

Unofficial English Translation

June 18, 2009 THURSDAY

Official Gazette

Number: 2726

COMMUNIQUÉFrom the Undersecretariat of Foreign Trade:**THE COMMUNIQUE ON THE PREVENTION OF UNFAIR COMPETITION IN IMPORT
(COMMUNIQUE No : 2009/17)****SECTION ONE
General Information and Procedures****Investigation**

ARTICLE 1 – (1) In the context of the applicable legislation, the dumping investigation initiated with the Communiqué No. 2009/2 regarding the Prevention of Unfair Competition in Import published in the Official Gazette dated 15/11/2009 and No. 27111 for “*cutting, chopping, grinding or mixing blades used in the electrical home appliances*” of People’s Republic of China (PRC) and Hong Kong origins, upon the application by AFS Bıçak ve Kalıp San. Dış. Tic. Ltd. Şti. on behalf of domestic producers was carried out and completed.

Scope

ARTICLE 2 – (2) The Communiqué herein includes the results of the dumping investigation carried out in the context of the Law No. 3577 regarding the Prevention of Unfair Competition in Import, amended by the Law No. 4412, the Decision dated 20/10/1999 and No. 99/13842 regarding the Prevention of Unfair Competition in Import and the Regulation regarding the Prevention of Unfair Competition in Import published in the Official Journal dated 30/10/1999 and No. 23681.

The Representation of the Domestic Production

ARTICLE 3 – (1) It was determined by the information, documents and findings obtained through the investigation process that the complainant Company applying for dumping investigation on behalf of the domestic producers has the capacity to represent domestic production in the context of Article 20 of the Regulation.

Collection and Evaluation of Information

ARTICLE 4 – (1) Following the initiation of the investigation, questionnaire forms were sent to Ankara Embassy of the PRC and the Hong Kong Special Administrative Region and to the Brussels Embassy of the said Administration upon request in order to ensure that they are forwarded to the domestic manufacturers, importers, manufacturers/exporters established in PRC and Hong Kong and other importers established in the said country and region of the product in the complaint. A period of 37 days including postal time was granted to the Parties to reply the questionnaire form. The requests of the Parties regarding time extension were determined as reasonable.

(2) The said domestic manufacturer representing domestic production has duly replied to the questionnaire form. Furthermore, the said Company had cooperated with the Undersecretary and supplied the additional information whenever requested during the investigation process.

(3) No reply was received for the “Manufacturer/Exporter questionnaire form” from the companies established in PRC, and the only reply was submitted by the company titled Frameway Seiko Co., Ltd headquartered in Hong Kong.

(4) It is considered that the companies which have not replied to the questionnaire form timely were uncooperative.

(5) The final notifications were submitted to the relevant parties for their consideration, however, no comment or objection was received.

On-site Investigations

ARTICLE 5 – (1) In the context of Article 21 of the Regulation, an on-site verification investigation was carried out at the production facility and headquarters established in Istanbul, of AFS Bıçak ve Kalıp San. Dış. Tic Ltd Şti representing domestic production.

(2) On-site investigation for the information and documents submitted by Frameway Seiko Co., Ltd., which was the only manufacturer-exporter company replying to the questionnaire form, was not conducted.

Informing and Hearing of the Relevant Parties

ARTICLE 6 - (1) Following the initiation of the investigation, the non-confidential abstracts of the application and the Communiqué initiating the investigation related to the complaint were submitted to the Ankara Embassy of PRC, Hong Kong Special Administrative Region and the manufacturer/exporter companies known to the Undersecretariat.

(2) Throughout the investigation, it was made possible for all parties to present their remarks related to the investigation and the documents and information related thereof.

(3) The objective claims and documents put forth by the Parties during the investigation were assessed, and these issues were mentioned within the Communiqué when appropriate.

Investigation Period

ARTICLE 7 – (1) The investigation period was determined as between the dates 1/1/2008 and 31/12/2008 for determination of dumping. However, for the determination of injury, the period between 1/1/2005 and 31/12/2008 was taken as basis for data collection and analysis.

SECTION TWO

The Product and Similar Product in the Investigation

Product and Similar Product in the Investigation

ARTICLE 8 – (1) The product under investigation, “Blades specific for mechanical machinery and devices, and cutting blades with Customs Tariff Number 8208.30.90.00.00: The ones specific for the machinery used in food industry or kitchen appliances: Others” with Customs Tariff Number 8509.40, are the cutting, grinding, chopping or blending / mixing blades used in the food grinders and mixers / blenders for use in kitchen.

(2) No comment, objection or information related to the scope and tariff position of the product under investigation was classified has been received by our Undersecretariat.

