



2024/1223

2.5.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1223

of 30 April 2024

accepting a request for new exporting producer treatment with regard to the definitive anti-dumping measures imposed on imports of ceramic tiles originating in India and Türkiye and amending Implementing Regulation (EU) 2023/265

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'), and in particular Article 9(5) thereof,

Having regard to Commission Implementing Regulation (EU) 2023/265 of 9 February 2023 imposing a definitive anti-dumping duty on imports of ceramic tiles originating in India and Türkiye ⁽²⁾ ('the original Regulation'), and, in particular, Article 2 thereof,

Whereas:

A. MEASURES IN FORCE

- (1) On 10 February 2023, the Commission imposed a definitive anti-dumping duty on imports into the Union of ceramic tiles originating in, *inter alia*, Türkiye ('the product concerned') by the original Regulation.
- (2) In the investigation leading to the imposition of definitive anti-dumping duties ('original investigation'), sampling was applied for investigating the exporting producers in, *inter alia*, Türkiye in accordance with Article 17 of the basic Regulation.
- (3) The Commission imposed individual anti-dumping duty rates ranging from 4,8 % to 20,9 % on imports of ceramic tiles for the sampled exporting producers from Türkiye. For the Turkish cooperating exporting producers that were not included in the sample, a weighted average duty rate of 9,2 % was imposed. Turkish cooperating exporting producers not included in the sample are listed in Annex II of the original Regulation. Furthermore, a country-wide duty rate of 20,9 % was imposed on ceramic tiles from companies in Türkiye which did not cooperate with the investigation.
- (4) Pursuant to Article 2 of the original Regulation, Article 1(2) of that Regulation can be amended by granting a new Turkish exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of 9,2 %, where that new exporting producer in Türkiye provides sufficient evidence to the Commission that: (i) it did not export the product concerned to the Union during the original investigation period (1 July 2020 to 30 June 2021); (ii) it is not related to an exporting producer that did so; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.

B. REQUEST FOR NEW EXPORTING PRODUCER TREATMENT

- (5) The company Anatolia Porselen Seramik Anonim Şirketi ('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 Türkiye not included in the sample, i.e. 9,2 %, claiming that it met all three conditions set out in Article 2 of the original Regulation.
- (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.
- (7) Following the analysis of the questionnaire reply, the Commission requested further information and supporting evidence, which was submitted by the applicant.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 41, 10.2.2023, p. 1.

- (8) The Commission sought to verify all information it deemed necessary for the purpose of determining whether the applicant met the NEPT conditions. To this end, the Commission analysed the evidence submitted by the applicant in its questionnaire reply by, amongst other, consulting the online database Orbis ⁽³⁾ and cross-checking company information with publicly available information on the internet. The Commission also informed the Union industry about the applicant's request and invited the Union industry to comment on it. The Union industry provided comments, which were taken into consideration.

C. ANALYSIS OF THE REQUEST

- (9) With regard to the first NEPT condition, that the applicant did not export the product concerned to the Union during the period of investigation on which the measures are based, the Commission established that the applicant had no operational manufacturing facilities of ceramic tiles during the original investigation period. The Turkish Trade Registry Gazette shows that the applicant was founded in 2018 but the applicant's audited report for the financial year ending in 2022 shows that the applicant was still in an establishment phase at the end of 2022. The applicant started trial production in the second half of 2023, therefore, the applicant could not have exported ceramic tiles to the Union during the period of investigation and thus fulfils the condition set out in Article 2(a) of the original Regulation.
- (10) With regard to the second NEPT condition, that the applicant is not related to any exporters or producers that exported the product concerned during the original investigation, during the investigation the Commission did not identify any relationship ⁽⁴⁾ between the applicant and another legal entity.
- (11) The Turkish Trade Registry Gazette shows that the applicant was founded in 2018 by Anatolia Holding Corp. (Canada). In its comments, the Union industry noted that in the context of another NEPT request concerning another product and other parties, the Commission rejected the request by a newly set up factory because of the sales to the Union of a related trader in the country concerned. The Commission notes that the factual situation in the case at hand is completely different. The related party referred to by the Union industry, in this case, is not located in the country concerned but in Canada.
- (12) The Commission found that the Elmaağaçlı family, the family founding the Anatolia group, has historical connections ⁽⁵⁾ with Hitit Seramik Sanayi ve Ticaret A.Ş. ('Hitit'), an exporting producer sampled in the original investigation. However, the applicant has no direct relation to Hitit. Even if certain Elmaağaçlı family members were minor shareholders of Hitit in the nineties, at no point have these shareholdings given their owners any control or direction over Hitit. The shareholdings in question were either sold or further diluted to the point that they were essentially insignificant during the original investigation period. Publicly available information shows that the family founding Anatolia group reduced its initial participation in Hitit and that the Hizal family owned 95,5 % of Hitit by 2018 ⁽⁶⁾. The remaining shareholder in Hitit belonging to the Elmaağaçlı family is related to the applicant through family ties but has no control or direction over the applicant.

⁽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⁾ Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558) (the EU Customs Code), stipulates that two persons shall be deemed to be related if one of the following conditions is fulfilled: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns or controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; (h) they are members of the same family. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in the preceding sentence.

⁽⁵⁾ <https://www.bizimanadolu.com/archives/Guncel/gun22.htm> (last viewed on 29 January 2024).

⁽⁶⁾ <https://www.hurriyet.com.tr/yazarlar/vahap-munyar/aglama-luksum-yoktu-8inci-gun-baskan-oldum-40731455> (article dated 28 February 2018 and last viewed on 19 February 2024).

- (13) Therefore, the applicant fulfils the condition set out in Article 2(b) of the original Regulation.
- (14) With regard to the third NEPT condition, that the applicant has actually exported the product concerned to the Union after the original investigation period or has entered into an irrevocable contractual obligation to export a significant quantity to the Union, during the investigation the Commission established that the applicant has entered into an irrevocable contractual obligation with several customers in the Union to export a significant quantity of ceramic tiles to the Union.
- (15) In the Union industry's view, the fact that the applicant had trial orders effective in the last quarter of 2023 could imply that the contractual obligations to supply ceramic tiles are not irrevocable but pending on further assessment of the supplied product. The Commission disagrees in view of the contractual obligations of the applicant and the penalties resulting from an arbitrary violation of the terms of the agreement by the parties.
- (16) Consequently, the Commission concluded that the applicant complies with the condition set out in Article 2(c) of the original Regulation.
- (17) In light of the above, the applicant fulfils all three conditions to be granted NEPT, as set out in Article 2 of the original Regulation and the request should therefore be accepted. Consequently, the applicant should be subject to an anti-dumping duty of 9,2 % for Turkish cooperating companies not included in the sample for Türkiye in the original investigation.

D. DISCLOSURE

- (18) 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 Turkish cooperating companies not included in the sample for Türkiye in the original investigation to Anatolia Porselen Seramik Anonim Şirketi.
- (19) The parties were granted the possibility to submit comments. No comments were received.
- (20) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

The following company is added to Annex II to Implementing Regulation (EU) 2023/265 containing the list of Turkish cooperating companies not included in the sample for Türkiye:

Name	TARIC additional code
Anatolia Porselen Seramik Anonim Şirketi	89AG

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, 30 April 2024.

For the Commission
The President
Ursula VON DER LEYEN