AGENZIA DELLE DOGANE

Unione doganale

Roma, 16 aprile 2012

Risoluzione n. 1/D

Protocollo: 43347

Rif.:

Allegati: 1

Alle Direzioni Regionali/Interregionali Provinciali
dell'Agenzia delle Dogane
LORO SEDI

Agli Uffici delle dogane
LORO SEDI

e, per conoscenza:
Al Ministero dello Sviluppo Economico
Direzione generale per la politica industriale e la competitività

Direzione generale politica commerciale internazionale
ROMA

OGGETTO: Regime della trasformazione sotto controllo doganale – Trasformazione di fogli di alluminio – Esame delle condizioni economiche da parte del Comitato Codice Doganale – sez. procedure speciali ai sensi dell'art.552 par.2 del Reg.to CEE 2454/93 – Parere favorevole.

Si fa presente che nel corso della 24^ riunione del Comitato Codice Doganale sezione procedure speciali, che si è tenuta a Bruxelles il 7 marzo 2012, è stata presentata dalla delegazione olandese per essere sottoposta ad esame delle condizioni economiche, ai sensi dell'art.552 par.2 del Reg.to CEE 2454/93, un'istanza di trasformazione sotto controllo doganale (documento di lavoro allegato) di fogli di alluminio da trasformare in rotoli di alluminio per uso domestico.

Al riguardo, in applicazione dell'art.504, par. 4 del Reg.to CEE 2454/93, si comunica **l'avviso favorevole espresso dal Comitato** circa l'accoglibilità dell'istanza sopra citata, in quanto per la fattispecie in oggetto sono state ritenute soddisfatte le condizioni economiche.

Si evidenzia che, ai sensi della richiamata normativa comunitaria, le conclusioni del Comitato vengono prese in considerazione non soltanto dall'Autorità (olandese) interessata, ma anche da qualsiasi altra Autorità doganale che si occupa di autorizzazioni e richieste simili. Pertanto, ove eventuali analoghe istanze – concernenti merci di importazione, attività di trasformazione e prodotti trasformati

DIREZIONE CENTRALE GESTIONE TRIBUTI E RAPPORTO CON GLI UTENTI
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della stessa tipologia - siano presentate all'Autorità doganale italiana, le condizioni economiche dovranno intendersi del pari soddisfatte.

In particolare il parere del Comitato **è stato espresso per l'operazione e alle condizioni di seguito indicate**:

- trasformazione di fogli di alluminio (CNC 7607 1119) provenienti dalla Cina (sottoposti a dazio antidumping) in rotoli di alluminio per uso domestico (CNC 7607 1111);
- l'autorizzazione di trasformazione sotto controllo doganale dovrà essere rilasciata con termine di validità 8 settembre 2012;
- il quantitativo massimo da autorizzare è 1000 tonnellate di fogli di alluminio.

Il Comitato ha espresso parere favorevole al rilascio dell'autorizzazione, secondo le modalità sopra indicate, al fine di dare la possibilità alle aziende del settore di usufruire di tale regime, in attesa della definizione della indagine comunitaria in atto per verificare gli effetti del dazio antidumping imposto sui fogli di alluminio provenienti dalla Cina sul settore dei produttori di fogli di alluminio per uso domestico.

Pertanto, in deroga a quanto previsto dalla seconda parte del punto C2) della Circolare n.30/D del 28 giugno 2001, le dogane territorialmente competenti in relazione al luogo in cui saranno effettuate le operazioni di trasformazione, o la prima di tali operazioni (in caso di trasformazioni successive), saranno competenti al rilascio della relativa autorizzazione, **secondo la procedura normale (per iscritto) con utilizzo del relativo modello (allegato 67), in maniera conforme alle indicazioni del Comitato (limiti quantitativi e temporali).**

Inoltre per adempiere agli obblighi di cooperazione amministrativa (art.522 DAC), delle autorizzazioni rilasciate sarà data sollecita comunicazione alla scrivente, utilizzando per l'invio dei dati ivi previsti l'apposito formulario riprodotto in appendice all'allegato 70 del citato regolamento.

Si pregano gli Uffici e le Amministrazioni in indirizzo di provvedere alla necessaria informazione degli operatori economici del settore.

