

MINISTRY OF DEVELOPMENT, INDUSTRY AND FOREIGN TRADE

SECRETARIAT OF FOREIGN TRADE

DEPARTMENT OF TRADE REMEDIES

PUBLIC INTEREST

NEW DELHI / April 2015

The Legal Texts - SCM

The Current Regulation – Decree 1.751/1995:

Art 73 § 3º Under exceptional circumstances, notwithstanding a final positive determination of actionable subsidies, injury and causal link has been achieved, the Council of Ministers may, for reasons of national interest, suspend the enforcement of a countervailing measure, not approve a price undertaking or, subject to sole paragraph of art. 52, decide to apply a countervailing duty in an amount other than that recommended, and, in such situations, the public notice shall set forth the reasons and grounds for such decisions.

The Legal Texts - AD

The Former Regulation – Decree 1.602/1995:

Art 64 § 3º Under exceptional circumstances, even when there is a final positive determination of dumping, injury and causal link, the Council of Ministers may decide, for reasons of national interest, to suspend the imposition of an anti-dumping duty, not to approve a price undertaking or, subject to sole paragraph of art. 42, decide to apply an anti-dumping duty in an amount other than that recommended, and, in such situations, the public notice shall set forth the reasons and grounds for such decisions.

The Legal Texts - AD

The Current Regulation – Decree 8.058/2013:

Article 3. Under special circumstances, the Council of Ministers may, for reasons of public interest:

- I. suspend for up to one year, extendable once for an equal period, the enforcement of a definitive anti-dumping duty or price undertaking in force;
- II. not to impose provisional anti-dumping duties; or
- III. accept price undertakings or apply definitive anti-dumping duties in an amount other than that recommended, subject to article 67, paragraph 4, and article 78, paragraph 2.

Paragraph 1. Anti-dumping duties or price undertakings suspended on the basis of sub-paragraph I of the chapeau may be reapplied at any time by decision of the Council.

Paragraph 2. Anti-dumping duties or price undertakings shall be terminated on conclusion of the suspension period provided for in sub-paragraph I of the chapeau where such duties or undertakings were not reapplied pursuant to paragraph 1 or in the event the suspension does not expressly establish its reapplication at the end of the suspension period.

Paragraph 3. Industrial sectors users of the product under consideration and consumer organizations may submit information deemed relevant regarding the effects of a positive determination of dumping, injury and causal link.

Paragraph 4. Information submitted pursuant to paragraph 3 must be addressed to the Executive Secretariat of CAMEX and shall be considered in the decision-making process on public interest.

Paragraph 5. Public interest analysis shall follow the procedures established in specific regulation enacted by CAMEX.

Paragraph 6. The decisions of the Council of Ministers, including those based on the public interest, shall set forth the reasons and grounds for such decisions.

PUBLIC INTEREST

Resolution CAMEX n. 13/2012

- Creation of GTIP – Technical Group on Public Interest**
- 7 Members (same Ministries of CAMEX)**
- Secretariat of the Group – Ministry of Finance – Secretariat for Economic Monitoring (SEAE)**

PUBLIC INTEREST ANALYSIS

- Request of the private sector
- Request of a public body (“ex officio” initiation)
- Application duly documented

PUBLIC INTEREST ANALYSIS

- Analysis totally independent from the Investigating Authority
- Not an Administrative Review nor an Appeal
- Time Limit: 4 months (may be extended)
- Full opportunity to all interested parties to defend their interest (full defense and adversarial principles → due process)

PUBLIC INTEREST ANALYSIS

- **Report prepared by SEAE containing the factual and the legal basis**
- **Conclusions submitted to the Council of Ministers**
- **The Council of Ministers is not bound by the conclusions of the Group**

PUBLIC INTEREST

RECENT CASES

PRODUCT	DECISION
Blankets of Synthetic Fibers	Rejected
Diphenylmethane Diisocyanate (Polymeric MDI)	Rejected
Light Weight Coated Paper	Rejected
Polycarbonate Resin	Granted
Viscose Yarn	Granted
Cold-rolled Stainless Steel Sheet, grades 304, 304L and 430	Rejected
One Piece Crank	Granted
Non-oriented Silicon Steel	Granted
Polypropylene Resin	Under analysis

PUBLIC INTEREST

AGREEMENT ON SAFEGUARDS

Art. 3.1 A Member may apply a safeguard measure only following an investigation by the competent authorities of that Member pursuant to procedures previously established and made public in consonance with Article X of GATT 1994. This investigation shall include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentations of other parties and to submit their views, inter alia, as to whether or not the application of a safeguard measure would be in the public interest. The competent authorities shall publish a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law.

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THANK YOU!

Ministério do
Desenvolvimento, Indústria
e Comércio Exterior

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