

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1649**of 21 August 2023****initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2021/1930 on imports of birch plywood originating in Russia, by imports of birch plywood consigned from Türkiye and Kazakhstan, whether or not declared as originating in Türkiye and Kazakhstan, and making imports of birch plywood consigned from Türkiye and Kazakhstan subject to registration**

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 of 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 Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. REQUEST

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on birch plywood originating in Russia and to make imports of birch plywood consigned from Türkiye and Kazakhstan, whether or not declared as originating in Türkiye and Kazakhstan, subject to registration.
- (2) The request was lodged on 10 July 2023 by the Woodstock Consortium ('the applicant').

B. PRODUCT

- (3) The product concerned by the possible circumvention is plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated, classified on the date of entry into force of Commission Implementing Regulation (EU) 2021/1930 ⁽²⁾ under CN code ex 4412 33 00 (TARIC code 4412 33 00 10) and originating in Russia ('the product concerned'). This is the product to which the measures that are currently in force apply.

The product under investigation is the same as that defined in the previous recital, currently falling under CN code 4412 33 10 ⁽³⁾ but consigned from Türkiye and Kazakhstan, whether declared as originating in Türkiye and Kazakhstan (TARIC codes 4412 33 10 10 and 4412 33 10 20 ('the product under investigation')).

C. EXISTING MEASURES

- (4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2021/1930 ('the existing measures').

D. GROUNDS

- (5) The request contains sufficient evidence that the existing measures on imports of the product concerned are being circumvented by imports of the product under investigation. In particular, the evidence in the request shows the following:

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2021/1930 of 8 November 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of birch plywood originating in Russia (OJ L 394, 9.11.2021, p. 7).

⁽³⁾ Until 31 December 2021, the applicable TARIC code was 4412 33 00 10. Since 1 January 2022, it was replaced by TARIC code 4412 33 10 10. Since 01 September 2022, it was replaced by CN code 4412 33 10.

- (6) A change in the pattern of trade involving exports from Russia, as well as Türkiye and Kazakhstan to the Union has taken place following the imposition of the existing measures.
- (7) This change appears to stem from a practice for which there is insufficient due cause or economic justification other than the imposition of the duty, namely the consignment of the product concerned via Türkiye and Kazakhstan to the Union.
- (8) Furthermore, the evidence shows that because of the practices described above the remedial effects of the existing measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the Union market. In addition, there is sufficient evidence that imports of the product under investigation are made at injurious prices.
- (9) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned, adjusted on account of price inflation and cost increases that took place since the investigation period used when the existing measures were imposed.
- (10) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

- (11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.
- (12) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3(2) of this Regulation. The time limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (13) The authorities of Türkiye, Kazakhstan and Russia will be notified of the initiation of the investigation.

(a) **Instructions for making written submissions and sending completed questionnaires and correspondence**

- (14) Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.
- (15) All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive (*)'. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

(*) A 'Sensitive' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

- (16) Parties providing ‘*Sensitive*’ information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled ‘*For inspection by interested parties*’. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.
- (17) If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.
- (18) Interested parties are invited to make all submissions and requests via TRON.tdi (<https://webgate.ec.europa.eu/tron/TDI>) including requests to be registered as interested parties, scanned powers of attorney and certification sheets.
- (19) In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on <https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf>.

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document ‘CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES’ published on the website of the Directorate-General for Trade: <https://europa.eu/!7tHpY3>

- (20) The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.
- (21) Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>

Email: TRADE-TRADE-R799-BIRCH-PLYWOOD-AC-TURKEY@ec.europa.eu

TRADE-TRADE-R799-BIRCH-PLYWOOD-AC-KAZAKHSTAN@ec.europa.eu

(b) Collection of information and holding of hearings

- (22) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Requests for exemptions

- (23) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.

- (24) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Türkiye and Kazakhstan that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. Copies of the exemption claim form questionnaire for exporting producers in Türkiye and Kazakhstan and questionnaires for importers in the Union are available in the file for inspection by interested parties and on DG Trade's website: <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2677>. The questionnaires have to be submitted within the time limit indicated in Article 3(2) of this Regulation.

F. REGISTRATION

- (25) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Implementing Regulation (EU) 2021/1930, can be levied from the date on which registration of such imports was imposed.

G. TIME LIMITS

- (26) In the interest of sound administration, time limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
 - producers in Türkiye and Kazakhstan may request exemptions from registration of imports or measures,
 - interested parties may make a written request to be heard by the Commission.
- (27) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

- (28) If any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.
- (29) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.
- (30) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

- (31) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

- (32) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁵⁾.

⁽⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (33) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <https://europa.eu/!vr4g9W>

K. HEARING OFFICER

- (34) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.
- (35) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commission services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.
- (36) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.
- (37) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG TRADE's website: https://policy.trade.ec.europa.eu/contacts/hearing-officer_en

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports into the Union of plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated, currently falling under CN code 4412 33 10, consigned from Türkiye and Kazakhstan, whether declared as originating in Türkiye and Kazakhstan or not, (TARIC codes 4412 33 10 10 and 4412 33 10 20) are circumventing the measures imposed by Implementing Regulation (EU) 2021/1930.

Article 2

1. The customs authorities of the Member States shall, pursuant to Article 13(3) and Article 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports into the Union identified in Article 1 of this Regulation.
2. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 3

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.

2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies, requests for exemptions, or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.
3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.

Article 4

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, 21 August 2023.

For the Commission
The President
Ursula VON DER LEYEN