Il Direttore Centrale
Ing. Walter De Santis
(Firma autografa sostituita a mezzo stampa
ai sensi dell'articolo 3, comma 2 del D.Lgs 39/93)

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Legislation

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Non-confidential

Working paper

CUSTOMS CODE COMMITTEE

Section for Special Procedures

Processing under Customs Control (PCC)

(PCC of jumbo rolls aluminium foil (CN code 7607 1119) to be processed into household-size rolls (CN code 7607 1111) / Examination of the economic conditions in accordance with Article 552(2) CCIP)

This document will be examined at a forthcoming meeting of the Committee.

Disclaimer:
This document reflects solely the application for PCC as submitted by an operator via the relevant MS and cannot in any circumstances be regarded as the official position of the Commission.

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Introduction PPC Renewal Request 2012

Introduction

ITS is requesting a renewed authorization to process a yearly volume of [redacted] tons of aluminiumfoil jumbo-rolls(CN-code 7607 1119) under Customs Control for a period of 3 years, or as long as there are no anti-dumping duties on aluminiumfoil householdrolls(CN-code 7607 1111). In March 2010 the Dutch customs administration had received an application for an authorization Processing under Customs Control (PCC) for jumbo rolls aluminium household foil which are to be processed into consumer rolls aluminium household foil of and this application resulted in a PCC allowance from 01-08-2010 untill 01-08-2011 for a maximum volume of [redacted] metric tonnes. In March 2011 our company has requested for a renewal of this PCC and this was refused due to the fact that there was no proof for the initiation of an anti-dumping complaint by the European rewinding industry. This situation has now changed because on the 20th of December 2011 the initiation of an anti-dumping investigation by the EU has been published under number 2011/C 371/05 as described in detail futheronin this chapter.

Applicant is existing since 32 years and has become a leading supplier of private label aluminium household foil to retailers across Europe. Applicant has been employing 140 people in 2011, [redacted] FYE, and had an annual turn-over of around € € [redacted].000.000,- in 2011 of which € € [redacted],- was aluminiumfoil rolls. This amounts to approximately [redacted]% of the annual turn-over. This share was 70% in 2009, and due to the growth of the other product groups and the tough market conditions on alufoil this share has been dropping in 2010 to [redacted]% where aluminiumfoilrolls had a turn-over of € [redacted] compared to a total turn-over of € [redacted]. In the years 2008 and 2009 this share has been dropping significantly due to the anti-dumping duties on jumbo-rolls, since in 2008 the share of aluminiumfoil in the total turn-over was still [redacted]%

In this document we will describe applicants reasons for applying for an authorisation. This document supports and explains the official PCC request which has been sent by mail to the Dutch customs on the 8th of December 2011.

Enclosed is also a process description of the activities of ITS, short history of the company and an explanation of the market-situation which has forced ITS to request for a renewal of the present PCC in order to survive the present situation. Quotations that show the price difference of aluminiumfoil jumbo rolls worldwide, compared to prices in China, with an explication of the documents are available and a statement by the accountant Meeuwsen Ten Hoopen Accountants B.V. to show that ITS can no longer exist without being able to sell consumerrolls of aluminiumfoil, thus explaining the losses when the aluminium turn-over has disappeared completely including an explanation of the core points.

Anti-dumping Complaint 2011/C 371/05

On the 4th of November 2011 Eurometaux in Brussels acting on behalf of a group of major European rewinders with a market-share of over [redacted]% of the European market have filed a complaint against the import of aluminiumfoil householdrolls originating from the People's Republic of China. It was ITS, providing the present chairman of the EAFA(European Aluminiumfoil Association) who has taken the initiative to collect information to support this complaint after anti-dumping duties for aluminiumfoil jumbo-rolls were introduced in 2009. During the past two years a lot of information was collected by the complainants in order to prepare a solid case. After acceptance be the European Commission this complaint was published on the 20th of December 2011 and the core of the investigation is to prove that the claimed dumping margin of more than [redacted]% inflicted major injury on the European industry by price undercutting of around [redacted]% by the Chinese exporters compared to the European industry. Looking at the present status of the investigation and calculating the legal response-periods within the proceeding, anti-dumpingduties on householdrolls of aluminiumfoil can not be expected before the autumn of 2012, thus creating a period of up to nine months inwhich ITS wnt to be able to defend their market,

Economic conditions applicant

Since October 2009 there are significant anti-dumping duties on Chinese, Brazilian and Armenian aluminium household foil jumbo-rolls 7607 1119 whilst the European Commission has decided not to include aluminium household foil consumer rolls 7607 1111 into the anti-dumping duties.

