

MINISTRY OF ECONOMY
Resolution 394/2023
RESOL-2023-394-APN-MEC
City of Buenos Aires, 03/04/2023
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HAVING SEEN File No. EX-2023-07340181-APN-DGD#MDP, the Law on Ministries -t.o. 1992- and its amendments, Law No. 24,425, Decree No. 1,393 dated September 2, 2008, Resolutions Nos. 437 dated June 26, 2007 from the former MINISTRY OF ECONOMY AND PRODUCTION and its amendments, 173 dated April 20, 2018 from the former MINISTRY OF PRODUCTION and 366 dated July 24, 2020 from the former MINISTRY OF PRODUCTIVE DEVELOPMENT, and

CONSIDERING:

That by Resolution No. 173 dated April 20, 2018 of the former MINISTRY OF PRODUCTION, the investigation that was carried out for export operations to the ARGENTINE REPUBLIC of domestic dishwashing machines originating from the PEOPLE'S REPUBLIC OF CHINA and the REPUBLIC OF TURKEY, merchandise that is classified in the tariff item of the Common MERCOSUR Nomenclature (N.C.M.) 8422.11.00; was closed.

That, by virtue of said resolution, a definitive AD VALOREM antidumping duty calculated on the FOB export values of FIFTY-FOUR PERCENT (54%) was set for export operations to the ARGENTINE REPUBLIC of the product described in the preceding paragraph. for those originating from the PEOPLE'S REPUBLIC OF CHINA, and **THIRTY-THREE PERCENT (33%) for those originating from the REPUBLIC OF TURKEY, for a term of FIVE (5) years.**

That through the file cited, the firm DREAN S.A., formerly JOSÉ M. ALLADIO E HIJOS S.A., requested the opening of an examination due to the expiration of the term of the measures imposed by the aforementioned Resolution No. 173/18 of the former MINISTRY OF PRODUCTION.

That in accordance with the information added to the file cited in the Approval, the Unfair Competition Directorate of the National Directorate of Commercial Management of the UNDERSECRETARIAT OF COMMERCIAL POLICY AND MANAGEMENT of the SECRETARIAT OF COMMERCE of the MINISTRY OF ECONOMY, considered, in order to establish a comparable normal value, the information provided by the petitioner referring to sales prices in the domestic market of the PEOPLE'S REPUBLIC OF CHINA and the REPUBLIC OF TURKEY.

That the FOB export price to the ARGENTINE REPUBLIC was obtained from the import lists provided by the SUBSECRETARIAT OF COMMERCIAL POLICY AND MANAGEMENT.

That, likewise, the FOB export price to third markets was obtained from lists provided by the petitioning firm.

That according to the provisions of Article 6 of Decree No. 1,393 dated September 2, 2008, regulating Law No. 24,425, the NATIONAL COMMISSION FOR FOREIGN TRADE, a decentralized body within the SECRETARIAT OF COMMERCE of the MINISTRY OF ECONOMY, Through Board Minutes No. 2494 dated February 7, 2023, it determined that "...the errors or omissions detected in the application have been corrected in a timely manner."

That, on February 13, 2023, the Unfair Competition Directorate prepared its Report on the feasibility of opening an examination, in which it stated that "...the elements that allow the initiation of the examination due to the expiration of the term of the anti-dumping measures applied through ex-MP Resolution No. 173/2018 to export operations to the ARGENTINE REPUBLIC of 'domestic dishwashing machines' originating from the PEOPLE'S REPUBLIC OF CHINA and the REPUBLIC OF TURKEY".

That, from the aforementioned Report, it can be deduced that the presumed dumping margin determined for the examination is TEN POINT FIFTY-EIGHT PERCENT (10.58%) considering exports from the REPUBLIC OF TURKEY to the ARGENTINE REPUBLIC.

That, likewise, the margin of recurrence of dumping considering exports to third markets is FORTY-NINE POINT THIRTY-FIVE PERCENT (49.35%) for export operations to the REPUBLIC OF CHILE originating in the PEOPLE'S REPUBLIC OF CHINA, and EIGHTEEN POINT SEVENTY-NINE PERCENT (18.79%) for export operations to the REPUBLIC OF CHILE originating in the REPUBLIC OF TURKEY.

