

Notice of initiation of a partial interim review of the anti-dumping and countervailing measures applicable to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China

(2015/C 405/10)

The European Commission (the Commission) has decided on its own initiative to initiate a partial interim review investigation of the anti-dumping and countervailing measures applicable to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China pursuant to Article 11(3) of 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 anti-dumping Regulation') and Article 19 of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community ⁽²⁾ ('the basic anti-subsidy Regulation').

The partial interim review is limited to the examination of whether or not it is in the Union interest to maintain measures currently in force on cells of the type used in crystalline silicon photovoltaic modules or panels.

1. Product under review

The product subject to this review is crystalline silicon photovoltaic modules or panels and cells of the type used in crystalline silicon photovoltaic modules or panels (the cells have a thickness not exceeding 400 micrometres) ('the product under review'), currently falling within CN codes ex 8501 31 00, ex 8501 32 00, ex 8501 33 00, ex 8501 34 00, ex 8501 61 20, ex 8501 61 80, ex 8501 62 00, ex 8501 63 00, ex 8501 64 00 and ex 8541 40 90 and originating in or consigned from the People's Republic of China, unless they are in transit in the sense of Article V GATT.

The following product types are excluded from the definition of the product concerned:

- solar chargers that consist of less than six cells, are portable and supply electricity to devices or charge batteries,
- thin film photovoltaic products,
- crystalline silicon photovoltaic products that are permanently integrated into electrical goods, where the function of the electrical goods is other than power generation, and where these electrical goods consume the electricity generated by the integrated crystalline silicon photovoltaic cell(s),
- modules or panels with a output voltage not exceeding 50 V DC and a power output not exceeding 50 W solely for direct use as battery chargers in systems with the same voltage and power characteristics.

2. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EU) No 1238/2013 ⁽³⁾, and a definitive countervailing duty imposed by Council Regulation (EU) No 1239/2013 ⁽⁴⁾.

3. Grounds for the review

There is *prima facie* evidence that the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of a lasting nature.

Following a restructuring and consolidation of the Union industry in recent years, a significant number of cell producers have closed production. The bulk of the remaining cell production capacities in the Union appear to be largely destined for captive use for the production of modules or panels.

Consequently, the Union industry's cell sales to unrelated users are very limited in quantity, while non-integrated module producers depend on the availability of alternative supply sources, amongst others, the People's Republic of China, but also Taiwan and Malaysia.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 188, 18.7.2009, p. 93.

⁽³⁾ Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 1).

⁽⁴⁾ Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 66).

Therefore, it is prudent to examine whether the continued imposition of the measures on cells is still in the Union interest.

4. Procedure

Having determined, after informing the Member States, that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of the Union interest of the measures for cells, the Commission hereby initiates a review in accordance with Article 11(3) of the basic anti-dumping Regulation and Article 19 of the basic anti-subsidy Regulation. The investigation will examine whether or not it is in the Union interest to maintain measures currently in force on cells of the type used in crystalline silicon photovoltaic modules or panels.

The Government of the People's Republic of China has been invited for consultations.

4.1. Review investigation period

The investigation will cover the period from 1 October 2014 to 30 September 2015 ('the review investigation period').

4.2. Procedure for the determination of Union interest

In order to reach a decision, pursuant to Article 21 of the basic anti-dumping Regulation and Article 31 of the basic anti-subsidy Regulation, as to whether maintaining the anti-dumping and countervailing measures on cells would not be against the Union interest, Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under review.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 of the basic anti-dumping Regulation and Article 31 of the basic anti-subsidy Regulation will only be taken into account if supported by factual evidence at the time of submission.

4.2.1. Investigating unrelated importers

Unrelated importers of the product under review from the People's Republic of China to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this review and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic anti-dumping Regulation and Article 27 of the basic anti-subsidy Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company(ies) requested in the Annex to this Notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under review in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

4.2.2. Investigating Union producers

In order to establish whether it is in the Union interest to maintain measures currently in force on cells, Union producers of the product under review are invited to participate in the Commission investigation.

