

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice on the payment of interest in the case of reimbursement of duties relating to trade defence
measures following a final judgment by the Court of Justice**

(2019/C 224/02)

1. On 18 January 2017, the Court of Justice of the European Union rendered its judgment in Case C-365/15 *Wortmann*. According to that ruling, where taxes or duties have been levied by a Member State pursuant to a regulation that has been declared invalid or annulled by the Court of Justice of the European Union, those parties who have paid taxes or duties pursuant to the annulled regulation have the right, in principle, to obtain not only the repayment of those taxes or duties but also interest on those amounts ⁽¹⁾.
2. Consequently, and for the sake of clarity, the Commission began to include provisions on the applicable interest rate in its implementing regulations imposing trade defence measures (that is, anti-dumping, countervailing, and safeguard measures). The Commission initially set the interest rate to be paid in case of reimbursement following a final judgement by the Court of Justice as the rate applied by the European Central Bank to its principal refinancing operations, increased by one percentage point, in accordance with Article 112(2) of Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽²⁾.
3. On 2 August 2018, Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁾ entered into force. That regulation became applicable on the same day ⁽⁴⁾ and lays down, inter alia, the rules for the establishment and the implementation of the EU's general budget ⁽⁵⁾.
4. Article 109 of Regulation (EU, Euratom) 2018/1046, which also applies from 2 August 2018 ⁽⁶⁾, states that:

‘when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union. ..., the interest rate shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month. The interest rate shall not be negative. The interest shall run from the date of payment of the amount to be reimbursed until the date at which the reimbursement is due.

In cases where the overall interest rate would be negative it shall be set at zero percent.’

5. Therefore, the Commission is no longer entitled to specify, in the area of trade defence instruments, the applicable interest rate in the relevant recitals or the operative part of the regulations imposing anti-dumping, countervailing, or safeguard measures.

⁽¹⁾ Judgment of the Court of 18 January 2017 in Case C-365/15 *Wortmann*, ECLI:EU:C:2017:19, paragraph 37.

⁽²⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

⁽³⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1) (also known as the Financial Regulation).

⁽⁴⁾ Article 282(2) of Regulation (EU, Euratom) 2018/1046.

⁽⁵⁾ *Ibid*, Article 1.

⁽⁶⁾ *Ibid*, Article 282(2).

6. As a result, the relevant provisions in all implementing regulations adopted pursuant to Regulations (EU) 2016/1036 ⁽⁷⁾, (EU) 2016/1037 ⁽⁸⁾, (EU) 2015/478 ⁽⁹⁾, and (EU) 2015/755 ⁽¹⁰⁾ of the European Parliament and of the Council have been replaced by Article 109 of Regulation (EU, Euratom) 2018/1046 from 2 August 2018.
7. For ease of reference, the Commission includes in the Annex a list of all implementing regulations amended by Article 109 of Regulation (EU, Euratom) 2018/1046.
8. Consequently, for imports cleared for free circulation on 2 August 2018 or thereafter, when an amount is to be reimbursed following a final judgment by the Court of Justice, the applicable interest rate should be that applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
9. Imports cleared for free circulation prior to 2 August 2018 are not subject to Article 109 of Regulation (EU, Euratom) 2018/1046. As a result, if specified, the interest rate set out in the respective implementing regulation applies to such imports.

⁽⁷⁾ 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 (OJ L 176, 30.6.2016, p. 21).

⁽⁸⁾ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).

⁽⁹⁾ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (OJ L 83, 27.3.2015, p. 16).

⁽¹⁰⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

ANNEX

Commission Implementing Regulation (EU) 2018/140 of 29 January 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain cast iron articles originating in the People's Republic of China and terminating the investigation on imports of certain cast iron articles originating in India.

C/2018/0265

OJ L 25, 30.1.2018, p. 6.

Commission Implementing Regulation (EU) 2018/186 of 7 February 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain corrosion resistant steels originating in the People's Republic of China.

C/2018/0599

OJ L 34, 8.2.2018, p. 16.

Commission Implementing Regulation (EU) 2018/330 of 5 March 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2018/1274

OJ L 63, 6.3.2018, p. 15.

Commission Implementing Regulation (EU) 2018/607 of 19 April 2018 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China as extended to imports of steel ropes and cables consigned from Morocco and the Republic of Korea, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2018/2231

OJ L 101, 20.4.2018, p. 40.

Commission Implementing Regulation (EU) 2018/931 of 28 June 2018 imposing a definitive anti-dumping duty on imports of oxalic acid originating in India and the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2018/3975

OJ L 165, 2.7.2018, p. 13.

Commission Implementing Regulation (EU) 2018/921 of 28 June 2018 imposing a definitive anti-dumping duty on imports of tartaric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2018/3957

OJ L 164, 29.6.2018, p. 14.

Commission Implementing Regulation (EU) 2018/1570 of 18 October 2018 terminating the proceedings concerning imports of biodiesel originating in Argentina and Indonesia and repealing Implementing Regulation (EU) No 1194/2013.

C/2018/6750

OJ L 262, 19.10.2018, p. 40.

Commission Implementing Regulation (EU) 2018/1579 of 18 October 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163.

C/2018/6765

OJ L 263, 22.10.2018, p. 3.

Commission Implementing Regulation (EU) 2018/1684 of 8 November 2018 imposing a definitive anti-dumping duty on imports of lever arch mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2018/7153

OJ L 279, 9.11.2018, p. 17.

Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163.

C/2018/7349

OJ L 283, 12.11.2018, p. 1.

Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China.

C/2019/43

OJ L 16, 18.1.2019, p. 5.

Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China.

C/2019/48

OJ L 16, 18.1.2019, p. 108.

Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products.

C/2019/709

OJ L 31, 1.2.2019, p. 27.

Commission Implementing Regulation (EU) 2019/244 of 11 February 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Argentina.

C/2019/880

OJ L 40, 12.2.2019, p. 1.

Commission Implementing Regulation (EU) 2019/251 of 12 February 2019 concerning the definitive anti-dumping duties imposed on imports from Hubei Xinyegang Steel Co., Ltd and amending Implementing Regulation (EU) 2015/2272 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron or steel originating in the People's Republic of China.

C/2019/874

OJ L 42, 13.2.2019, p. 25.

Commission Implementing Regulation (EU) 2019/297 of 20 February 2019 imposing a definitive anti-dumping duty on imports of chamois leather originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council.

C/2019/1306

OJ L 50, 21.2.2019, p. 5.