(3) The product concerned is used generally in the manufacturing of kitchen machines of small electrical home appliances and as consumables of the said commodity.

(4) During the investigations, it was determined that the product under investigation of PRC origin and the product manufactured by domestic producers had similar physical characteristics, used the same distribution channels and for the same market.

(5) In this context, it was considered that the product of PRC-origin under investigation and the product manufactured by domestic producers could be acceptable as similar product.

(6) The description of the product under investigation was general in nature, and the Customs Tariff Number as the basis for implementation and the definition of the product. Notwithstanding this, the amendments to be made in the tariff positions and/or definitions of the commodity in the product under investigation within the Turkish Customs Tariff Schedule shall not prejudice the application of the provisions of the Communiqué herein.

SECTION THREE

Specifications regarding Dumping

PART ONE

Import of Hong Kong Origin

ARTICLE 9 - (1) It is clearly determined from the information and documents submitted by Frameway Seiko Co., Ltd, the only manufacturer-exporter company replying to the questionnaire form, that its manufacturing facilities are operated in PRC.

(2) It is also determined by the information, documents and findings obtained through the investigation process that the product under investigation, stated as bearing Hong Kong-origin, were actually of PRC-origin.

(3) The product was correctly declared as of PRC-origin while being transferred out of Hong Kong and it was determined that the import of Hong Kong-origin was actually at negligible level. In this context, it was concluded that the investigation for the import of the product of Hong Kong-origin should be closed without taking any measure.

PART TWO

Normal Value for the Manufacturer-Exporter Companies Operating in Countries Applying for Market Economy

Assessing the Market Conditions

ARTICLE 10 – (1) As specified in the Communiqué initiating the investigation, PRC was considered as a non-market economy country.

(2) Since no comment could be taken during the investigation indicating that market conditions were applicable in the relevant production in PRC, the normal value for the manufacturer-exporter companies established in PRC was determined according to the provisions of Article 7 of the Regulation.

Establishing the Normal Value

ARTICLE 11 – (1) The established normal value was calculated by adding a reasonable profit rate onto the sales, general and administrative expenses (SGA expenses) along with the production cost in Turkey which was taken as the model country as specified in the Communiqué initiating the investigation.

Setting the Export Price

ARTICLE 12 - (1) The export price for Frameway Seiko Co Ltd Company was determined on the basis of the price actually paid by independent buyers at sales to Turkey, as specified in the documents presented by the said Company in the investigation.

Price Comparison

ARTICLE 13 – (1) Pursuant to the provision of Article 10 of the Regulation, in order to ensure an equitable comparison, the normal value and export price at ex-works stage were taken and thus they were compared at the same stage of commercial transaction.

(2) In order to bring the normal value and the export price to that as at the same stage of transaction for Frameway Seiko Co., Ltd, headquartered in Hong Kong exporting the product of PRC-origin under investigation to Turkey, and thus to perform an equitable comparison, adjustments were made for the factors documented, applicable and deemed suitable such as handling, packaging, insurance, payment conditions, discount, reimbursement, banking costs etc affecting the price comparison and claimed by the company in relation with the procedures of exportation.

PART THREE

Dumping Margins

General

ARTICLE 14 – (1) In the context of the provision of Article 11 of the Regulation, the dumping margins were calculated by comparing the weighed averages of the normal value and export prices.

(2) In this regard, the dumping margin for Frameway Seiko Co., Ltd was calculated as US\$20.93 per kg, and for other manufacturers established in PRC as US\$20.85 per kg.

SECTION FOUR
Specifications regarding Loss and Causality

PART ONE
Development of Dumping Import

General

ARTICLE 15 - (1) In the context of Article 17, it was examined whether a substantial change occurred in the absolute volume of the import of origin of the country under investigation or in proportion to the consumption of Turkey, and the impact of such import over the similar commodity prices in the domestic market. The period between 1/1/2005 and 31/12/2008 was taken as basis for data collection and analysis.

(2) Since the import of Hong-Kong origin was at negligible level, import of PRC-origin was used instead in the “dumping import” for specifications regarding loss and causality.

General Import of the Product

ARTICLE 16 - (1) When the trend of import of the product under investigation was examined by considering the year 2005 as basis, the import in 2006 increased 184% on quantity basis and 109% on value basis, and amounted to a total of 17.830 kg at US\$337.166; in 2007, it increased 447% on quantity basis and 240% on value basis and amounted to a total of 34.344 kg at US\$546.575.

(2) However, import during the investigation period -according to the basis year- increased at 507% on quantity basis and 425% on value basis, and amounted to a total of 38.128 kg at US\$845.521.