In view of the large number of Union producers involved in this review and in order to complete the investigation within the statutory time limits, the Commission has decided to limit to a reasonable number the Union producers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling is carried out in accordance with Article 17 of the basic anti-dumping Regulation and Article 27 of the basic anti-subsidy Regulation.

The Commission has provisionally selected a sample of Union producers. Details can be found in the file for inspection by interested parties. Interested parties are hereby invited to consult the file (for this they should contact the Commission using the contact details provided in section 4.7 below). Other Union producers, or representatives acting on their behalf, including Union producers who did not cooperate in the investigation leading to the measures in force, that consider that there are reasons why they should be included in the sample must contact the Commission within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*.

All interested parties wishing to submit any other relevant information regarding the selection of the sample must do so within 21 days of the publication of this Notice in the *Official Journal of the European Union*, unless otherwise specified.

All known Union producers and/or associations of Union producers will be notified by the Commission of the companies finally selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled Union producers and to any known associations of Union producers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

4.3. Other written submissions

Subject to the provisions of this Notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*.

4.6. 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. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

4.7. 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 (a) the Commission 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 'Limited' ⁽¹⁾.

Interested parties providing 'Limited' 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 'For inspection by interested parties'. These summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51), Article 29 of Council Regulation (EC) No 597/2009 (OJ L 188, 18.7.2009, p. 93), Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) and 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 (OJ L 145, 31.5.2001, p. 43).

Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, 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 email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email 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 by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: CHAR 04/039
1040 Bruxelles/Brussel
BELGIQUE/BELGIË
Email: TRADE-SOLAR-INJURY@ec.europa.eu

5. 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.

6. Hearing Officer

Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate 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. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments.

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/>

7. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 11(5) of the basic anti-dumping Regulation and Article 22(1) of the basic anti-subsidy Regulation within 15 months of the date of the publication of this Notice in the *Official Journal of the European Union*.

8. **Processing of personal data**

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⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX

- ☐ 'Limited' version ⁽¹⁾
☐ Version 'For inspection by interested parties'
 (tick the appropriate box)

ANTI-DUMPING AND ANTI-SUBSIDY PROCEEDING CONCERNING IMPORTS OF CRYSTALLINE SILICON PHOTOVOLTAIC MODULES AND KEY COMPONENTS (I.E. CELLS) ORIGINATING IN OR CONSIGNEE FROM THE PEOPLE'S REPUBLIC OF CHINA

INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 4.2.1 of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
Email address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

For the review investigation period as defined in section 4.1 of the notice of initiation, indicate the total turnover in euros (EUR) of the company, and the turnover and volume for imports into the Union ⁽²⁾ and resales on the Union market after importation from the People's Republic of China, during the review investigation period, of crystalline silicon photovoltaic modules and key components (i.e. cells) as defined in the notice of initiation and the corresponding volume.

Table I

Turnover, imports and resales of crystalline silicon photovoltaic modules

	Volume in kilowatt	Value in euros (EUR)
Total turnover of your company in euros (EUR)		
Imports of crystalline silicon photovoltaic modules into the Union		
Resales on the Union market after importation from the People's Republic of China of crystalline silicon photovoltaic modules		

⁽¹⁾ This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51), Article 29 of Council Regulation (EC) No 597/2009 (OJ L 188, 18.7.2009, p. 93), Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures.

⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Table II

Turnover, imports and resales of cells of the type used in crystalline silicon photovoltaic modules

	Volume in kilowatt	Value in euros (EUR)
Total turnover of your company in euros (EUR)		
Imports of cells of the type used in crystalline silicon photovoltaic modules into the Union		
Resales on the Union market after importation from the People's Republic of China of cells of the type used in crystalline silicon photovoltaic modules		

3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES ⁽¹⁾

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include but are not limited to purchasing the product under review or producing it under sub-contracting arrangements, or processing or trading the product under review.

Company name and location	Activities	Relationship

4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

⁽¹⁾ In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person 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 directly or indirectly control a third person; 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 (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.