That within the framework of Article 7 of Decree No. 1,393/08, the UNDERSECRETARIAT OF COMMERCIAL POLICY AND MANAGEMENT sent the aforementioned Report to the NATIONAL FOREIGN TRADE COMMISSION.

That, for its part, the NATIONAL FOREIGN TRADE COMMISSION ruled on the evidence and arguments put forward by the petitioner to justify the initiation of an examination due to the expiration of the term of the antidumping measure applied through Resolution No. 173/18 of the former MINISTRY OF PRODUCTION, through Board Minutes No. 2505 dated March 9, 2023, in which it determined that "...there are sufficient elements to conclude that, from the point of view of the probability of repetition of the damage, it is from the opening of the review due to the expiration of the term of the current anti-dumping measure, imposed on export operations to the Argentine Republic of 'domestic dishwashing machines', originating from the People's Republic of China and the Republic of Turkey".

That, in this sense, the aforementioned National Commission concluded that "...the conditions required by current regulations are in place to justify the initiation of an examination due to the expiration of the period of the antidumping measure imposed by the Resolution of the former Ministry of Production (MP) No. 173/2018 to imports of 'Domestic dishwashing machines', originating in the People's Republic of China and the Republic of Turkey."

That, on March 9, 2023, the aforementioned National Commission submitted a summary of the considerations related to the determination made through Board Minutes No. 2505.

That with respect to the probability of repetition of damage and its relationship with the recurrence of dumping, the aforementioned National Commission stated that "...from the comparisons made, it was observed that the nationalized price of the product originating in China exported to Chile was lower than the national one in the representative model of 15 capacity covers, throughout the period and in both marketing channels, with increasing undervaluations throughout the period that ranged between 6% and 46%, depending on the marketing channel and the period considered. That, in the case of the nationalized prices of exports from Turkey to Chile, in the representative model of 12 covered capacity, price undervaluations were observed at both marketing levels that ranged between 14% and 40%, depending on the period and the channel considered, although price overvaluations were observed at

the first sale level, these were of little significance and, moreover, in the most recent period they turned into undervaluations”.

That, from the foregoing, the named National Commission understood that "...in the absence of the current antidumping measure, it is probable that exports from China and Turkey to Argentina will be made at prices lower than those of the domestic industry."

That, subsequently, the aforementioned National Commission maintained that "...in a context of apparent consumption that expanded from 2021 and with the current measure, the imports subject to measures represented between 1.6% and 2% of the market, having reached its maximum quota in January-November 2022. That imports not subject to measures reduced their market share in the full years of the period, from 47% in 2019 to 32% in 2021 and recovered share in the months analyzed from 2022 when it reached 44% of it”.

That, in this sense, the NATIONAL FOREIGN TRADE COMMISSION argued that "...the national industry and, therefore, the applicant, had a preponderant participation in the market throughout the period and even increased its market share by 15 points percentages between the ends of the analyzed years, obtaining the maximum level of 66% in 2021. However, it registered the minimum level in the analyzed months of 2022 (49%)”.

That the aforementioned National Commission observed that "...with the current antidumping measure, both national production and the petitioners' sales increase between the ends of the complete years, although they decline in the analyzed months of 2022. That, the petitioners' inventories they increased strongly from 2021, maintaining a level equivalent to three months of average sales to January-November 2022. That, their degree of utilization of installed capacity increased in full years reaching its maximum level in 2021 (30%), while the number of employed personnel of the requesting company increased 20% between ends of the period analyzed.

That technical organization continued to state that "...the price/cost ratio was less than one at the beginning of the period and then recovered, exceeding in some periods the level considered as a reference by this CNCE (National Commission), although it is possible to observe that, in both models indicative, the unitary margins showed a deterioration in the analyzed months of 2022”.

