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CIRCULAR

From the Undersecretariat of Foreign Trade:

**CIRCULAR ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORTS
(2009/2)**

Application

ARTICLE 1 – (1) Within the framework of the rules of the Law, numbered 3577, related to Prevention of Unfair Competition in Imports published in the Official Gazette, numbered 20212 and dated 1/7/1989, amended by the Law numbered 4412 in the Official Gazette numbered 23766 and dated 25/7/1999; the Decision related to Prevention of Unfair Competition in Imports (Decision) numbered 99/13482 came into force after being published in the Official Gazette numbered 23861 and dated 30/10/1999 and Regulation related to Prevention of Unfair Competition in Imports (Regulation) numbered 99/13482 came into force after being published in the Official Gazette numbered 23861 and dated 30/10/1999; in the application submitted by AFS Bıçak ve Kalıp San. Dış. Tic. Ltd. Şti., it is stated that electrically driven household appliances such as cutter, chopper, granulator or mixer tips of food processors of origin People's Republic of China (PRC) and Hong Kong are imported to Turkey with dumping prices and this situation damages the domestic industry, it is requested that action should be taken against import of the products mentioned above of the origins mentioned above.

Product considered in the application

ARTICLE 2 – (1) The products considered in the application are “blades and cutting tips of the mechanical machines and equipment: The cutter, granulator or mixer tips pertaining to the machines and kitchen equipment used in the food industry: Others” item classified under number 8208.30.90.00.00 in the Customs Tariff.

(2) The products considered in the application are used in the manufacture of the electrically driven food processors of household appliances and the consumables of the products.

(3) The Customs Tariff number mentioned is given only for information and it is not binding.

Representative status of the application

ARTICLE 3 – (1) By means of the evidences submitted in the stage of application, it is understood that the complaining company represents the domestic production within the framework of Article 20 of the Regulation.

Dumping claim

ARTICLE 4 – (1) Due to the fact that People's Republic of China is a country in which market economy is not applicable, as per Article 7 of the Regulation, the value determined by adding a reasonable profit amount to the production cost of the products concerned in Turkey has

been taken as the normal value. Normal value is determined during the ex-factory stage.

(2) Since comparative domestic market sales prices that are paid or that should be paid in the consequence of normal course of trade for the equivalent products under consideration for production in Hong Kong could not be determined, normal value is determined by means of the normal value method formed on the basis of the data of the normal value of domestic production.

(3) Determined normal values have been calculated by converting the values specified in YTL into the foreign currencies used in the export operation considering the foreign currency rate at the date of export invoice.

(4) On the other hand, in determination of the export prices of the goods of origin of PRC and Hong Kong, the invoices related to the prices of the goods exported to Turkey will be used.

(5) By comparing the normal values and the export prices in the same trade operation stage, CIF prices have been converted to FOB by deducting the insurance and freight costs specified on the invoice. The calculated FOB values have been accepted as the prices at ex-factory stage in order to be in favor of the exporters.

(6) It is considered that dumping margins calculated by means of comparing the normal values and the prices for export to Turkey at the same trade stage, where possible, are important for PRC and Hong Kong.

Loss and causality claim

ARTICLE 5 – (1) The ratio of import from PRC and Hong Kong to the total import amount has revealed a significant increase in the period 2005-Jan-Oct 2008. In the same period, in spite of the growth in the market, it is found that the domestic market sales of domestic industry has decreased absolutely and relatively, the domestic industry could not get benefit of the growing market and in the consequence market share of the domestic industry decreased significantly, and this market share is totally filled by the products considered in the complaint, of origin of PRC and Hong Kong.

(2) Sales prices of the domestic production have stayed below the trade costs due to the price pressure formed by the import from the countries considered in the complaint. It is seen that the price pressures are at significant levels in the calculations.

(3) In spite of the real downfall in the industrial and commercial costs of the domestic production, in parallel to the import considered in the complaint with dumped prices which are much below their own prices, it is determined that there are deteriorations in the economic indicators such as domestic sales, market share, capacity usage rate.

(4) In the light of the evidences submitted during the application stage and the detections made by considering the official statistics related to import, it is evaluated that the import claimed to be dumped has caused negative consequences in the economic indicators of the domestic industry.

