

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

EUROPEAN COMMISSION

**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 147/03)

The European Commission ('the Commission') has received a request for a partial interim review under 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<sup>(1)</sup> ('the basic anti-dumping Regulation') and Article 19(3) of Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community<sup>(2)</sup> ('the basic anti-subsidy Regulation').

**1. Request for review**

The request for review was lodged by EU ProSun ('the applicant'), an association of EU producers of crystalline silicon photovoltaic modules and key components. The request is limited in scope to the benchmark used as reference for the price adaptation mechanism set out in the undertaking in force referred to in Section 3 below.

**2. Product covered by the undertaking in force**

The product covered by the undertaking in force is crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China, unless they are in transit in the sense of Article V GATT, currently falling within CN codes ex 8541 40 90 (TARIC codes 8541 40 90 21, 8541 40 90 29, 8541 40 90 31 and 8541 40 90 39) ('product covered').

**3. Measures in force**

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

The Commission accepted an undertaking offered by the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('CCCME') and a group of exporting producers ('the parties concerned') in the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China on 2 August 2013 by way of Decision 2013/423/EU<sup>(5)</sup>.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 188, 18.7.2009, p. 93.

<sup>(3)</sup> 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).

<sup>(4)</sup> 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).

<sup>(5)</sup> Commission Decision 2013/423/EU of 2 August 2013 accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China (OJ L 209, 3.8.2013, p. 26).

On 4 December 2013, the Commission confirmed the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures, by Implementing Decision 2013/707/EU <sup>(1)</sup>.

The terms of the implementation of the undertaking referred to in Implementing Decision 2013/707/EU were then clarified in Implementing Decision 2014/657/EU <sup>(2)</sup>.

Under the price undertaking accepted by the Commission, the minimum import price of the product covered is adjusted quarterly by reference to international spot prices of crystalline silicon photovoltaic modules including Chinese prices as reported by the Bloomberg database ('the existing benchmark'). The undertaking states that spot prices excluding Chinese prices may be used as a benchmark, if made available by the Bloomberg database. The Bloomberg database contains a price series that excludes Chinese prices, for which historical data is available. Therefore, subject to the appropriate procedures, it would be technically possible to use spot prices excluding Chinese prices, as reported by the Bloomberg database, as a benchmark.

#### 4. Grounds for the review

The applicant provided the following sufficient evidence that the circumstances on which the existing benchmark was accepted have changed and that these changes are of a lasting nature:

- the number of companies from the People's Republic of China reporting data to be included in the existing benchmark has increased significantly since the acceptance of the undertaking, and in particular since the beginning of 2014;
- as a result, the weight of companies from the People's Republic of China in the existing benchmark has increased and has had a significant effect on the evolution of this benchmark;
- in addition, the prices reported by these companies have historically been lower than prices reported by other companies.

All these developments appear to be of a lasting nature and therefore substantiate the need to review the use of the existing benchmark.

The sufficient evidence submitted by the applicant suggests that the existing benchmark is no longer representative of the development of the prices for crystalline silicon photovoltaic modules. If the interim review confirms this, the existing benchmark would no longer be fulfilling its objective as set out in the Commissions Decisions accepting, confirming acceptance and clarifying the undertaking.

Therefore, the Commission will investigate whether the existing benchmark is still representative of the development of the crystalline silicon photovoltaic modules prices.

#### 5. Procedure

Having determined, after informing the Member States, that sufficient evidence exists to justify the initiation of an interim review limited to the benchmark used as reference for the price adaptation mechanism, the Commission hereby initiates a review in accordance with Article 11(3) of the basic anti-dumping Regulation and Article 19(2) of the basic anti-subsidy Regulation.

The Government of the People's Republic of China has been invited for pre-initiation consultations in accordance with the basic anti-subsidy Regulation.

The Commission will initiate consultations with the parties concerned in accordance with the undertaking's procedures, as this review concerns the implementation of their undertaking.

<sup>(1)</sup> Commission Implementing Decision 2013/707/EU of 4 December 2013 confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (OJ L 325, 5.12.2013, p. 214).

<sup>(2)</sup> Commission Implementing Decision 2014/657/EU of 10 September 2014 accepting a proposal by a group of exporting producers together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products for clarifications concerning the implementation of the undertaking referred to in Implementing Decision 2013/707/EU (OJ L 270, 11.9.2014, p. 6).

### 5.1. Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to Bloomberg. This information and supporting evidence should reach the Commission within 37 days of the questionnaire being sent, unless otherwise specified.

The Commission also invites anyone who reported prices of crystalline silicon photovoltaic modules regardless of origin to Bloomberg to come forward; to provide the Commission with their submissions to Bloomberg; and to make their views known in relation to the review. Unless otherwise specified, they should submit information and provide supporting evidence by contacting the Commission within 37 days of the publication of this Notice in the *Official Journal of the European Union*. The Commission may request additional information and/or verify the information received in the course of the investigation.

During the course of the investigation the Commission may also request information from other sources which appears necessary for the purposes of the review investigation.

### 5.2. 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*.

### 5.3. Possibility to be heard by the Commission's investigation services

All interested parties may request to be heard by the Commission's 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.

### 5.4. 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 copyright.

Before submitting information and/or data which is subject to third party copyright to the Commission, parties 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 right of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence for which confidential treatment is requested shall be labelled 'Limited' <sup>(1)</sup>.

Anyone providing 'Limited' information is required to furnish non-confidential summaries of it under 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 anyone providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

<sup>(1)</sup> A 'Limited' document is a document which is considered confidential under Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected under Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

All submissions and requests must be sent by e-mail including scanned powers of attorney and certification sheets, with the exception of large replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail.

Using e-mail implies 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](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf)

When submitting information you must indicate your name, address, telephone and a valid e-mail address and you must 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 you by e-mail only, unless you 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 registered mail.

For further rules and information concerning correspondence with the Commission including principles that apply to submissions by e-mail, you should consult the communication instructions referred to above.

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: CHAR 04/039  
1040 Bruxelles/Brussel  
BELGIQUE/BELGIË  
E-mail: [trade-ad-R615@ec.europa.eu](mailto:trade-ad-R615@ec.europa.eu)

## 6. Non-cooperation

If anyone refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, then findings, affirmative or negative, may be made on the basis of facts available.

## 7. 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's 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 offered.

Further information and contact details are given on the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>

## 8. Schedule of the investigation

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

## 9. 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 <sup>(1)</sup>.

---

---

<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.