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Judgment of the General Court in Case T-402/20 | Zippo Manufacturing and Others v Commission

The General Court annuls the additional customs duties on certain lighters from the United States

The Commission should have heard the U.S. producer Zippo before imposing those duties

In January 2020, the United States increased the custom duties on imports of certain aluminium and steel products. The Commission considered that the objective of that measure was to protect domestic industry against foreign competition. In response, it imposed ¹ from 8 May 2020 (until 31 December 2021) additional custom duties (of up to 20%) on imports into the European Union of certain products originating in the United States; in particular only lighters of a certain type were subject to an increase in customs duties of 20%.

Zippo Manufacturing claims to be the only known manufacturer of metal mechanical windproof lighters in the United States. A significant part of its lighters, which it distributes under the Zippo brand, is imported into the European Union. Considering that the increase in customs duties on its lighters had, inter alia, breached the principle of good administration and in particular, its right to be heard beforehand, Zippo seeks the annulment of that increase before the General Court of the European Union.

By today's judgment, **the Court upholds Zippo's action and annuls the increase in customs duties on the type of lighters at issue.**

According to the Court, **the Commission disregarded Zippo's right to be heard** and, accordingly, the principle of good administration.

Since the Commission was aware, before adopting them, that the additional customs duties concerned to a large extent Zippo lighters, **it should have heard Zippo before imposing those duties.** According to the Court, **the Commission had, moreover, the time necessary to do so.** The Court also considers that **it cannot be ruled out that the Commission's decision would have been different if it had heard Zippo beforehand.**

As regards the procedural question of the admissibility of the action brought by Zippo, the Court emphasizes that the increase in customs duties in question was carried out by means of an act of general application. That act was not addressed to Zippo, but applied to all lighters of the type at issue originating in the United States.

Such an act can be challenged before the Courts of the European Union only if it is of individual and direct concern to the person or undertaking contesting it. According to the Court, this is indeed the case as regards Zippo. With respect to the criterion of individual concern, the Court finds in particular that it appears that Zippo was the only exporting producer of the type of lighters at issue from the United States to the European Union.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions,

bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

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¹ [Commission Implementing Regulation \(EU\) 2020/502](#) of 6 April 2020 on certain commercial policy measures concerning certain products originating in the United States of America. The customs duties in question were applied from 8 May 2020 to 31 December 2021.