(3) When the average unit prices of the general import were examined, they showed a stable trend in 2005 (US\$25.6 per kg), and import increased in 2006 with a decline in the unit prices (US\$18.9 per kg) and in 2007, the decline persisted (US\$15.9 per kg). However, in the investigation period (US\$22.2 per kg), after the applications for investigation of the import of the product, the average import unit price indicated an increasing trend.

Import of the Product from PRC

ARTICLE 17 – (1) When the trend of import of the product for the period 2005-2008 was monitored, there was no import from the said countries in 2005, yet in 2006, there was a significant increase both in terms of quantity and value. Imports of PRC-origin has the following share : in 2006, 64% on quantity basis and 47% on value basis with a total of 11.449 kg at US\$158.701; in 2007, 88% on quantity basis and 76,3% on value basis with a total of 30.265 kg at US\$416.759; in the investigation period, 94% on quantity basis and 89% on value basis with a total of 35.791 kg at US\$754.924.

(2) It is seen that the average unit price of import of PRC-origin is substantially lower than the import from other major supplier countries. While the average import price for PRC was US\$13.9 per kg in 2006 and 2007, it increased to US\$21.1 per kg, after the applications for investigation.

Import of the Product from Third Countries

ARTICLE 18 – (1) The import of the product from the third countries decreased at a rate of 63% on quantity basis and 44% on value basis between 2005 and the investigation period. In the same period, the share of the third countries in the total import decreased from 100% to 6% on quantity basis and from 100% to 11% on value basis.

(2) When the average unit prices of the product from the third countries are examined, there is significant constant increase. In 2005, the average import unit price was US\$25.6 per kg, in 2006, it leaped to US\$28 per kg, in 2007, US\$31.8 per kg and in the investigation period, it increased to US\$38.8 per kg.

Increase of Dumped Import based on Consumption

ARTICLE 19 – (1) While calculating total consumption of similar product in Turkey and the market shares, the data of AFS Bıçak ve Kalıp San. Dış. Tic. Ltd. Şti, as the sole domestic manufacturer were taken as basis.

(2) The domestic consumption was 100 in 2005, and became 235 in 2006, 216 in 2007 and 217 in the investigation period.

(3) In 2005, investigation period, the domestic market of the product was growing and the domestic market share of the product of PRC-origin with low price expanded. The market share of the product of PRC-origin with low price was 100 as an index in 2006 and became 264 in 2007 and 313 in the investigation period respectively.

(4) However, the market share of the domestic production was 100 in 2005, and became 217 in 2006, dropped to the year 2005 level in 2007 and decreased to 79 in the investigation period. On the other hand, the market share of import from other countries was 100 as an index in 2005, and increased to 102 in 2006, then decreased to 65 in 2007, and then 37 in the investigation period.

PART TWO

Impact of Dumped Import on the Sales Prices of Domestic Production

General

ARTICLE 20 - (1) Since the domestic production prices were below the production costs due to the pressure arising from the dumped import, the impact of the dumped import on the sales prices of the domestic production was assessed in terms of the price pressure and price undercutting. At the same time, this was taken as an indicator clarifying the possible course of the demand for dumped import during the investigation period.

Price Pressure and Price Undercutting

ARTICLE 21- (1) Price pressure shows that the sales prices of the domestic production in the Turkish market are below the prices of dumped import in terms of percentage.

(2) In the price pressure analysis, the prices of the product of the country under investigation, determined by adding the customs tax and expenses to the weighed average CIF import price in the investigation period, was compared with the necessary sales price determined by adding a reasonable rate of profit margin to the production cost of the domestic production. It was determined that the price of dumped import put considerable pressure on the price of domestic production.

(3) Price undercutting shows that the domestic sales prices of the domestic manufacturer in the Turkish market are below the prices of the import product in terms of percentage.

(4) While calculating the price undercutting, the import cost of the product under investigation was used by adding customs tax and other import expenses onto the CIF import prices, and domestic sales prices were compared. In the analysis made, a considerable level of price undercutting was identified.

PART THREE

Status of the Domestic Production and Loss Analysis

Economic Indicators of the Domestic Production

ARTICLE 22 – (1) While specifying the impact of dumped import on domestic production, the data of AFS Bıçak ve Kalıp San. Dış. Tic. Ltd. Şti between 2005 and the investigation period were taken as basis.

(2) On the other hand, while performing the assessments, the data related to the product under investigation were used to the extent possible.

