

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice concerning the judgment of 11 July 2017 in case T-67/14 in relation to Council Implementing Regulation (EU) No 1106/2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India

(2017/C 334/03)

Judgment

In its judgment of 11 July 2017 in case T-67/14 *Viraj Profiles Limited v Council*, the General Court of the European Union ('the General Court') annulled Council Implementing Regulation (EU) No 1106/2013 of 5 November 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain stainless steel wires originating in India ⁽¹⁾, to the extent that it applies to the Indian exporting producer Viraj Profiles Limited (or 'the exporting producer concerned').

The General Court ruled that the rights of defence of the exporting producer concerned were breached by the institutions by not fulfilling their obligation to state reasons.

Consequences

In accordance with Article 266 TFEU, the Union's institutions must take the necessary steps to comply with the judgment. Therefore, the failure to state reasons should be re-examined in the light of the particular circumstances relating to this exporting producer.

In cases where proceedings consist of several administrative steps, the annulment of one of those steps does not annul the complete proceeding ⁽²⁾. The anti-dumping investigation is an example of such a multistep proceeding. The annulment of Implementing Regulation (EU) No 1106/2013, in so far as it concerns Viraj Profiles Limited, concerned one step of the administrative proceeding, namely the disclosure of information to the exporting producer concerned. Accordingly, in complying with the General Court's judgment of 11 July 2017, the Commission has the possibility to remedy the aspects of the proceeding which led to the annulment, while leaving unchanged those parts which are not affected by the judgment ⁽³⁾. Therefore, findings reached in the contested Regulation which were not contested within the time limits for a challenge or which were contested but rejected by the General Court's judgment or not examined by the General Court and therefore did not lead to the annulment of Implementing Regulation (EU) No 1106/2013, remain valid.

Reopening procedure

In view of the above, the Commission reopens the anti-dumping investigation concerning imports of certain stainless steel wires originating in India that led to the adoption of Implementing Regulation (EU) No 1106/2013 in so far as it concerns the exporting producer concerned and resumes it at the point at which the irregularity occurred.

The reopening is limited in scope to the implementation of the judgment of the General Court with regard to Viraj Profiles Limited.

Written submissions

The exporting producer concerned and the Union industry are 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 20 days of the date of publication of this Notice in the *Official Journal of the European Union*.

Possibility to be heard by the Commission investigation services

Interested parties may request to be heard by the Commission investigation services. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings pertaining to the reopening 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 these parties.

⁽¹⁾ OJ L 298, 8.11.2013, p. 1.

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

⁽³⁾ Case T-458/98 P *Industrie des poudres sphériques (IPS) v Council* [2000] ECR I-08147.

Instructions for making written submissions and sending correspondence

Information submitted to the Commission for the purpose of trade defence investigations should be free from copyright. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyright, 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 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 and correspondence 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 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 ⁽²⁾ ('the basic Regulation'), which will be labelled 'For inspection by interested parties'. These summaries should 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.

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 04/034
1049 Bruxelles/Brussel
BELGIQUE/BELGIË
Email: TRADE-SSW-DUMPING@ec.europa.eu

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 Regulation.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use 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 Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response will 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 of unreasonable additional cost. The interested party should immediately contact the Commission.

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 176, 30.6.2016, p. 21) 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 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).

⁽²⁾ OJ L 176, 30.6.2016, p. 21.

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 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 on issues pertaining, amongst other things, to the implementation of the judgment.

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/>

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⁾.

Information to customs authorities

The definitive anti-dumping duties paid pursuant to Implementing Regulation (EU) No 1106/2013 on imports into the European Union of certain stainless steel wires, currently falling within CN codes 7223 00 19 and 7223 00 99 and originating in India, produced by Viraj Profiles Limited (TARIC additional code B780), and the provisional duties definitively collected in accordance with Article 3 of Implementing Regulation (EU) No 1106/2013, should be repaid or remitted. The repayment or remission must be requested from national customs authorities in accordance with the applicable customs legislation.

Disclosure

The exporting producer concerned and the Union industry will be subsequently informed of the essential facts and considerations on the basis of which it is intended to implement the judgment and will be given an opportunity to comment.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.