



2023/2602

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COMMISSION IMPLEMENTING REGULATION (EU) 2023/2602

of 22 November 2023

accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of certain iron or steel fasteners originating in the People's Republic of China and amending Implementing Regulation (EU) 2022/191

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 the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'),

Having regard to Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China ⁽²⁾ ('the original Regulation'), and, in particular, Article 2 thereof,

Whereas,

1. MEASURES IN FORCE

- (1) On 16 February 2022, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of certain iron or steel fasteners ('the product concerned') originating in the People's Republic of China ('the PRC') by the original Regulation.
- (2) In the investigation that led to the original Regulation ('the original investigation'), sampling was applied for investigating the exporting producers in the PRC in accordance with Article 17 of the basic Regulation.
- (3) The Commission imposed individual anti-dumping duty rates ranging from 22,1 % to 48,8 % on imports of the product concerned for the sampled exporting producers from the PRC. For the cooperating exporting producers that were not included in the sample, a duty rate of 39,6 % was imposed. The cooperating exporting producers not included in the sample are listed in the Annex to the original Regulation. Furthermore, a country-wide duty rate of 86,5 % was imposed on the product concerned produced by companies in the PRC which either did not make themselves known or did not cooperate with the investigation.
- (4) Pursuant to Article 2 of the original Regulation, Article 1(2) of that Regulation may be amended by granting a new exporting producer the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample, namely the duty rate of 39,6 %, where that new exporting producer in the PRC provides sufficient evidence to the Commission that:
 - (a) it did not export to the Union the product concerned during the period of investigation on which the measures are based, that is from 1 July 2019 to 30 June 2020 ('the original investigation period') ('Condition 1');
 - (b) it is not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures imposed by the original Regulation ('Condition 2'); and
 - (c) it has either actually exported to the Union the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation ('Condition 3').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 36, 17.2.2022, p. 1.

2. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (5) On 10 October 2022, the company Ningbo Zhongli Bolts Manufacturing Co., Ltd. ('Zhongli' or 'the applicant') submitted a request to the Commission to be granted new exporting producer treatment ('NEPT') and hence be subject to the duty rate applicable to the cooperating companies in the PRC, not included in the sample, claiming that it met all three conditions set out in Article 2 of the original Regulation ('the request').
- (6) In order to determine whether the applicant fulfilled the conditions for being granted NEPT, as set out in Article 2 of the original Regulation ('the NEPT conditions'), the Commission first sent a questionnaire to the applicant requesting evidence showing that it met the NEPT conditions. In parallel, the Commission informed the Union industry about the applicant's request and invited it to provide comments. The Union industry, represented by the European Industrial Fasteners Institute ('EIFI'), submitted comments with regard to the applicant's compliance with the NEPT conditions. The applicant contested the allegations of EIFI in a subsequent submission.
- (7) Following the analysis of the questionnaire reply and comments submitted by the parties, the Commission requested further information and supporting evidence from the applicant by means of a deficiency letter sent on 14 March 2023. The applicant replied to the deficiency letter on 31 March 2023.
- (8) In parallel with analysing the evidence submitted by the applicant and EIFI, the Commission consulted the online database Orbis ⁽³⁾, Qichacha ⁽⁴⁾, Aliyun ⁽⁵⁾ and the PRC's National Enterprise Credit Information Publicity System ⁽⁶⁾ for company information, cross-checking all the available information with publicly available information on the internet.
- (9) Finally, the Commission held a remote cross-check ('RCC') with the applicant. The Commission sought to verify all information it deemed necessary for the purpose of determining whether the applicant met the NEPT conditions.

3. ANALYSIS OF THE REQUEST

- (10) With regard to the preliminary issues raised by EIFI, the Commission established that the applicant is not a trader and that the applicant provided appropriate authorisation for the person signing the applicant's request.
- (11) As a preliminary issue, EIFI claimed that the applicant could be a trader because: (i) the description on their website ⁽⁷⁾ indicates that it connects global buyers and Chinese producers, and (ii) they are a member of China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('CCCME'), a trade association that represented exporting producers in the original investigation. Furthermore, EIFI noted that the signing person of the NEPT request is a 'sales manager', while there is no evidence that such person could make claims on behalf of the company and argued that the NEPT request should be rejected just on that basis.
- (12) The applicant contested the above allegations, claiming that the website which EIFI referred to was not actually the applicant's website, but a B2B e-commerce platform, CHINA.CN, which contains information on a number of companies. Furthermore, the applicant claimed that it is not a member of CCCME, but only uses their website to market themselves, while CCCME in any case represents also manufacturers and other entities. Finally, the applicant claimed that the company's sales manager had the right to sign the NEPT request on the company's behalf.

⁽³⁾ Orbis is a global data provider of corporate information covering more than 220 million companies across the globe. It mainly provides standardised information on private companies and corporate structures.

⁽⁴⁾ Qichacha is a private, for-profit Chinese-owned database that delivers business data, credit information, and analytics private and public companies based in the PRC to consumers/professionals.

⁽⁵⁾ Aliyun (also known as Alibaba Cloud) is a subsidiary of Alibaba Group. It provides cloud computing services to online businesses and Alibaba's own e-commerce ecosystem and, among other features, serves as a database that delivers business data, credit and other types information on private and public companies based in the PRC to consumers/professionals.

⁽⁶⁾ The National Enterprise Credit Information Publicity System is a Chinese governmental credit information agency. It is developed and run by the State Administration for Market Regulation (SAMR) of China, which acts as the competent company registration authority in China.

