

Commission Implementing Regulation (EU) 2020/2162 of 18 December 2020 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2015/2384 and Implementing Regulation (EU) 2017/271 on imports of certain aluminium foil originating in the People's Republic of China by imports of certain aluminium foil consigned from Thailand, whether declared as originating in Thailand or not, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2162

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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⁾ ('the basic Regulation'), and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. REQUEST

(1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on imports of certain aluminium foil originating in the People's Republic of China and to make imports of certain aluminium foil consigned from Thailand, whether declared as originating in Thailand or not, subject to registration.

(2) The request was lodged on 9 November 2020. The applicant has requested anonymity and duly substantiated it in the request. The Commission considers that there are sufficient grounds to grant the confidentiality of the applicant's identity.

B. PRODUCT

(3) The product concerned by the possible circumvention is aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm, not backed, not further worked than rolled, in rolls of a width not exceeding 650 mm and of a weight exceeding 10 kg, classified on the date of entry into force of Commission Implementing

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/2162. (See end of Document for details)

Regulation (EU) 2015/2384⁽²⁾ under CN code ex 7607 11 19 (TARIC code 7607 11 19 10), aluminium foil of a thickness of not less than 0,007 mm and less than 0,008 mm, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Commission Implementing Regulation (EU) 2017/271⁽³⁾ under CN code ex 7607 11 19 (TARIC code 7607 11 19 30), aluminium foil of a thickness of not less than 0,008 mm and not more than 0,018 mm and in rolls of a width exceeding 650 mm, whether or not annealed, classified on the date of entry into force of Implementing Regulation (EU) 2017/271 under CN code ex 7607 11 19 (TARIC code 7607 11 19 40), aluminium foil of a thickness of more than 0,018 mm and less than 0,021 mm, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Regulation (EU) 2017/271 under CN code ex 7607 11 19 (TARIC code 7607 11 19 50), and/or aluminium foil of a thickness of not less than 0,021 mm and not more than 0,045 mm, when presented with at least two layers, regardless of the width of the rolls, whether or not annealed, classified on the date of entry into force of Implementing Regulation (EU) 2017/271 under CN code ex 7607 11 90 (TARIC codes 7607 11 90 45 and 7607 11 90 80) and originating in the People's Republic of China ('the product concerned'). This is the product to which the measures that are currently in force apply.

- (4) The product under investigation is the same as that defined in the preceding recital, currently falling under CN codes ex 7607 11 19 (TARIC codes 7607 11 19 10, 7607 11 19 30, 7607 11 19 40, 7607 11 19 50) and ex 7607 11 90 (TARIC codes 7607 11 90 44, 7607 11 90 46, 7607 11 90 71, 7607 11 90 72), but consigned from Thailand, whether declared as originating in Thailand or not (TARIC additional code C601), ('the product under investigation').

C. **EXISTING MEASURES**

- (5) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2015/2384 and extended by Implementing Regulation (EU) 2017/271 as last amended by Implementing Regulation (EU) 2017/2213 ('the existing measures').

D. **GROUND S**

- (6) The request contains sufficient evidence that the existing anti-dumping measures on imports of the product concerned are being circumvented by imports of the product under investigation.
- (7) The evidence in the request shows the following.
- (8) A change in the pattern of trade involving exports from the People's Republic of China and Thailand to the Union has taken place following the imposition of measures on the product concerned.
- (9) This change appears to stem from the consignment of the product concerned via Thailand to the Union after having undergone assembly operations in Thailand. The evidence shows that such assembly operations constitute circumvention as these operations started or substantially increased since, or just prior to, the initiation of the

anti-dumping investigation. Moreover the parts from the People's Republic of China used during these assembly operations constitute above 60 % of the total value of the assembled product and while value added during the assembly operations is lower than 25 % of the manufacturing cost.

- (10) Furthermore, the evidence shows that because of the practices described above the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the EU market. In addition, there is sufficient evidence that imports of the product under investigation are made at injurious prices.
- (11) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.
- (12) Should circumvention practices covered by Article 13 of the basic Regulation, other than the ones mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

- (13) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.
- (14) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (15) The authorities of Thailand and the People's Republic of China will be notified of the initiation of the investigation.
- (a) **Collection of information and holding of hearings**
- (16) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.
- (b) **Requests for exemptions**
- (17) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.

- (18) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Thailand that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. Copies of the questionnaire for exporting producers in the People's Republic of China, the exemption claim form questionnaire for exporting producers in Thailand and questionnaires for importers in the EU are available in the file for inspection by interested parties and on DG Trade's website: https://trade.ec.europa.eu/tdi/case_details.cfm?id=2502. The questionnaires have to be submitted within the time-limit indicated in Article 3(2) of this Regulation.

F. **REGISTRATION**

- (19) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Implementing Regulation (EU) 2015/2384 and extended by Implementing Regulation (EU) 2017/271 as last amended by Implementing Regulation (EU) 2017/2213 can be levied from the date on which registration of such imports was imposed.

G. **TIME-LIMITS**

- (20) In the interest of sound administration, time-limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
 - producers in Thailand may request exemptions from registration of imports or measures,
 - interested parties may make a written request to be heard by the Commission.
- (21) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

H. **NON-COOPERATION**

- (22) If 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.
- (23) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

- (24) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the 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.

I. SCHEDULE OF THE INVESTIGATION

- (25) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

- (26) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council⁽⁴⁾.

- (27) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/>

K. HEARING OFFICER

- (28) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

- (29) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commissions services 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. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

- (30) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

- (31) 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/>