STATUTORY INSTRUMENTS

2019 No. 450

The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019

PART 2

Dumping

CHAPTER 4

Comparison between the normal value and the export price

Comparison

16.—(1) A comparison for the purpose of regulation 6(2)(c) must be made—

(a) by reference to the same level of trade, normally the ex-factory level, or where that is not possible (because, for example, that information is not available for both the normal value and the export price at that level) such other level as the TRA considers appropriate; and

(b) in respect of sales made at as near as possible the same time.

(2) To ensure the comparison is fair, the TRA may make adjustments for any differences which affect price comparability including differences relating to—

(a) conditions and terms of sale;

(b) taxation;

(c) levels of trade;

(d) quantities;

(e) physical characteristics.

Methodologies for comparing the normal value and the export price

17.—(1) The TRA must make the comparison for the purpose of regulation 6(2)(c) by comparing—

(a) the weighted average normal value with the weighted average of prices of all comparable export transactions;

(b) the normal value and export prices on a transaction by transaction basis; or

(c) where paragraph (2) applies, a weighted average normal value to individual export transactions.

(2) This paragraph applies where—

(a) the TRA finds a pattern of export prices which differ significantly among different importers or purchasers in the United Kingdom, parts of the United Kingdom or time periods; and

(b) the TRA is satisfied that these differences cannot be taken into account appropriately by using either of the methodologies in paragraph (1)(a) or (1)(b).

Currency conversion

18.—(1) This regulation applies where the TRA is required to make a comparison between the normal value and the export price for the purpose of regulation 6(2)(c).

(2) Subject to paragraphs (3) and (4), where the TRA is required to make a currency conversion in order to carry out the comparison referred to in paragraph (1), it must use the rate of exchange on the date of sale of the goods.

(3) When a sale of foreign currency on forward markets is directly linked to the export sale involved, the TRA must use the applicable rate in the forward sale of the goods.

(4) In conducting a currency conversion, the TRA—

(a) must disregard short-term fluctuations in exchange rates; and

(b) may consider sustained movements in exchange rates during the period of investigation, provided that it allows overseas exporters at least 60 days to adjust their export prices to reflect such movements.

(5) For the purpose of this regulation—

(a) "the rate of exchange" means the currency exchange rate that the TRA considers to be most appropriate taking into account, among other things, the material terms of the sale; and

(b) the TRA may treat the "date of sale" for the purpose of paragraph (2) as the date of either the—

(i) invoice;

(ii) contract;

(iii) purchase order; or

(iv) order confirmation,

that establishes the material terms of sale.