That, from the foregoing, the aforementioned National Commission warned that "...the fall shown by certain volume indicators in the partial period of 2022 (production, sales to the domestic market, inventories, and use of installed capacity), together with the marked decreasing trend of unit profitability in January-November 2022, evidence that, although the domestic dishwasher industry has managed to maintain a significant participation in apparent consumption, it still shows some fragility. That, together with the undervaluations detected in the price comparisons to a third market, allow us to infer that given the suppression of the current measure, there is a probability that imports from China and Turkey will re-enter in quantities and prices that would have a negative impact on the national industry, recreate thus establishing the conditions of damage that were determined in the original investigation.”

That, in conclusion, the aforementioned National Commission, in accordance with the elements presented in that instance, considered that "...there are grounds in the request for examination that support the allegations in the sense that the suppression of the current antidumping duties applied to

the imports of dishwashers originating in China and Turkey, would result in recurrence of injury to the domestic industry of the like product”.

That, likewise, the named National Commission indicated that “...according to the Dumping Report submitted by the SSPYGC, that body has determined that the elements that would allow the examination to begin due to the expiration of the term have been gathered, having calculated the margin of recurrence of 49.35% for China and 18.79% for Turkey”.

That, then, the aforementioned National Commission affirmed that “...with regard to the analysis of other factors that could affect the condition of the national industry, imports from origins not subject to measures represented between 86% and 96% of total imports (recording the lowest level at the end of the period), and between 32% and 47% of apparent consumption. That these imports registered prices at levels higher than the prices of the origins subject to measures (with a single exception), depending on the origin and period analyzed.

That, in this regard, the NATIONAL FOREIGN TRADE COMMISSION understood that “...although imports from these origins could have a negative impact on the domestic industry of dishwashers given their relative importance, the conclusion indicated, in the sense that if deleted the measures in force against China and Turkey would recreate the conditions of damage that were determined in a timely manner, it continues to be valid and consistent with the analysis required in this instance of the procedure.”

That, on the other hand, the aforementioned National Commission indicated that “...another variable that usually merits an analysis as another possible factor of damage other than the imports subject to the request for review are exports. That, in this sense, it is pointed out that the national export coefficient (and that of the applicant) is very insignificant, being between 0.004% and 0.2%, therefore the previous conclusion continues to be valid and consistent”.

That, finally, said technical body concluded that “...according to the positive determination made by the SSPYGC and the conclusions reached by this Commission, it is considered that the conditions required by current regulations are met to justify the initiation of an examination by expiration of the term of the anti-dumping measure imposed by Resolution former Ministry of Production No. 173/2018 dated April 20, 2018”.

That the SUBSECRETARIAT OF COMMERCIAL POLICY AND MANAGEMENT, based on what was concluded by the NATIONAL FOREIGN TRADE COMMISSION, recommended proceeding with the opening of an examination due to the expiration of the anti-dumping measures imposed by Resolution No. 173/18 of the former MINISTRY OF PRODUCTION to export operations to the ARGENTINE REPUBLIC of “domestic type dishwashing machines” originating from the PEOPLE’S REPUBLIC OF CHINA and the REPUBLIC OF TURKEY, the measures remaining in force until the examination procedure initiated is concluded.

That the SECRETARIAT OF COMMERCE ruled on the opening of the examination due to the expiration of the term and the maintenance of the measures applied by Resolution No. 173/18 of the former MINISTRY OF PRODUCTION, sharing the criteria adopted by the SUBSECRETARIAT OF COMMERCIAL POLICY AND MANAGEMENT .

That according to the provisions of Article 15 of Decree No. 1,393/08, the data to be used for the determination of dumping will be those collected, normally, during the TWELVE (12) months prior to the month of opening of the examination.

That the data collection period for the determination of the damage by the NATIONAL COMMISSION OF FOREIGN TRADE, normally includes the THREE (3) complete years and available months of the current year prior to the month of opening of the examination.

Notwithstanding this, the SECRETARIAT OF COMMERCE may request information for a longer or shorter period of time.

That Resolution No. 437 dated June 26, 2007 of the former MINISTRY OF ECONOMY AND PRODUCTION and its amendments, establishes the content and procedures referred to non-preferential control of origin, in accordance with the provisions of the Agreement on Rules of Origin that integrates the General Agreement on Customs Tariffs and Trade of 1994, approved by Law No. 24,425.