According to applicant the present situation is that there is, because of the anti-dumping duties, a significant overcapacity of aluminium household foil jumbo-rolls in China and Chinese producers are now switching rapidly to the production of consumer rolls in order to avoid anti-dumping duties and dump aluminium household foil on the European market.(chapter 6) As a result of the anti-dumping duties in Europe, the manufacturers of aluminium household foil jumbo-rolls have significantly increased their price-levels, thus increasing the gap with Chinese exports.

Due to the anti-dumping duties on the jumbo rolls, it is no longer possible for the company to source the majority of its material from Brazil, as they have been doing for many years. Therefore applicant is forced to buy from European suppliers to prices that make it impossible for applicant to compete with Chinese producers of household foil rolls (76071111). There are no other sources on the world to buy this material(chapter 3), and applicant cannot compete if applicant does not have access to the same sources as its Chinese competitors.

The price-level of jumbo-rolls of aluminium household foil in during 2011 within Europe has been around € [redacted]/kg (chapter 3). Selling prices of Chinese suppliers are at a level of around $ [redacted] which amounts to € [redacted]/kg with a rate of 1,459(average in month of comparison May 2011) for the dollar against the Euro.(chapter 3). In both cases goods are free delivered Apeldoorn, where there should be 7,5% import-duties added for a fair comparison making the price of Chinese aluminiumfoil in Europe € [redacted]/kg, still creating a price-difference of around over [redacted]%.

If applicant wants to defend its market and to maintain its workforce, applicant needs to be able to deliver its products on a price-level which is close to Chinese prices. A calculation of

applicant on both the European price of jumbo rolls (€ [redacted]/kg) and Chinese jumbo rolls (€ [redacted]/kg) is included (chapter 4) showing a price-difference of close to [redacted]%.

Without the use of the jumbo-rolls from China, applicant is not able to compete and will lose its orders. As proof to this applicant has provided an email of one of its major customers that is selling the Reynolds brand aluminiumfoil in several European countries.(chapter 8) This customer is threatening ITS to move their orders to China if applicant cannot decrease its prices. Applicant can only do this by buying Chinese aluminium to be competitive again. If

applicant will lose a major part of its annual turn-over, it will no longer be able to exist and the 134 jobs will disappear along with approximately 50-100 jobs in companies that are supplying products and services to applicant.(chapter 5)

Conclusion

The only chance applicant has to defend their markets against Chinese imports and to maintain its workforce in the European Community is to source aluminium household foil jumbo rolls from China and produce consumer rolls under PCC, thus creating a level playing ground against Chinese exports of aluminium household foil consumer rolls. If not the company along with 200-250 jobs will disappear. This PCC will be needed as long as there are no anti-dumping duties on Chinese consumer-rolls that are at present being dumped on the European market.

2. Process description

Process description aluminium foil rolls production and trade

Introduction

ITS is rewinding rolls of aluminiumfoil. This process covers the purchase of large rolls of aluminiumfoil from aluminium plants across the world until the delivery of aluminium foil rolls to customers across Europe.

History

In the year 1979 the present owner of ITS, Hans Hogeveen, started a small factory with one machine in which large millrolls(about 200kg a piece) of aluminiumfoil where rewinded into smaller rolls, varying in length from 10 to 200 meters for both household use and catering purposes. These millrolls were purchased from aluminium companies mainly in Europe and sold in the Benelux and surrounding countries. In the 32 years that followed, the company showed a steady growth resulting in a present turn-over of app. [redacted] Mio Euro and a factory employing around [redacted] employees. At present not only rolls of aluminiumfoil are being produced, but also rolls of household and cateringfilm, bakingpaper and coffeefilters. The vast majority of the turn-over however, more than 70% in 2009, is still generated by rolls of aluminiumfoil.

Purchase process

The purchase of aluminium foil is a process which is done around the beginning of a quarter for the quarter that follows. To around the 1st of April contracts are being made for the delivery of aluminium foil during the third quarter of that year. Based on the sales-forecast a certain volume of aluminium is purchased. Based on a price which consists of the raw material price of ingots of aluminium published daily by the London Metal Exchange(LME) and a mark-up called tooling costs added to that LME-price. ITS traditionally buys from a group of 5-6 suppliers of aluminium foil, and tends to work with the same group of suppliers for a very long period, in other words spot-deals are not the basis of the purchase strategy. The suppliers are being selected based on delivery ability, available volume, quality, lead-time and price. Delivery ability is connected to the economic situation, if consumption is high, traditional aluminiumfoil suppliers try to sell as less household foil as they can, in order to have capacity for more profitable products such as so called converter foil, a thinner aluminiumfoil, used for especially lamination purposes in the packaging industry. ITS tries to select suppliers that are dedicated to the production of aluminium householdfoil in good and bad times. The available volume is usually determined by the supplier, and offered in the beginning of the negotiation process, depending on their own capacity situation and the availability of capacity.

