltd., NCF date 21 Aug 2023
 - Registration Form_open.pdf, Doc Date 28 Aug 2023, Rec/sent 28 Aug 2023, INITIATION/Interested party status request/reply, Trinox Metal Sanayi ve Ticaret A.Ş., NCF date 28 Aug 2023
 - Registration Form_open.pdf, Doc Date 23 Aug 2023, Rec/sent 23 Aug 2023, INITIATION/Interested party status request/reply, BTH Import Stal Alicja Kotarba, NCF date 04 Oct 2023
- And this is just a small selection of entries from the R797 case where there are significant discrepancies between the interested party notification and the NCF date. It is the same in R798. We have enclosed both overviews and marked some of those discrepancies. If you have a further look, there are much more.
- Two entries in TRON stand out in particular, which emphasise once again that you have made a serious mistake which you are now trying to cover up. This is the fact that EUROFER has two entries in the R797 case regarding the document type: INITIATION/Interested party status request/reply.
 - Registration Form_open.pdf, Doc Date 21 Aug 2023, Rec/sent 21 Aug 2023, INITIATION/Interested party status request/reply, EUROFER, NCF date 22 Aug 2023
 - Registration Form_open.pdf, Doc Date 21 Aug 2023, Rec/sent 21 Aug 2023,

INITIATION/Interested party status request/reply, EUROFER, NCF date 04 Oktober 2023

- Furthermore, the case handler confirmed our submission on 6 November 2023 "We acknowledge receipt of your submission which will be put in the (open resp. sensitive) file."
- On Thursday, 9 November 2023, after you had sufficient time to inspect our submission, you surprisingly revised your previous statement and have since refused to comment on it.
- And as we had also already informed the case handler, with reference to your mail of 09.11.2023 and 10.11.2023
 - According to the Official Journal of the European Union, the procedure was published on 14 August 2023, but the COMMISSION IMPLEMENTING REGULATION (EU) 2023/1632 is dated 11 August 2023.
 - We registered as an interested party on 17 August 2023. You have confirmed that, in your opinion, the deadline expired on 18 September 2023.
 - We therefore have several points here where you have made errors.
 - A) On 11 August 2023, it was impossible for us to register as an interested party with the European Commission, as the procedure was only published in the Official Journal of the European Union on 14 August 2023. This means that, contrary to your statement, we did not have 37 days. But, if at all, 35 days. The EC has therefore already committed a breach of its own regulation. Official Journal of the European Union, L202, Volume 66, 14 August 2023, ISSN 1977-0677
 - Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELLAR%3Ae1ca0afe-3a3b-11ee-bbad-01aa75ed71a1>
 - B) We registered as an interested party in TRON within the 15-day deadline. See our registration in TRON dated 17 August 2023, but we only received confirmation from you that we had been accepted as an interested party on 4 October 2023. Well after the deadline. We therefore had no opportunity to get involved.
 - C) We have registered as an interested party via TRON.tdi, as required by Regulation E. PROCEDURE. You should have received the confirmation of our registration. However, we will be happy to send them to you again.
 - And as is clear from the TRON.tdi:
 - Instructions and Terms of Use:
 - 1.2. TRON.tdi has four main uses:

- • Registration to a case as an interested party (web registration);
- • Consultation of the open (non-confidential) file, granting representatives of interested parties' remote access to the open file of a specific case;
- • Informing interested parties about availability of certain documents by sending appropriate link to these documents (web notification);
- • Submission of documents (open and sensitive) by interested parties in a proceeding (file upload and online forms modules).
- 2.2. Once an interested party has an EU Login account, they or their appointed legal representative can fill in an online form to request to be accepted as an interested party for a particular Trade Defence proceeding.
- 2.3. Once the application for interested party status has been accepted by the case team, the party will receive information by email confirming its status as an interested party.
- 2.4. In case you haven't been granted an interested party status and you do not agree with the reasons for this decision, you may contact the case team, or you may request the intervention of the Hearing Officer.
- Source:
<https://tron.trade.ec.europa.eu/tron/resources/documents/TermsOfUseTRON.pdf>
- So, we have clearly demonstrated that you made the mistake here. You failed to inform interested parties in good time that they had been included as interested parties in the first place. This omission alone could be reason enough for the entire procedure to be cancelled immediately.

We therefore now urge you to take up our submission on the two proceedings immediately and consider it in full due to a considerable disadvantage (intentional or unintentional) suffered by Gerber Steel GmbH as a result of errors on the part of the department responsible for cases R797 and R798 at the European Commission.

