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(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice concerning a partial reopening of the investigations leading to the anti-dumping and anti-subsidy measures on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt

(2021/C 199/06)

On 16 June 2020, the European Commission ('the Commission') imposed a definitive anti-dumping duty and a definitive countervailing duty on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt by, respectively, Commission Implementing Regulation (EU) 2020/492 ⁽¹⁾ and Commission Implementing Regulation (EU) 2020/776 ⁽²⁾ ('the existing measures').

Regulation (EU) 2018/825 of the European Parliament and of the Council ⁽³⁾, which entered into force on 8 June 2018 ('TDI Modernisation package'), introduced the new Articles 14a and 24a into, respectively, 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 ⁽⁴⁾ ('the basic anti-dumping Regulation') and Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽⁵⁾ ('the basic anti-subsidy Regulation').

According to these Articles, an anti-dumping or countervailing duty may also be imposed on any dumped or subsidised product brought in significant quantities to an artificial island, a fixed or floating installation or any other structure in the continental shelf of a Member State or the exclusive economic zone declared by a Member State pursuant to UNCLOS ('the CS/EEZ') ⁽⁶⁾, where this would cause injury to the Union industry.

⁽¹⁾ Commission Implementing Regulation (EU) 2020/492 of 1 April 2020 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 108, 6.4.2020, p. 1).

⁽²⁾ Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 1).

⁽³⁾ Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union (OJ L 143, 7.6.2018, p. 1).

⁽⁴⁾ OJ L 176, 30.6.2016, p. 21.

⁽⁵⁾ OJ L 176, 30.6.2016, p. 55.

⁽⁶⁾ The continental shelf comprises the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance whereas the exclusive economic zone is an area beyond and adjacent to the territorial sea that shall not extend beyond 200 nautical miles (see notably Article 55 from the United Nations Convention on the Law of the Sea ('UNCLOS')). Artificial islands are areas of land, surrounded by water, that are above water that are not naturally formed but are the result of man building activity. These islands can be used to support the exploration or exploitation of the seabed or they can be used to support the production of energy from the water, currents or winds. They could be used as the point of delivery of dumped/subsidised products such as tubes to connect the platforms to the shore or to extract hydrocarbons from the seabed, drilling equipment and rigs or wind turbines. Fixed or floating installations and any other structures are constructions, including facilities, such as platforms whether fixed to the sea floor or floating which are intended for the exploration or exploitation of the seabed. They also include the constructions on site for the production of energy from the water, currents or winds. The product under investigation could also be delivered for use on those constructions.

The same Articles provided that the Commission should adopt implementing acts laying down the conditions for the incurrence of such duties, as well as the procedures relating to the notification and declaration of such products and the payment of such duties, including recovery, repayment and remission ('customs tool'), and that the Commission should only impose such duties as of the date the customs tool is operational. The customs tool ⁽⁷⁾ regulation became applicable on 2 November 2019.

Partial reopening of the investigations

In the investigations leading to the imposition of anti-dumping and countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt, the Commission included in its examination imports of the product concerned under inward processing and concluded that the Union industry suffered material injury during the period concerned. However, the customs tool was not applicable when the investigations that led to the existing measures were initiated and, thus, the Commission could not conclude on whether the extension of the duties to the CS/EEZ was appropriate.

The Commission has at its disposal sufficient evidence showing that certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt were being brought in significant quantities under the inward processing procedure in order to be processed into wind blades that are then exported to offshore wind parks in the CS/EEZ, and that this would cause injury to the Union industry. Part of this evidence has been provided by the EU Industry. A note to the file containing the evidence available to the Commission is available to interested parties.

Therefore, the Commission has decided to reopen the investigations that led to the existing measures. The reopening is limited to the examination of whether or not the measures should apply to certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt brought in significant quantities to the CS/EEZ.

Procedure

Having determined, after informing the Member States, that a partial reopening of the investigations that led to the existing measures is justified, the Commission hereby partially reopens the anti-dumping and anti-subsidy investigations concerning imports of fabrics of woven and/or stitched continuous filament glass fibre rovings and/or yarns with or without other elements, excluding products which are impregnated or pre-impregnated (pre-preg), and excluding open mesh fabrics with cells with a size of more than 1,8 mm in both length and width and weighing more than 35 g/m², currently falling under CN codes ex 7019 39 00, ex 7019 40 00, ex 7019 59 00 and ex 7019 90 00 (TARIC codes 7019 39 00 80, 7019 40 00 80, 7019 59 00 80 and 7019 90 00 80), and originating in the People's Republic of China and Egypt ('the product under investigation').

The reopening is limited in scope to the examination of whether the measures should be applied to certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt ('the countries concerned') brought to the CS/EEZ.

To that end, the Commission will investigate, among others, the following operations during the original period of investigation (1 January 2018 to 31 December 2018):

- The re-export within the meaning of the Union Customs Code ⁽⁸⁾ of the product under investigation to the CS/EEZ;
- Direct shipments of the product under investigation from the countries concerned to the CS/EEZ; and
- The export or re-export of finished products incorporating the product under investigation from the EU customs territory to the CS/EEZ, both where the product under investigation was first released for free circulation into the EU customs territory then incorporated into the finished product, and where the product under investigation was incorporated into the finished product under a different customs procedure (for example under the inward processing procedure as referred to in the Union Customs Code).