(3) In order to examine the trend reasonably, an annual average Manufacturer Price Index was used for the data in Turkish Lira currency and thus inflation effect was neutralized.

a) Production and capacity utilization rate (CUR): (1) The index of domestic production which was 100 for the relevant unit in 2005, increased to 193 in 2006, decreased to 118 in 2007 and dropped further to 91 in the investigation period below the base year.

(2) The capacity utilization rate of domestic production was 13.7% in 2005, 26.4% in 2006, 16,1% in 2007 and 12.4% in the investigation period.

b) Domestic sales: (1) The sales index of domestic production which was 100 for the relevant unit in 2005, increased to 217 in 2006, yet became 100 again in 2007, the drop continued and became 79 in the investigation period.

c) Domestic prices: (1) The weighed average unit sales price of the domestic production of the product was 100 in 2005, it decreased to 89 in 2006, 81 in 2007 and became 88 in the investigation period.

d) Costs: (1) The average unit commercial index of the domestic production of the product was 100 in 2005, it became 102 in 2006, 106 in 2007 and increased to 125 in the investigation period.

e) Import: (1) The export quantity index of domestic production which was 100 in 2005, increased to 120 in 2006, and 197 in 2007. However, in the investigation period, it declined and decreased to 146.

This status showed that the dumped import increased rapidly in 2007 and that domestic production had competition in the export markets.

f) Profitability: (1) While the domestic sales profit of domestic production was 100 as an index in 2005 for the relevant product, it dropped to 9 in 2006, and to level of -85 in 2007 with absolute loss and as -123 in the investigation period.

d) Market share: (1) The market share of the domestic manufacturers for the relevant product has shown a constant decline since the base year. While the domestic market index was 100 in 2005, it became 93 in 2006, 46 in 2007 and then decreased to 37 in the investigation period.

e) Inventory: (1) While the inventory level of domestic production was 100 in 2005, it increased to 159 in 2006, 140 in 2007, then at the end of the investigation period, the domestic production depleted its inventory.

g) Employment: (1) The number of the employees of domestic production increased from 100 to 175 as an index between 2005 and 2006, then decreased considerably to 83 in 2007, and became 92 in the investigation period.

h) Wages: (1) The monthly gross wage index of the workers of the domestic production employed in the production of the commodity was fluctuating between 2005 and the investigation period and was 87 in 2006, 102 in 2007 and became 85 in the investigation period.

i) Efficiency: (1) The index for the efficiency per worker employed in domestic production for the relevant product increased from 100 to 110 in 2006, 141 in 2007 and decreased to 99 in the investigation period.

l) Investments: (1) While the index of expansion of investment of domestic production was increased to 108 in 2006, it decreased to 58 in 2007. It was seen that domestic production had not made any expansion in investment in the investigation period.

m) Cash flow: (1) The real cash flow (profit + depreciation) of domestic production had shown a constant worsening trend in the investigation period. While the index was 100 in 2005, it became 99 in 2006, 47 in 2007 and then decreased to -7 in the investigation period.

n) Growth: (1) The active index related to all activities of domestic production was 100 in 2005, and it increased to 116 in 2006, dropped to 88 in 2007 and decreased further to level of 73 in the investigation period.

Assessing the Economic Indicators of the Domestic Production

ARTICLE 23 – (1) The examination on the economic indicators of domestic production between 2007 and the investigation period showed that the dumped import from PRC increased substantially and that all economic indicators, mainly CUR, domestic sales, domestic unit prices, profitability in domestic sales, cost had negative figures.

(2) However, the decline in the inventory of domestic production had arisen from the development in export performance and limited production.

(3) The economic indicators of domestic production indicated clearly that domestic production, which has the capacity to cover all domestic demand, could not compete with the dumped import of PRC-origin which increased.

PART FOUR

The Causal Link between Dumped Import and Loss

Impact of Dumped Import

ARTICLE 24 - (1) Pursuant to Article 17 of the Regulation, the quantity of the dumped import of the product, the impact of the prices on domestic production as well as the other factors that may lead to loss were examined.

(2) There had been serious degradation in the economic indicators of local production, particularly between 2007 and the investigation period where the dumped import had increased rapidly.

(3) The share of dumped import of PRC-origin as a share of the total import between 2005 and the investigation period increased substantially and unfavorably for domestic production and the third countries. In the same period, despite of the growing demand in the market, it was found that the market sales of the domestic production decreased both absolutely and relatively, and that the domestic industry could not benefit from the growing market and as a result, the market share of the domestic production dropped substantially. This market share was gained by the product of PRC-origin under investigation completely.

(4) The sales prices of domestic production had been below the commercial costs due to the price pressure arising from the dumped import. It was noted that the price pressure was at substantial rates.