We look forward to hearing from you promptly and without further reminders. Thank you very much.

Best regards

Björn Kammeyer (i.A.)

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Gerber Steel GmbH

Großherzog-Leopold-Platz 2

79359 Riegel

Vertreten durch: Thorsten Gerber

Handelsregister: HRB 719990

Registergericht: Amtsgericht Freiburg

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Information Provided as Mandated by Article 13 GDPR If this is your first interaction with us, Art. 12, 13 GDPR mandates that we make available to you the following mandatory data protection related information: If you are contacting us via e-mail, we will process your personal data only if we have a legitimate interest in the processing of this data (Art. 6 Sect. 1 lit. f GDPR), if you have consented to the processing of your data (Art. 6 Sect. 1 lit. a GDPR), if the processing of the data is required for the development, establishment, content or modification of a legal relationship between you and our company (Art. 6 Sect. 1 lit. b GDPR) or if any other legal provision permits the processing of this data. Your personal data will remain in our possession until you ask us to delete the data or you revoke your consent to store the data or if the purpose the data stored is required for no longer exists (e.g. once your request has been conclusively processed). This shall be without prejudice to any compelling statutory provisions – in particular tax and commercial law based retention periods. You have the right to at any time receive free information concerning the origins, recipients and purpose of your data archived by us. You also have a right to object, to data portability and a right to log a complaint with the competent supervisory agency. Moreover, you can demand the correction, eradication and, under certain circumstances, the restriction of the processing of your personal data. For more details, please consult our Data Privacy Policy (<https://gerber-steel.com/datenschutz/>).

From: VELASCO MARTINS Pedro <Pedro.Velasco-Martins@ec.europa.eu>
Sent: 21 November 2023 17:56
To: Björn Kammeyer I Gerber Steel GmbH <bk@gerber-steel.com>
Cc: TRADE-SSCR-AC@ec.europa.eu <TRADE-SSCR-AC@ec.europa.eu>; LUKAS Martin <Martin.Lukas@ec.europa.eu>
Subject: RE: Kind reminder: Gerber Steel, Submission Open for Inspection, R797, R798

Dear Mr. Kammeyer,

I regret to inform that I confirm the rejection of your submission on the initiation of the following two anti-circumvention proceedings:

- R797 Stainless steel cold-rolled flat products
- R798 Stainless steel cold-rolled flat products

Article 3(2) of the Initiation Regulations, clearly stipulates a 37-day deadline for the submission of information in these investigations, which starts from the day of publication of these regulations in the Official Journal.

In the absence of any request for extension of the deadline and in view of the lodging of the submissions around one month and a half after the expiry of the legal deadline, as well as the need to treat all parties fairly and equally, we cannot accept your late submission.

Please consider that accepting these comments and taking them into consideration in our final Decision could expose the Commission to legal challenge by other interested parties for relying on information submitted in breach of a deadline set by a Regulation.

Should you nevertheless consider that such comments are relevant for the on-going investigation, you will have another opportunity to submit them, at the time of the disclosure of the essential facts and findings of the investigation.

Best regards,

Pedro VELASCO MARTINS

Head of Unit Trade G.3 and Deputy to the Director of Trade G



European Commission

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From: Björn Kammeyer I Gerber Steel GmbH <bk@gerber-steel.com>

Sent: Tuesday, November 21, 2023 4:29 PM

To: LUKAS Martin (TRADE) <Martin.Lukas@ec.europa.eu>; VELASCO MARTINS

Pedro (TRADE) <Pedro.Velasco-Martins@ec.europa.eu>

Cc: TRADE SSCR AC <TRADE-SSCR-AC@ec.europa.eu>

Subject: Kind reminder: Gerber Steel, Submission Open for Inspection, R797, R798

Dear Mr Lukas,

Dear Mr Velasco Martins,

To our great regret, we have not yet received any feedback on our message of 14 November 2023. We would like to remind you once again and kindly request a response from the European Commission by 22 November 2023, 16:30 CET at the latest. Alternatively, we would be pleased to receive notification that our submission has been uploaded to TRON.

Looking forward to your timely response. Thank you very much and have a nice day.

Best regards

Björn Kammeyer (i.A.)

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Vertreten durch: Thorsten Gerber
Handelsregister: HRB 719990
Registergericht: Amtsgericht Freiburg

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