⁽⁷⁾ <https://ningbozhongli.en.china.cn/>, visited on 12 September 2023.

- (13) First, the Commission found that the website alleged by EIFI to belong to the applicant (CHINA.CN) was indeed not the applicant's official website. Therefore, no conclusion could be drawn on the applicant's status from the description of that website. Second, the Commission confirmed that the CCCME website ⁽⁸⁾ does not indicate that the applicant is one of CCCME members, but merely advertises itself there. Finally, the analysis and verification of the applicant's financial accounts during the RCC did not show purchases of the product concerned from third parties. The Commission therefore rejected EIFI's claim as unfounded and, in the absence of further evidence to the contrary, concluded that the applicant is not a trader of the product concerned but an exporting producer.
- (14) The applicant also provided an authorisation by the executive director, who was confirmed to be a legal representative of the company on the basis of the Articles of Association of the company, which authorised the sales manager to sign on behalf of the company in the NEPT request. The Commission therefore considered the request for NEPT to be properly submitted and did not find it necessary to further examine whether the request should be rejected on this basis.
- (15) With regard to the first NEPT condition, the Union industry claimed that the applicant submitted no proof of lack of exports to the Union during the original investigation period, while the applicant claims online that it exports to 'Europe' and 'Eastern Europe', which was on their website also during the original investigation period, and therefore it would be reasonable to conclude that this would include exports to the Union. In its response to EIFI's comments, the applicant noted that having exports to Europe did not necessarily mean that it exported the product concerned into the Union during the original investigation period, and that the Commission could verify lack of exports to the Union from the company's records and with Union customs authorities.
- (16) The Commission determined that Zhongli was founded in 2003, but only obtained an export licence in May 2018 and started exporting significant quantities of the product concerned in 2021. According to the evidence that Zhongli provided, it was in April 2021 that the company made its first sale of the product concerned to the Union. Earlier export transactions of the product concerned, as seen from sales ledgers dating back to January 2019, were all destined for third countries in Asia and Africa, despite the claims made online.
- (17) The Commission verified all the export transactions during the original investigation period and found no evidence of exports of the product concerned to the Union. Specifically, the company's sales ledger showed no record of export transactions of the product concerned to the Union during the original investigation period, while the company's ledgers during that period were in line with the company's financial statements. Indeed, the verified sales ledger showed that the first export sale to the Union took place in April 2021.
- (18) The Commission therefore dismissed EIFI's allegation. With no evidence suggesting that the applicant exported the product concerned to the Union during the original investigation period, the Commission concluded that the applicant met the first NEPT condition.
- (19) With regard to the second NEPT condition, EIFI claimed that a simple declaration of no relationship, which the applicant supplied, could not meet the necessary burden of proof for this condition. In response to EIFI's claims, the applicant explained that one of its two shareholders (both of which are private persons) is also the sole shareholder in another company, Ningbo Zhenhai Dongfang Materials Business Department ('Zhenhai'), which does not produce or sell the product concerned.
- (20) The Commission confirmed the identity of the two shareholders and their share in applicant's equity in the applicant's Articles of Association. The Commission also consulted Orbis database, which, however, did not contain information on either Zhongli or Zhenhai. The Commission therefore expanded the search to other databases containing publicly available information on companies in the PRC ⁽⁹⁾. Those databases did not show (a) that Zhenhai would be an exporting producer of the product concerned, (b) that either of the companies have shareholders other than those which the applicant disclosed, nor (c) that either of the companies would have additional affiliated companies. Without evidence suggesting that the applicant would be related to any of the exporting producers in the PRC, the Commission concluded that the applicant met the second NEPT condition.

⁽⁸⁾ <https://www.cccme.cn/>, visited on 12 September 2023.

⁽⁹⁾ Qichacha (<https://www.qcc.com/>) and Aliyun (<https://market.aliyun.com/>), both visited on 11 September 2023.

- (21) With regard to the third NEPT condition, EIFI claimed that a sales document, as visible in the open version of the applicant's request, is not sufficient to demonstrate actual exports to the Union, but that an actual proof of import into the Union should be submitted as well.
- (22) The applicant provided supporting documents for shipments of significant quantities of the product concerned to the Union from April 2021 onwards, namely sales contracts, commercial invoices, packing lists, bills of lading, VAT invoices, and import declaration forms from their customers in the Union. The Commission verified those sales against the applicant's financial statements during the RCC. Based on this evidence, the Commission established that the applicant indeed exported the product concerned to the Union from April 2021, i.e., after the original investigation period and therefore concluded that the applicant met the third NEPT condition.
- (23) Accordingly, the applicant met all three conditions to be granted NEPT, as set out in Article 2 of original Regulation and the applicant's request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 39,6 % for cooperating companies not included in the sample of the original investigation.

4. DISCLOSURE

- (24) The applicant and the Union industry were informed of the essential facts and considerations based on which it was considered appropriate to grant the anti-dumping duty rate applicable to the cooperating companies not included in the sample of the original investigation to the applicant.
- (25) The parties were granted the possibility to submit comments. No comments were received.
- (26) The present Regulation is in accordance with the opinion of the Committee established by Article 15, point (1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The following company is added to the list of 'cooperating exporting producers not sampled' in the Annex to Implementing Regulation (EU) 2022/191:

Company	TARIC additional code
Ningbo Zhongli Bolts Manufacturing Co., Ltd.	899U

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 November 2023.

For the Commission
The President
Ursula VON DER LEYEN