

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of biodiesel originating in the United States of America, as extended to imports consigned from Canada, whether declared as originating in Canada or not

(2013/C 124/04)

The European Commission ('the Commission') has received a request for a partial interim review pursuant to Articles 11(3) and 13(4) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation').

1. Request for review

The request for review was lodged by Ocean Nutrition Canada ('the applicant'), an exporting producer from Canada ('the country concerned').

The review is limited in scope to the examination of the possibility of granting an exemption from the anti-dumping measures applicable to imports of biodiesel originating in the United States of America, as extended to imports consigned from Canada, whether declared as originating in Canada or not, as far as the applicant is concerned.

2. Product under review

The product subject to this review is fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin ('the product under review'), currently falling within CN codes ex 1516 20 98, ex 1518 00 91, ex 1518 00 99, ex 2710 19 43, ex 2710 19 46, ex 2710 19 47, ex 2710 20 11, ex 2710 20 15, ex 2710 20 17, ex 3824 90 97, ex 3826 00 10 and ex 3826 00 90.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Regulation (EC) No 599/2009⁽²⁾ on imports of biodiesel originating in the United States of America as

extended to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, by Council Implementing Regulation (EU) No 444/2011⁽³⁾.

4. Grounds for the review

The request pursuant to Articles 11(3) and 13(4) is based on *prima facie* evidence, provided by the applicant, demonstrating that the applicant is a genuine producer of the product under review able to produce the entire quantity that it has shipped to the Union since the start of the investigation period of the anti-circumvention investigation leading to the imposition of the existing measures.

Furthermore, the applicant alleges that it is not related to exporting producers subject to measures, and that it has not circumvented the measures applicable to biodiesel of US origin.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of the possibility of granting an exemption, as far as the applicant is concerned, from the anti-dumping measures applicable to imports of biodiesel originating in the United States of America, as extended to imports consigned from Canada, whether declared as originating in Canada or not, the Commission hereby initiates a review in accordance with Articles 11(3) and 13(4) of the basic Regulation.

5.1. Investigating exporting producer

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant as an exporting producer. This information and supporting evidence must reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 179, 10.7.2009, p. 26.

⁽³⁾ OJ L 122, 11.5.2011, p. 12.

5.2. *Other written submissions*

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.

5.3. *Possibility to be heard by the Commission investigation services*

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation, the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

5.4. *Instructions for making written submissions and sending completed questionnaires and correspondence*

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' ⁽¹⁾.

Interested parties providing 'Limited' 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 must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

Interested parties are required to make all submissions and requests in electronic format (non-confidential submissions via e-mail, confidential ones on CD-R/DVD), and must indicate their name, address, e-mail address, telephone and fax numbers. However, any powers of attorney, signed certifications, and any updates thereof, accompanying questionnaire replies must be submitted on paper, i.e. by post or by hand, at the address below. If an interested party cannot provide its submissions and requests in electronic format, it must immediately contact the Commission in compliance with

Article 18(2) of the basic Regulation. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade: <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>

Commission address for correspondence:

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Directorate H
Office: N105 08/020
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22985746
E-mail: TRADE-BIODIESEL-OCEAN@ec.europa.eu

6. **Non-cooperation**

In cases where 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.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on 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.

7. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate 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. For hearings on issues pertaining to the initial stage of the investigation, the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) 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).

must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to the possibility of granting the exemption to the applicant.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm

8. Schedule of the investigation

The investigation will be concluded, pursuant to Article 11(5) of the basic Regulation, within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

9. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.