Quality is of extreme importance for ITS, which is controlled and documented in an own laboratory at the production-site. Mechanical values such as tensile strength, burst range and elongation determine the satisfaction of the consumers, and along with production tolerances on thickness these are important values that influence purchase decisions. Last but not least is the price of the product. ITS acts in very competitive markets, negotiating with he largest retailgroups in Europe and the level of the purchase-price influences the opportunities of the sales-team on the market. A fixed factor in this price is the LME price, and to influence this price can only be done by buying at the right moment, since the market price on the LME changes every day. This component of the price fluctuates traditionally between 50-70% of the purchase price of ITS from their suppliers. The remaining [redacted]% is the tooling cost, and these costs consist of the production and labour costs of the producer, packaging costs, shipping costs and margin. These tooling costs are also determined by market-situation and competition. In recent years these toolingcosts went down to a level of around € [redacted],-/ton due to increased competition from Chinese suppliers and this cost has been rising to a level of around € [redacted],-/ton due to the anti-dumping measures against especially Chinese imports.

Productionprocess

The millrolls of aluminiumfoil arrive in trucks or containers of about 18 tons per shipment in cases of around 700kg at ITS. These cases contain usually 3 rolls of a bit more than 200kg and a length of around 15.000m, all depending on width and thickness. ITS is purchasing around 20 different specifications in width and thickness and these rolls are converted, mainly in a completely automated process into consumerrolls of 10 to 60m or into catering rolls of 60 to 300m. Each millroll gets a barcode on arrival at ITS and each mill roll is converted into a certain number of consumer rolls or catering rolls. This process is computer controlled and ITS calculates exactly how much end products are being produced out of the purchased mill rolls,

thus calculating exactly the number of converted kilo's and meters. After rewinding the consumer rolls, these products are automatically packed into consumer boxes and these consumer boxes are automatically packed into transportcases. These transport cases are being packed on pallets and after wrapping and sealing the pallets, these are being send out to customers across Europe, together with the other products that are being produced by ITS, although in average customers more than 70% of the invoiced products are aluminium foil rolls.

Sales process

ITS is selling their products to the largest retailers and purchase groups in Europe, such as [redacted] and many others. Export is being done to almost all 27 countries within the EU, and Norway and Switzerland. In their industry ITS is a leading player and at least twice a year ITS is negotiating with their customers about new or existing contracts. During these negotiations, the customers are asking prices from several other players in the industry, among which a growing number of Chinese rewinders/distributors. Prices are being compared by the purchasers and it is their job to buy at the lowest possible prices. In this process, these buyers are increasingly using offers from China in order to push down prices or even switch their purchase to Chinese suppliers. In a highly competitive market such as the European retail, a very limited price difference can already trigger a purchaser to switch to another supplier and this is now causing a situation in which several European customers have already decided to switch to Chinese suppliers. The Chinese suppliers have an important price-advantage over European suppliers such as ITS due to the fact that they can still buy millrolls from China, of which the EC has proved that the material is sold under market-prices. Present conditions for Chinese suppliers are around 15% lower than European prices and this is now causing a major pressure on sales-prices in Europe and tempting several major European retailers to switch their purchases to China. The selling price of the consumerrolls and cateringrolls consists for 70-80% out of the aluminiumfoil, so a difference of 15% on the purchase-price for the millrolls, creates a difference of at least 10% on the rewinded consumerrolls. Due to the fact that ITS is producing private labels, it is very easy to switch suppliers for the customers.

Market conclusion

Due to the anti-dumping duties on aluminiumfoil there is now a huge over capacity of aluminiumfoil millrolls in China, because since the importduties the Chinese suppliers lost approximately 35% of the European market for millrolls, and these suppliers are now switching to the production of consumerrolls in order to circumvent the present duties on millrolls, thus creating unfair competition with European rewinders. This is not only circumventing the present duties on millrolls, but it is also benefitting the Chinese rewinders compared to European companies like ITS. The conclusion therefore is that ITS can only survive this situation, if it is allowed to import Chinese millrolls without duties until the moment that there are anti-dumping duties on consumerrolls and cateringrolls of aluminium householdfoil as well.