

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 (codification)

*Article 8*

**Undertakings**

[<sup>F1</sup> Where a provisional affirmative determination of dumping and injury has been made, the Commission may, in accordance with the advisory procedure referred to in Article 15(2), accept satisfactory voluntary undertaking offers submitted by any exporter to revise its prices or to cease exports at dumped prices, if the injurious effect of the dumping is thereby eliminated.

In such a case and as long as such undertakings are in force, provisional duties imposed by the Commission in accordance with Article 7(1), or definitive duties imposed in accordance with Article 9(4), as the case may be, shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings, as subsequently amended.

Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they shall be less than the margin of dumping if such increase would be adequate to remove the injury to the Union industry.

When examining whether price increases under such undertakings lower than the margin of dumping would be sufficient to remove injury, Article 7(2a), (2b), (2c) and (2d) shall apply accordingly.]

2 Undertakings may be suggested by the Commission, but no exporter shall be obliged to enter into such an undertaking. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice consideration of the case.

However, it may be determined that a threat of injury is more likely to be realised if the dumped imports continue. Undertakings shall not be sought or accepted from exporters unless a provisional affirmative determination of dumping and injury caused by such dumping has been made.

[<sup>F1</sup> Save in exceptional circumstances, undertakings may not be offered later than five days prior to the end of the period during which representations may be made pursuant to Article 20(5), so as to ensure the opportunity to comment for other parties.]

[<sup>F13</sup> Undertakings offered need not be accepted if their acceptance is considered impractical, such as where the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy which comprise in particular the principles and obligations set out in multilateral environmental agreements and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia to this Regulation. The exporter concerned may be provided with the reasons for which it is proposed to reject the offer of an undertaking and may be given an opportunity to make comments thereon. The reasons for rejection shall be set out in the definitive decision.

4 Parties which offer an undertaking shall be required to provide a non-confidential version of such undertaking that is meaningful in the sense of Article 19, so that it may be made available to interested parties to the investigation, to the European Parliament and to the Council.

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2016/1036 of the European Parliament and of the Council, Article 8. (See end of Document for details)

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Furthermore, before accepting any such offer, the Union industry shall be given an opportunity to comment with regard to the main features of the undertaking.]

5 Where undertakings are accepted, the investigation shall be terminated. The Commission shall terminate the investigation in accordance with the examination procedure referred to in Article 15(3).

6 If the undertakings are accepted, the investigation of dumping and injury shall normally be completed. In such a case, if a negative determination of dumping or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of an undertaking. In such cases it may be required that an undertaking be maintained for a reasonable period.

In the event that an affirmative determination of dumping and injury is made, the undertaking shall continue in accordance with its terms and the provisions of this Regulation.

7 The Commission shall require any exporter from which an undertaking has been accepted to provide, periodically, information relevant to the fulfilment of that undertaking, and to permit verification of pertinent data. Non-compliance with such requirements shall be construed as a breach of the undertaking.

8 Where undertakings are accepted from certain exporters during the course of an investigation, they shall, for the purpose of Article 11, be deemed to take effect from the date on which the investigation is concluded for the exporting country.

9 In the case of breach or withdrawal of undertakings by any party to the undertaking, or in the case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 7 or the definitive duty which has been imposed in accordance with Article 9(4) shall automatically apply, provided that the exporter concerned has, except where that exporter has withdrawn the undertaking, been given an opportunity to comment. The Commission shall provide information to the Member States when it decides to withdraw an undertaking.

Any interested party or Member State may submit information showing *prima facie* evidence of a breach of an undertaking. The subsequent assessment of whether or not a breach of an undertaking has occurred shall normally be concluded within six months, but in no case later than nine months following a duly substantiated request.

The Commission may request the assistance of the competent authorities of the Member States in the monitoring of undertakings.

10 A provisional duty may be imposed in accordance with Article 7 on the basis of the best information available where there is reason to believe that an undertaking is being breached, or in the case of breach or withdrawal of an undertaking, where the investigation which led to the undertaking has not been concluded.

#### Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2018/825 of the European Parliament and of the Council of 30 May 2018 amending Regulation \(EU\) 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation \(EU\) 2016/1037 on protection against subsidised imports from countries not members of the European Union.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) 2016/1036 of the European Parliament and of the Council, Article 8.