⁽⁷⁾ Commission Implementing Regulation (EU) 2019/1131 of 2 July 2019 establishing a customs tool in order to implement Article 14a of Regulation (EU) 2016/1036 of the European Parliament and of the Council and Article 24a of Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 179, 3.7.2019, p. 12).

⁽⁸⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

The Commission draws the attention of the parties that further to the COVID-19 outbreak a Notice ⁽⁹⁾ has been published on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations that may be applicable to this proceeding.

Written submissions

In order to obtain the information it deems necessary for its partial reopening, the Commission will send a questionnaire to the interested parties that cooperated in the investigations that led to the existing measures, namely to exporting producers and their related companies in the People's Republic of China and Egypt, Union producers, unrelated importers ⁽¹⁰⁾ in the Union, and users in the Union. These interested parties are requested to submit a completed questionnaire within 37 days from the date of publication of this Notice in the Official Journal of the European Union, unless otherwise specified.

Copies of the questionnaires are available in the file for inspection by interested parties and on DG Trade's website (https://trade.ec.europa.eu/tdi/case_details.cfm?id=2493 and https://trade.ec.europa.eu/tdi/case_details.cfm?id=2525).

All interested parties, and in particular those that cooperated in the investigations that led to the existing measures, are invited to make their views known, submit information and provide supporting evidence on issues pertaining to the partial reopening of the investigation. Unless otherwise specified, this information and supporting evidence must reach the Commission within 20 days from the date of publication of this Notice in the *Official Journal of the European Union*.

Possibility to be heard by the Commission investigation services

All interested parties may request to be heard by the Commission investigation services.

Any request to be heard must be made in writing and must specify the reasons for the request as well as a summary of what the interested party wishes to discuss during the hearing. The hearing will be limited to the issues set out by the interested parties in writing beforehand.

At the stage of definitive findings, a request should be made within 3 days from the date of the final disclosure, and the hearing will normally take place within the period granted to comment on the final disclosure. If there is an additional final disclosure, a request should be made immediately upon receipt of this additional final disclosure, and the hearing will normally take place within the deadline to provide comments on this disclosure.

The outlined timeframe is without prejudice to the right of the Commission services to accept hearings outside the timeframe in duly justified cases and to the right of the Commission to deny hearings in duly justified cases. Where the Commission services refuse a hearing request, the party concerned will be informed of the reasons for such refusal.

In principle, hearings will not be used to present factual information which is not yet on file. Nevertheless, in the interest of good administration and to enable Commission services to progress with the investigation, interested parties may be directed to provide new factual information after a hearing.

⁽⁹⁾ On the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

⁽¹⁰⁾ Importers not related to exporting producers. Importers that are related to exporting producers have to fill in the questionnaire for these exporting producers. In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558), two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts.

Instructions for making written submissions and sending completed questionnaires and correspondence

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing the Commission a) to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled '*Sensitive*' ⁽¹¹⁾. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing '*Sensitive*' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic anti-dumping Regulation and Article 29(2) of the basic anti-subsidy Regulation, which will be labelled '*Open for inspection by interested parties*'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

Interested parties are invited to make all submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>) including scanned powers of attorney and certification sheets. By using TRON.tdi or e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document '*CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES*' published on the website of the Directorate-General for Trade:

http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf

The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business e-mail which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or e-mail only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi and by e-mail, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: TRADE-AD653a-GFF-CS-EEZ@ec.europa.eu
TRADE-AS656a-GFF-CS-EEZ@ec.europa.eu

Schedule of the investigation

The reopening investigation shall be concluded within 13 months of the date of the publication of this Notice, pursuant to Article 6(9) of the basic anti-dumping Regulation and Article 11(9) of the basic anti-subsidy Regulation.

⁽¹¹⁾ A '*Sensitive*' document is a document which is considered confidential pursuant to Article 19 of the basic anti-dumping Regulation/Article 29 of the basic anti-subsidy Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)/Article 12 of the WTO Agreement on Subsidies and Countervailing Measures. It is also a document 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).

Possibility to comment on other parties' submissions

In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues.

Comments on the information provided by other interested parties in reaction to the final disclosure should be submitted within 5 days from the deadline to comment on the final disclosure, unless otherwise specified. If there is an additional final disclosure, comments on the information provided by other interested parties in reaction to this disclosure should be made within 1 day from the deadline to comment on this further disclosure, unless otherwise specified.

The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

Extension to time limits specified in this Notice

Any extension to the time-limits provided for in this Notice should only be requested in exceptional circumstances and will only be granted if duly justified. In any event, any extension to the deadline to reply to questionnaires will be limited normally to 3 days, and as a rule will not exceed 7 days. Regarding time limits for the submission of other information specified in the Notice of Initiation, extensions will be limited to 3 days unless exceptional circumstances are demonstrated.

Non-cooperation

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may 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 anti-dumping Regulation and Article 28 of the basic anti-subsidy Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

Hearing Officer

Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in due course.

Interested parties are invited to follow the timeframes set out in the Notice also as regards interventions, including hearings, by the Hearing Officer. Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. The Hearing Officer will examine the reasons for late requests for interventions, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website:

<http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹²⁾.

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website:

<http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

⁽¹²⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).