COMMISSION IMPLEMENTING REGULATION (EU) 2023/1033

of 25 May 2023

amending Implementing Regulation (EU) 2020/1080 imposing a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China and Implementing Regulation (EU) 2020/1081 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 14(1) thereof, and to 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 ([2]) and in particular to Article 24(1) thereof,

Having regard to Commission Implementing Regulation (EU) 2020/1080 of 22 July 2020 imposing a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council ([3])

Having regard to Commission Implementing Regulation (EU) 2020/1081 of 22 July 2020 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council ([4]),

Whereas:

1. MEASURES IN FORCE

1.1. Anti-dumping duty

(1) By Implementing Regulation (EU) No 470/2014 ([5]) ('the original anti-dumping regulation'), the Commission imposed a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China.

(2) By Implementing Regulation (EU) 2015/1394 ([6]), following an absorption reinvestigation pursuant to Article 12 of Council Regulation (EC) No 1225/2009 ([7]), the Commission amended the level of the anti-dumping duty imposed by the original anti-dumping regulation.

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) OJ L 176, 30.6.2016, p. 55.
([3]) OJ L 238, 23.7.2020, p. 1.
([4]) OJ L 238, 23.7.2020, p. 43.
([5]) Commission Implementing Regulation (EU) No 470/2014 of 13 May 2014 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of solar glass originating in the People's Republic of China (OJ L 142, 14.5.2014, p. 1).
([6]) Commission Implementing Regulation (EU) 2015/1394 of 13 August 2015 amending Regulation (EU) No 470/2014, as amended by Regulation (EU) 2015/588, imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of solar glass originating in the People's Republic of China following an absorption reinvestigation pursuant to Article 12 of Council Regulation (EC) No 1225/2009 (OJ L 215, 14.8.2015, p. 42).
([7]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

(3) By Implementing Regulation (EU) 2020/1080 ([8]), the Commission prolonged, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036, the definitive anti-dumping duty for another five years ('the measures in force'). The measures in force range between 17,5 % and 75,4 %.

1.2. **Countervailing duties**

(4) By Implementing Regulation (EU) No 471/2014 ([9]) ('the original anti-subsidy regulation'), the Commission imposed definitive countervailing duties on imports of solar glass originating in the People's Republic of China.

(5) By Implementing Regulation (EU) 2020/1081 ([10]), the Commission prolonged, following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037, the definitive countervailing duties for another five years ('the measures in force'). The measures in force range between 3,2 % and 17,1 %.

1.3. **Product subject to measures**

(6) The product subject to the antidumping and countervailing measures is defined as solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300–2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of Δ 150K (measured according to EN 12150) and having a mechanical strength of 90 N/mm2 or more (measured according to EN 1288- 3), currently falling under CN code ex 7007 19 80 (TARIC codes 7007 19 80 12, 7007 19 80 18, 7007 19 80 80 and 7007 19 80 85) and originating in the People's Republic of China (commonly referred to as 'solar glass').

(7) The product subject to measures is most commonly used as one of the components for making crystalline silicon photovoltaic modules and thin film photovoltaic modules to produce electricity ('PV modules'), and flat photothermal energy collectors used, for example, in generating hot water ('photothermal modules').

(8) However, the product subject to the measures is defined by reference to its physical and technical characteristics, and not by any specific use. Any exclusion by reason of the final use could lead to circumvention of the measures. Therefore, all glass having the physical and technical characteristics mentioned in recital (6) is covered by the measures, irrespective of its use. The fact that it covered glass used to other purposes, such as build greenhouses and for furniture, was clarified in the original anti-dumping and countervailing regulations ([11]).

2. **CLARIFICATION ON THE PRODUCT SUBJECT TO THE MEASURES**

(9) According to standard legislative practice confirmed by the case law of the European Court of Justice, recitals to Union law are means of interpretation. The interpretation of Union law seeks clarity in light of its objectively expressed purpose. It has to give effect to the aim and spirit of the legislation, taking into account its context and general objectives. Since the Commission has been informed that Member State authorities have had difficulties in interpreting the product scope of the original anti-dumping and anti-subsidy regulation, it hereby seeks further clarity in the matter.

([8]) Commission Implementing Regulation (EU) 2020/1080 of 22 July 2020 imposing a definitive anti-dumping duty on imports of solar glass originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 238, 23.7.2020, p. 1).

([9]) Commission Implementing Regulation (EU) No 471/2014 of 13 May 2014 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China (OJ L 142, 14.5.2014, p. 23).

([10]) Commission Implementing Regulation (EU) 2020/1081 of 22 July 2020 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 238, 23.7.2020, p. 43).

([11]) Section B.2 of the original anti-dumping regulation and Section B.3 of the original anti-subsidy regulation.

(10) Thus, in order to ensure uniform implementation of the measures in force, the Commission found it appropriate to amend the operative part of Implementing Regulation (EU) 2020/1080 and Implementing Regulation (EU) 2020/1081 to include explicitly a clarification of the product subject to the measures since their original adoption.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Implementing Regulation (EU) 2020/1080 is replaced by the following text:

'A definitive anti-dumping duty is imposed on imports of solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300–2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of Δ 150K (measured according to EN 12150) and having a mechanical strength of 90 N/mm2 or more (measured according to EN 1288- 3), currently falling under CN code ex 7007 19 80 (TARIC codes 7007 19 80 12, 7007 19 80 18, 7007 19 80 80 and 7007 19 80 85) and originating in the People's Republic of China. The solar glass subject to anti-dumping duty includes all glass fulfilling the abovementioned technical and physical characteristics, whether it is used for photovoltaic modules, flat photothermal energy collectors, furniture, to build greenhouses, or for other uses'.

Article 2

Article 1(1) of Implementing Regulation (EU) (EU) 2020/1081 is replaced by the following text:

'A definitive countervailing duty is imposed on imports of solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300–2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of Δ 150K (measured according to EN 12150) and having a mechanical strength of 90 N/mm2 or more (measured according to EN 1288- 3), currently falling under CN code ex 7007 19 80 (TARIC codes 7007 19 80 12, 7007 19 80 18, 7007 19 80 80 and 7007 19 80 85) and originating in the People's Republic of China. The solar glass subject to countervailing duty includes all glass fulfilling the abovementioned technical and physical characteristics, whether it is used for photovoltaic modules, flat photothermal energy collectors, furniture, to build greenhouses, or for other uses'.

Article 3

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

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

Done at Brussels, 25 May 2023.

For the Commission
The President
Ursula VON DER LEYEN