(5) In parallel to the increasing import of the product under investigation with dumping prices which were below the prices of domestic production, it was found that nearly all economic indicators of domestic production such as production, domestic sales, market share and capacity utilization rate had degradations.

(6) In the light of the determinations made based upon information, documents and findings obtained during the investigation period and the official statistics related to the import, it was considered that the dumped import of the product under investigation led to negative economic indicators of domestic production.

(7) Due to price undercutting and price pressure on domestic production by the dumped import, and concurrent emergence of the negative developments seen in the domestic production, it was concluded that there was a causal link between the loss incurred by the domestic production and the dumped import.

Import from Third Countries

ARTICLE 25 – (1) When the average unit prices of import of the product under investigation were examined; it was seen that the average general unit price of import of the product decreased from US\$25.6 per kg in 2005 to US\$22.2 per kg due to the effect of the dumped import with low unit price. Average import price of the third countries other than PRC had increased from US\$25.6 per kg to US\$38.8 per kg for the same periods.

(2) For the import made of third countries, while the prices had shown an increase of 51% between 2005 and the investigation period, they decreased 63% in terms of quantity. In this regard, the share of the third countries in the import for the investigation period decreased 94% on quantity basis and 89% on value basis. This change in import of third countries-origin demonstrated that the dumped import also negatively affected the market share of these countries.

(3) It was seen that the average unit prices which were above the import prices of the dumped product, the decreasing market shares as well as the import of third countries-origin had no injurious impact on the domestic production.

Impact of Other Factors

ARTICLE 26 - (1) Pursuant to Article 17 of the Regulation, the trend of dumped import of the product, the impact of the said import prices on the domestic production as well as the other possible factors that may lead to loss were examined.

(2) The increases in prices in the raw material and energy not only affected Turkish market but also the global markets. Furthermore, there is no barrier in the access by the domestic producer to the raw materials for the product under investigation. Thus, it is possible for the domestic manufacturers and the manufacturers of the countries under investigation to procure raw materials with same price level, except some differences (such as freight etc).

PART FIVE

Issues put forth by the Relevant Parties

Issues put forth by the Importer Companies

ARTICLE 27 – (1) It was stated by one importer company that the graters and the mixing blades should be excluded from the scope of investigation.

(2) As specified in the section titled “The product under investigation and similar product” of the Communiqué herein, the commodity under investigation is limited to the cutting, grinding or chopping blades given under “Blades specific for mechanical machinery and devices: the ones specific to the machinery or kitchen appliances used in food industry”, classified with Customs Tariff Number 8208.30.90.00.00 and used in the kitchen machines among the electrical home appliances.

(3) In this regard, the “graters” with a nature of kitchen appliance used in order to cut food in thin slice or to powder and not used in the said electrical kitchen appliance, and the “blades” that can be used for cutting various things with its sharp edge or to destruct something not used within the said electrical kitchen appliance are not within the scope of the Communiqué herein.

PART SIX Conclusion

Decision

ARTICLE 28 – (1) It was determined that the product under investigation stated as having Hong Kong-origin during import, were actually of PRC-origin, and that it was stated as PRC-origin while being transferred out of Hong Kong and that import of Hong Kong-origin was at negligible level. Given the foregoing facts, by the decision of the Evaluation Committee for Unfair Competition in Import and approval of the Minister, the investigation regarding *the import of the product of Hong Kong-origin was closed without any measure.*

(2) As a result of the investigation *regarding import of the product of PRC-origin*, by the Decision of the Evaluation Committee for Unfair Competition in Import and approval of the Minister, it was determined that there was a causal link between the dumping and domestic production and *a definitive measure was enacted against dumping in the import of the product* of which the definition and origin given in the following, within the context of the release for free circulation to Turkey on country basis at quantity specified in the table.

Customs Tariff Number	Product	Country of Origin	Anti-dumping Duty (US\$ per kg)
8208.30.90.00.00	Solely for food grinders and for the cutting, chopping, grinding and mixing blades used in the mixers with Customs Tariff Number 8509.40	People's Republic of China	20.85

Application

ARTICLE 29 – (1) The Customs Administrations shall collect the duty against dumping at an amount indicated in the import of the commodity of which the customs tariff number, definition, origin country are specified in the article titled “Decision”.

Effective Date

ARTICLE 30 – (1) The Communiqué herein shall be effective on the date of its publication.

Enforcement

ARTICLE 31 – (1) The provisions of the Communiqué herein are enforced by the Minister to whom the Undersecretariat of Foreign Trade is affiliated.