
Recent Trade Remedy Investigation in Turkey – Cooperating Parties' Victory

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On 9 March 2019, the Turkish Ministry of Trade ("**Ministry**") announced its final decision regarding the anti-circumvention investigation that had been initiated concerning imports of certain articulated link chain and parts thereof¹. This case is of significance as it confirms explicitly once more that the exporting companies may enjoy a competitive advantage owing to the proper cooperation with the Ministry.

Article 26 of the Regulation on the Prevention of Unfair Competition in Imports ("**Regulation**") sets out the general rule as regards the non-cooperation in trade remedy investigations and, more particularly, on the conduct of the Ministry's analysis in case of non-cooperation. Accordingly, since the Ministry will not be provided with the information necessary to properly carry out its evaluations in case of non-cooperation, it will anyway continue its investigation and use the facts available (basically those provided by complainants, if any, and those publicly available) as the basis of its determinations.

In this regard, it should further be emphasized that the cooperation does not only cover responding to the questionnaire but also entails a process of complying with the Ministry's instructions and implementing of an accurately designed strategy which focuses on the quality rather than the quantity of data. Indeed, even if an interested party submits its data, it may still face difficulties during the procedure and miss the opportunity to benefit from an individual treatment, which is more advantageous in most cases and increases the cooperating companies' competitiveness due to a potential lower duty imposed at the end of the investigation. Non-cooperation may result from, among others, missing the deadlines, refusing access, impeding the investigation, submitting inaccurate or misleading information and cooperating partially.

This recent decision simply reveals the fact that a proper cooperation in an anti-circumvention investigation may come with all advantages and an exporting company may be placed in a better position. Indeed, cooperating companies may stand out in the competition thanks to their new position in the market (likely to last longer than the duration of the measure due to the Ministry's power to review the original anti-dumping measures).

In the concerned case, the Ministry examined (i) Turkey's import trends (on both a quantity and value basis), (ii) the subject countries' import trends from China, Taiwan, South Korea, and Malaysia, (iii) the installed production capacities and the actual production of the cooperating companies, and (iv) the data submitted by the cooperating companies and verified by the Ministry. Accordingly, the Ministry has resolved, on the basis of the data gathered within the scope of the

investigation, to impose the following anti-circumvention measure on imports of certain articulated link chains (and parts thereof) originating in/consigned from India (except *Tube Investments of India Limited* and *Galaxy Chains Pvt. Ltd.*), Sri Lanka, Thailand (except *Tien Yuen Machinery Mfg., (Thailand) Co., Ltd.*), and Spain at the same level as the measure taken for imports from Chinese which has been circumvented²:

CN Code	Product	Country of Origin / Consignment	Company	Anti-dumping Measure (USD/Ton)
7315.11.90.00.11 7315.11.90.00.19 7315.12.00.00.11 7315.12.00.00.19 7315.19.00.00.00	Certain chains and parts	India	Galaxy Chains Pvt. Ltd.	0
			Tube Investments of India Limited	0
			Others	1,200
		Thailand	Tien Yuen Machinery Mfg., (Thailand) Co., Ltd.	0
			Others	1,200
		Sri Lanka	All companies	1,200
		Spain	All companies	1,200

Consequently, this case underlines the importance of cooperation with investigating authorities in trade remedy investigations through the preparation and due submission of all documents such as to help investigating authorities in conducting their analyses and making determinations in line with the facts of the case and in a genuine way. Therefore, a well structured management of the cooperation process mostly ensures more favourable results for exporters/foreign producers.

Footnotes

1. The Initiation Notice (*i.e.* Communiqué no 2018/9 on the Prevention of Unfair Competition in Imports) had been published on 09.03.2018 in the Official Gazette no 30355. This investigation concerns the products classified under the CN codes 7315.11.90.00.11, 7315.11.90.00.19, 7315.12.00.00.11, 7315.12.00.00.19 and 7315.19.00.00.00, and originating in/consigned from India, Sri Lanka, Thailand, and Spain.

2. Communiqué no 2016/19 on the Prevention of Unfair Competition in Imports. It should be emphasized that the concerned communiqué is the Ministry's decision in an expiry review investigation and the original investigation against imports of the subject product from China was completed in 2010. This measure has then been circumvented by some of the exporters located in South Korea, Malaysia and Taiwan, which led the Ministry to impose an anti-dumping duty concerning those imports as a result of its anti-circumvention investigation. See Communiqué no 2013/11 on the Prevention of Unfair Competition in Imports.