

Information about request for NEPT (NEPT-15)

On 7 July 2009, the Council imposed a definitive anti-dumping duty on imports into the Union of biodiesel originating in the United States of America ('the product concerned') for a period of 5 years by Regulation (EU) No 599/2009 ('the original Regulation')¹.

On 14 September 2015, following an expiry review, the Commission imposed a definitive anti-dumping duty on imports into the Union of biodiesel originating in the United States of America for a further period of 5 years by Regulation (EU) 2015/1518² ('the expiry review Regulation'), which is currently in force.

In the original investigation, sampling was applied for investigating the exporting producers in the United States of America in accordance with Article 17 of the Basic Regulation.

The original Regulation and the expiry review Regulation imposed individual anti-dumping duty rates ranging from EUR 0 to 198 per tonne on imports of biodiesel for the sampled exporting producers from the United States of America. For the cooperating exporting producers that were not included in the sample, a duty rate of EUR 115.6 per tonne was imposed. The cooperating exporting producers not included in the sample are listed in Annex 1 to the original Regulation and in Annex 1 to the expiry review Regulation. Furthermore, a country-wide duty rate of EUR 172.2 per tonne was imposed on biodiesel from companies in the United States of America which either did not make themselves known or did not cooperate with the investigation.

Article 1(6) of the expiry review Regulation stipulates that where any new exporting producer in the United States of America provides sufficient evidence that:

- (a) it did not export to the Union the product concerned originating in the United States of America during the period of investigation on which the measures are based, that is from 1 April 2007 to 31 March 2008 ('the original investigation period');
- (b) it is not related to an exporter or producer in the United States of America which are subject to the anti-dumping measures imposed; and
- (c) it has either actually exported the goods concerned to the Union or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the original investigation period,

¹ Council Regulation (EU) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p.26)

² Commission Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 239, 15.9.2015, p. 69) last amended by Commission Implementing Regulation (EU) 2017/1598 of 22 September 2017 (OJ L 245, 23.9.2017, p. 1)

then Article 1 of that Regulation can be amended by granting the new exporting producer the duty rate applicable to the cooperating companies not included in the sample, namely the weighted average duty rate of EUR 115.6 per tonne.

On 22 March 2017 "Organic Technologies" ('the applicant') submitted a request to the Commission to be granted new exporting producer treatment and hence be subject to the duty rate applicable to the cooperating companies in the United States of America not included in the sample, i.e. EUR 115.6 per tonne ('new exporting producer treatment' or 'NEPT').

The Commission is currently examining the request in order to determine whether the applicant fulfils the criteria for being granted NEPT, as set out in Article 1(6) of expiry review Regulation.

Importers/exporters, Union industry, can register as interested parties and have the possibility to provide comments concerning the request for NEPT or request hearings. Only interested parties have access to the non-confidential file of the case. ¶

Interested parties are invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous submissions which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

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The hearing officer acts as an interface between the interested parties and the Commission investigation services. The hearing officer may, upon request by any interested party organise

a hearing and mediate to ensure the full exercise of the interested parties' rights of defence. The hearing officer also reviews requests for access to the file, disputes on the confidentiality of documents, requests for extension of time limits and requests of third persons to be heard. For more information go to the hearing officer's web site accessible through this link: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>