

COMMISSION REGULATION (EU) No 570/2010**of 29 June 2010****making imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the 'basic Regulation') and in particular Articles 10(4) and 14(5) thereof,

After consulting the Advisory Committee,

Whereas:

- (1) The Commission has received a request, pursuant to Article 14(5) of the basic Regulation, to make imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration.
- (2) The Commission has received a request, pursuant to Article 14(5) of the basic Regulation, to make imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration.
- (3) The Commission has received a request, pursuant to Article 14(5) of the basic Regulation, to make imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration.
- (4) Concerning standing to lodge a complaint, the applicant is the sole producer of the product concerned in the European Union, representing 100 % of the total Union production.
- (5) As regards dumping, in view of the provisions of Article 2(7) of the basic Regulation, the country concerned is considered to be a non-market economy country. In the absence of known production of the product concerned outside the European Union and the country concerned, the complainant established normal value for the country concerned on the basis of the prices actually paid or payable in the Union for the like product duly adjusted where necessary to include a reasonable profit margin. The allegation of dumping is based on a comparison of the normal value thus established with the export prices (at ex-works level) of the product under investigation when sold for export to the Union. On this basis the dumping margin calculated is significant for the exporting country concerned, namely in excess of 150 %.
- (6) The applicant also requests that imports of the product concerned are made subject to registration pursuant to Article 14(5) of the basic Regulation so that measures may subsequently be applied against those imports from the date of such registration.

A. PRODUCT CONCERNED

- (2) The product concerned by this registration is wireless wide area networking (WWAN) modems with a radio antenna and providing Internet Protocol (IP) data connectivity for computing devices and including Wi-Fi routers comprising a WWAN modem (WWAN/Wi-Fi routers), originating in the People's Republic of China (the product concerned), currently falling within CN codes ex 8471 80 00 and ex 8517 62 00.

B. REQUEST

- (3) Having received a complaint from Option NV (hereinafter 'the applicant'), the Commission determined that there is sufficient evidence to justify initiation of a proceeding and therefore, pursuant to Article 5 of the basic Regulation, announced by a notice published in the *Official Journal of the European Union* (the 'Notice of Initiation') the initiation of an anti-dumping proceeding concerning imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China.

C. GROUNDS FOR THE REGISTRATION

- (7) According to Article 7(1) of the basic Regulation, provisional measures may not be imposed earlier than 60 days from initiation. However, according to Article 10(4) of the basic Regulation, a definitive anti-dumping duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, provided that the conditions set out in that paragraph are fulfilled, and imports have been registered in accordance with Article 14(5). According to Article 14(5) of the basic Regulation, the Commission may, after consultation of the Advisory Committee, direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from the Union industry which contains sufficient evidence to justify such action.
- (8) The request contains sufficient evidence to justify registration. This is further supported by evidence from other sources.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

(9) As regards dumping, the Commission has at its disposal sufficient *prima facie* evidence that imports of the product concerned originating in the People's Republic of China are being dumped, and that the exporters practice dumping. The anti-dumping complaint and request for registration contain evidence with regard to export prices relating to the period from second quarter of 2009 to first quarter of 2010. In addition, the complaint contains information regarding export prices from 2006 onwards. The evidence regarding normal value, contained in the anti-dumping complaint and request for registration, at this stage and subject to further data becoming available during the investigation, consists of detailed data concerning domestic prices and costs of production from the single Union producer covering the period from 2006 to the first quarter of 2010. In the absence of any known analogue countries which could serve as a basis for reliable normal value, this is the most accurate and adequate information that can be used at this stage. This data, appropriately adjusted for estimated transport and other costs, would, on its face, appear to relate to the same product and time period and the same level of trade, and therefore would appear to be broadly comparable. As a whole, and given the extent of the dumping margin alleged, this evidence provides sufficient support at this stage that the exporters in question practice dumping, and that there was an history of dumping over an extended period of time.

(10) As regards injury, the Commission has at its disposal sufficient *prima facie* evidence that the exporters' dumping practices are causing material injury or would cause material injury. This evidence consists of detailed data, contained in the anti-dumping complaint and request for registration and supported by information from other sources, concerning the key injury factors set out in Article 3(5) of the basic Regulation. Furthermore, the Commission has its disposal sufficient *prima facie* evidence that exporters' practices are causing serious injury, or would cause serious injury. This has warranted initiation of a safeguard investigation. It should be underlined that the totality of imports would appear to originate in the People's Republic of China.

(11) The Commission also has at its disposal sufficient *prima facie* evidence, contained in the anti-dumping complaint and request for registration and supported by information from other sources, that the importers were aware, or should have been aware, that the exporters practice dumping injurious to or likely to be injurious to the Union industry. For instance, several articles in the specialist press over an extended period of time suggest that the Union industry may suffer injury as a result of low priced imports from China. Also, given the extent of the dumping that it would appear may be occurring, it is reasonable to conclude that the importers would be aware, or should be aware, of the situation.

(12) Furthermore, the Commission has at its disposal sufficient *prima facie* evidence that such injury is being

caused or would be caused by massive dumped imports in a relatively short time which in light of the timing and the volume of the dumped imports and other circumstances (such as the rapid deterioration of the situation of the Union industry ⁽¹⁾), the fact that a single producer exists in the Union, the cycle of negotiation of contracts in this market, the relatively short lifetime of products in the sector, the significant amount of R&D expenses that must be undertaken to generate them) would be likely to seriously undermine the remedial effect of any definitive anti-dumping duties, unless such duties would be applied retroactively. Evidence in relation to these circumstances is contained in the anti-dumping complaint and request for registration and supported by information from other sources.

(13) Accordingly, the conditions for registration in this case are met.

D. PROCEDURE

(14) In the light of the above, the Commission has concluded that the applicant's request contains sufficient evidence to make imports of the product concerned subject to registration, in accordance with Article 14(5) of the basic Regulation.

(15) All interested parties are 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.

E. REGISTRATION

(16) Pursuant to Article 14(5) of the basic Regulation, imports of the product concerned should be made subject to registration in order to ensure that, should the investigation result in findings leading to the imposition of anti-dumping duties, those duties, can, if the necessary conditions are fulfilled, be levied retroactively in accordance with applicable legal provisions.

(17) Any future liability would emanate from the findings of the anti-dumping investigation. The allegations in the complaint requesting the initiation of an investigation exceed 150 % for dumping and 150 % for injury. If the investigation confirms these allegations, the measure would exceed EUR 60 per unit.

⁽¹⁾ Examples of this rapid deterioration can be found in the complaint requesting the initiation of an anti-dumping investigation. They include inter alia the halving of production, the multiplication by a factor of ca. 4 of financial losses and the drop of ca. 40 % in employment from 2008 to 2009.

F. PROCESSING OF PERSONAL DATA

- (18) Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 1225/2009, to take the appropriate steps to register the imports into the Union of wireless wide area networking (WWAN) modems with a radio

antenna and providing Internet Protocol (IP) data connectivity for computing devices and including Wi-Fi routers comprising a WWAN modem (WWAN/Wi-Fi routers) originating in the People's Republic of China, currently falling within CN codes ex 8471 80 00 and ex 8517 62 00 (TARIC codes 8471 80 00 10, 8517 62 00 11 and 8517 62 00 91). Registration shall expire nine months following the date of entry into force of this Regulation.

2. All interested parties are invited to make their views known in writing, to provide supporting evidence or to request to be heard within 20 days from the date of publication of this Regulation.

Article 2

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

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

Done at Brussels, 29 June 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.