Decision and actions

ARTICLE 6 – (1) In the consequence of the examination carried out, since it is understood that the application contains sufficient information, documentation and evidences for the products concerned of origin of PRC and Hong Kong, within the framework of Article 20 of the Regulation, it is decided by the Evaluation Board of the Unfair Competition in Import that an investigation is to be conducted against dumping.

(2) Investigation shall be conducted by the Directorate General of Import of the Undersecretariat of Prime Ministry for Foreign Trade.

Selection of third country where market economy is applicable

ARTICLE 7 – (1) Within the rules of Article 7 of the Regulation, at this stage, for PRC, it is considered that Turkey shall be selected as the similar country where free market economy is applicable.

(2) However, on the condition that the manufacturer(s) to whom the investigation shall be conducted, prove within the periods specified in Article 9 of the Communiqué, with sufficient evidences, that market economy conditions are applicable within the criteria set forth in Additional Article 1 of the Regulation, in the production and sales of the product considered in the investigation, for this manufacturer or these manufacturers, Article 5 of the Regulation is applied in determination of the normal value.

Questionnaires and collection of information

ARTICLE 8 – (1) For the purpose of determination of the information necessary for the investigation, a notification related to the conduct of investigation shall be sent to the known manufacturers/exporters which are included in the scope of the investigation and to the known importers and domestic manufacturers of the item under consideration. The questionnaire is available in DTM (the Undersecretariat of Foreign Trade) website for the ones who could not receive the notification.

(2) In addition, in order to facilitate and quicken the notification of the manufacturers and exporters in the related country, official agency of PRC in Turkey shall make notification.

Durations

ARTICLE 9 – (1) Questionnaire shall be replied within 37 days from the date when the notification related to conduct of investigation is sent. On the other hand, the parties to whom the notification mentioned in Article 8 of the Communiqué is not sent are bound with the period of 37 days from the date of publication of this Communiqué.

(2) Except for the information asked in the questionnaire, in order for information, documentation and opinions to be included the selection of third country and counter damage defense, views to be considered in the investigation, such information, documentation and opinions (enterprises using the product as input, vocational institutes of them, consumer associations, unions of employers and employees in the production) must be delivered in written form to the Directorate General of Import of the DTM (Undersecretariat for Foreign Trade) within 37 days from the date of publication of this Communiqué.

(3) Other related parties (enterprises using the product as input, vocational institutes of them, consumer associations, unions of employers and employees in the production) who state that they will be affected by the result of the investigation must be submit their opinions in written form to the General Directorate of Import of the DTM (Undersecretariat for Foreign Trade) within 37 days from the date of publication of this Communiqué.

Failure to cooperate

ARTICLE 10 – (1) As specified in Article 26 of the Regulation, on the condition that the necessary information is not provided or incorrect information is given or refusal to provide information or if it is understood that the investigation is blocked, the decision shall be given in accordance with the existing data, whether positive or negative.

Taking provisional measure, implementation of retrospective taxes

ARTICLE 11 – (1) As per the related articles of the Law related to Prevention of Unfair Competition in Import, during the conduct of investigation, implementation of provisional measure may be decided and the provisional measure or definitive measure under consideration may be implemented retrospectively.

(2) The started procedure and exception are not available during the application of measures.

Competent authority and its address

ARTICLE 12 – (1) The information and documentation and the opinions with regards to the investigation shall be delivered to the competent authority specified below

The Undersecretariat of Prime Ministry for Foreign Trade
Directorate General of Import
Department of Research of Dumping and Subsidies
İnönü Bulvarı No:36, 06510 Emek/ANKARA
Tel: +90-312-204 77 31; 204 77 02
Fax: +90-312-212 87 65 or 212 87 11
E-mail: dsd0902@dtm.gov.tr

Commencement date of investigation

ARTICLE 13 – (1) The investigation is taken to commence at the date of publication of this Communiqué.

Effect

ARTICLE 14 – (1) This Communiqué comes into effect at the date of publication.

Implementation

ARTICLE 15 – (1) The rules of this Communiqué are executed by the Minister of the Undersecretariat of Prime Ministry for Foreign Trade.