That Resolution No. 366 dated July 24, 2020 of the former MINISTRY OF PRODUCTIVE DEVELOPMENT establishes that the control of import destinations for consumption of the merchandise reached by the aforementioned measure, whatever the declared origin must be carried out according to the verification procedure provided for cases processed through the red selectivity channel.

That, in accordance with what was stated in the preceding recitals, the provisions required by the Agreement Relating to the Application of Article VI of the General Agreement on Customs Tariffs and Trade of 1994, incorporated into our legal system by Law No. 24,425, have been met, to proceed with the opening of the examination due to the expiration of the term of the measures provided by Resolution No. 173/18 of the former MINISTRY OF PRODUCTION.

That the competent areas in the matter have intervened.

That the permanent legal service of the MINISTRY OF ECONOMY has taken the intervention that is its responsibility.

That this resolution is issued in use of the powers conferred by the Law on Ministries -t.o. 1992- and its modifications, and Decree No. 1.393/08.

Thus,

THE MINISTER OF ECONOMY

RESOLVES:

Article 1.- It is declared appropriate to open the examination due to the expiration of the term of the anti-dumping measures provided by Resolution No. 173 dated April 20, 2018 of the former MINISTRY OF PRODUCTION, for export operations to the ARGENTINE REPUBLIC of "Machines for washing dishes, domestic type", originating from the PEOPLE'S REPUBLIC OF CHINA and the REPUBLIC OF TURKEY, merchandise that classifies in the tariff item of the Common MERCOSUR Nomenclature (N.C.M.) 8422.11.00.

ARTICLE 2.- The measures applied by Resolution No. 173/18 of the former MINISTRY OF PRODUCTION to export operations to the ARGENTINE REPUBLIC of the product described in Article 1 of this resolution remain in force, until the completion of the exam started.

ARTICLE 3.- Interested parties who prove their status as such, may download the questionnaires to participate in the investigation and take a look at the proceedings, in accordance with the provisions of Resolution No. 77 dated June 8, 2020 of the former SECRETARIAT OF INDUSTRY, KNOWLEDGE ECONOMY AND EXTERNAL COMMERCIAL MANAGEMENT of the former MINISTRY OF PRODUCTIVE DEVELOPMENT and its amendment.

Likewise, the information required from interested parties by the NATIONAL FOREIGN TRADE COMMISSION will be available in the form of questionnaires on the following website: www.argentina.gob.ar/cnce/cuestionarios, within the period provided for in current regulations. The taking of view and the accreditation of the parties in said technical body may be carried out in accordance with the provisions of Resolution No. 77/20 of the former SECRETARIAT OF INDUSTRY, KNOWLEDGE ECONOMY AND EXTERNAL COMMERCIAL MANAGEMENT and its amendment.

ARTICLE 4.- Communicate to the General Directorate of Customs, dependent on the FEDERAL PUBLIC REVENUE ADMINISTRATION, an autonomous entity within the scope of the MINISTRY OF ECONOMY, in accordance with the provisions of Resolution No. 366 dated July 24, 2020 of former MINISTRY OF PRODUCTIVE DEVELOPMENT.

ARTICLE 5.- Inform the General Directorate of Customs that the import operations that are dispatched to the market of the product described in Article 1 of this resolution, are subject to the non-preferential origin control regime established by Resolution No. ° 437 dated June 26, 2007 of the former MINISTRY OF ECONOMY AND PRODUCTION and its amendments, complementary rules and customs provisions that regulate them.

ARTICLE 6.- Comply with the pertinent notifications within the framework of the Agreement Relating to the Application of Article VI of the General Agreement on Customs Tariffs and Trade of 1994, incorporated into our legal system by Law No. 24,425, regulated by Decree No. 1,393 dated September 2, 2008.

ARTICLE 7.- This resolution will come into effect on the day of its publication in the Official Gazette.

ARTICLE 8º.- Communicate, publish, give to the NATIONAL DIRECTORATE OF THE OFFICIAL REGISTRY and archive.

Sergio Tomas Massa

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/380000-384999/381799/norma.htm>