
STATUTORY INSTRUMENTS

2019 No. 450

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

PART 2

Dumping

CHAPTER 2

Determination of the normal value

The ordinary course of trade

9.—(1) The TRA may consider the sales of the like goods in the exporting country or territory as not being in the ordinary course of trade where—

- (a) the goods are sold at prices below the per unit (fixed and variable) costs of production plus administrative, selling and general costs;
- (b) the goods are sold between parties that the TRA considers to be associated unless the TRA is satisfied that the relationship has no effect on prices; or
- (c) it otherwise considers it appropriate.

(2) For the purpose of paragraph (1)(a), the TRA may only regard such sales as not being in the ordinary course of trade where it considers that the sales are made—

- (a) within an extended period of time;
- (b) in substantial quantities; and
- (c) at prices which do not provide for the recovery of all costs within a reasonable period of time.

(3) For the purpose of paragraph (2), the TRA may consider that prices provide for the recovery of costs within a reasonable period of time, even where they are below per unit costs at the time of sale, provided that they are above weighted average per unit costs for the period of investigation.

(4) For the purpose of this regulation—

- (a) “per unit costs of production” means the total costs of production determined in accordance with regulation 11 (costs of production) divided by the production volume;
- (b) an “extended period of time” is normally one year but it may be as short as six months if the TRA considers that appropriate;
- (c) sales below per unit costs are regarded as made in substantial quantities where the TRA establishes that—
 - (i) the weighted average selling price of the transactions under consideration for the determination of the normal value is below the weighted average per unit costs calculated by reference to the sales volume; or

- (ii) the volume of sales below per unit costs represent not less than 20 per cent. of the volume sold in the transactions under consideration for the determination of the normal value;
- (d) the “administrative, selling and general costs” means an amount calculated in accordance with regulation 12 (the amounts for administrative, selling and general costs and for profits) disregarding an amount for profits; and
- (e) parties are “associated” where they meet the definition of “related persons” in the Customs (Import Duty) (EU Exit) Regulations 2018(1)