

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

COMMISSION

Notice concerning anti-dumping measures on imports of ironing boards originating in the People's Republic of China and a partial reopening of the anti-dumping investigation concerning imports of ironing boards originating, inter alia, in the People's Republic of China

(2009/C 308/12)

By its judgment of 1 October 2009 in Case C-141/08 P, the Court of Justice of the European Communities (ECJ) set aside the judgment of the Court of First Instance of the European Communities (CFI) of 29 January 2008 in Case T-206/07 *Foshan Shunde Yongjian Housewares & Hardware v Council*. In doing so, it annulled Council Regulation (EC) No 452/2007 of 23 April 2007 imposing a definitive anti-dumping duty and collecting definitively the provisional duty on imports of ironing boards originating in the People's Republic of China and Ukraine ⁽¹⁾ (definitive anti-dumping Regulation or the contested Regulation), insofar as it concerns imports into the European Community of ironing boards manufactured by Foshan Shunde Yongjian Housewares and Hardware Co. Ltd (Foshan or the company concerned).

As a consequence of the judgment of 1 October 2009, imports into the European Community of ironing boards manufactured by Foshan Shunde Yongjian Housewares and Hardware Co. Ltd are no longer subject to the anti-dumping measures imposed by Regulation (EC) No 452/2007.

1. Information to customs authorities

Consequently, the definitive anti-dumping duties paid pursuant to Regulation (EC) No 452/2007 on imports into the European Union of ironing boards currently falling within CN codes ex 3924 90 90, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00 (TARIC codes 3924 90 90 10, 4421 90 98 10, 7323 93 90 10, 7323 99 91 10, 7323 99 99 10, 8516 79 70 10 and 8516 90 00 51) originating in the People's Republic of China, manufactured by the above mentioned company (TARIC additional code A785), and the provisional duties definitively collected in accordance with Article 2 of Regulation (EC) No 452/2007, should be repaid or remitted. The repayment or

remission must be requested from national customs authorities in accordance with applicable customs legislation.

Moreover, imports into the European Union of ironing boards manufactured by Foshan Shunde Yongjian Housewares and Hardware Co. Ltd are no longer subject to the anti-dumping measures imposed by Regulation (EC) No 452/2007.

2. Partial reopening of the anti-dumping investigation

The ECJ, through its judgment of 1 October 2009, set aside the judgment of the CFI of 29 January 2008 in Case T-206/07 insofar as the CFI found that Foshan's rights of defence were not adversely affected by the infringement of Article 20(5) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Communities ⁽²⁾ (the basic Regulation).

It is recognised by the Courts ⁽³⁾ that, in cases where a proceeding consists of several administrative steps, the annulment of one of those steps does not annul the complete proceeding. The anti-dumping proceeding is an example of such a multi-step proceeding. Consequently, the annulment of parts of the definitive anti-dumping Regulation does not imply the annulment of the entire procedure prior to the adoption of the Regulation in question. On the other hand, according to Article 266 of the Treaty on the Functioning of the European Union, the institutions of the European Union are obliged to comply with the judgment of 1 October 2009 of the Court of Justice. Accordingly, the Union's institutions, in so complying with the judgment, have the possibility to remedy the aspects of the contested Regulation which led to its annulment, while leaving unchanged the uncontested parts which are

⁽¹⁾ OJ L 109, 26.4.2007, p. 12.

⁽²⁾ OJ L 56, 6.3.1996, p. 1.

⁽³⁾ Case T-2/95 *Industrie des poudres sphériques (IPS) v Council* (1998) ECR II-3939.

not affected by the judgment ⁽¹⁾. It must be noted that all other findings made in the contested Regulation, which were not contested within the time limits for a challenge and thus were not considered by the Courts and did not lead to the annulment of the contested Regulation, remain valid.

The Commission has thus decided to reopen the anti-dumping investigation concerning imports of ironing boards originating, inter alia, in the People's Republic of China initiated pursuant to the basic Regulation. The reopening is limited in scope to the implementation of the above mentioned judgment as far as Foshan Shunde Yongjian Housewares and Hardware Co. Ltd is concerned.

3. Procedure

Having determined, after consulting the Advisory Committee, that a partial reopening of the anti-dumping investigation is justified, the Commission hereby partially reopens the anti-dumping investigation concerning imports of ironing boards originating, inter alia, in the People's Republic of China initiated pursuant to Article 5 of the basic Regulation by a notice published in the *Official Journal of the European Union* ⁽²⁾.

The reopening is limited in scope to the implementation of the above mentioned judgment as far as Foshan Shunde Yongjian Housewares and Hardware Co. Ltd is concerned.

All interested parties are hereby invited to make their views known, submit information and provide supporting evidence. This information and supporting evidence must reach the Commission within the time limit set in point 4(a).

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 4(b).

4. Time limits

(a) For parties to make themselves known and to submit information

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit any information within 20 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

⁽¹⁾ Case C-458/98 P *Industrie des poudres sphériques (IPS) v Council* (2000) ECR I-08147.

⁽²⁾ OJ C 29, 4.2.2006, p. 2.

(b) Hearings

All interested parties may also apply to be heard by the Commission within the same 20-day time limit.

5. Written submissions and correspondence

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this notice and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' ⁽³⁾ and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

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6. Non-cooperation

In cases in which 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 in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and use of facts available is made, the result may be less favorable to that party than if it had cooperated.

7. Processing of personal data

It is noted that 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 ⁽⁴⁾.

⁽³⁾ This means that the 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 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

⁽⁴⁾ OJ L 8, 12.1.2001, p.1.

8. Hearing Officer

It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of the Directorate-General for Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this proceeding, in particular with regard to issues concerning access to file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details interested parties may consult the Hearing Officer's web pages of the website of the Directorate-General for Trade (<http://ec.europa.eu/trade>).
