

Procedures – Chinese anti-subsidy investigation into EU cheese and cream

On 21 August, China announced that it was launching an anti-subsidy investigation into imports of EU **cheese and cream**.

Registration

The deadline to register as a ‘co-operating party’ to the investigation is 10 September. The Ministry of Commerce of China (MOFCOM) has an [online platform](#) into which information should be submitted (information must be submitted in Chinese). A physical copy of the registration form should also be posted to MOFCOM’s offices in Beijing, the address of which is:

Trade Remedy Investigation Bureau of MOFCOM (Policy and Regulation Division)

Address: No.2, Dong Chang'an Avenue, Beijing

Post code: 100731

(Please note that in the table ‘export information’ in the registration form, information on volumes and value should be provided in relation to cheese and cream (040150) **only** – not other dairy product lines).

All stakeholders exporting these specific products to China, (processors, but also traders and business associations) are advised to register. Processors which do not register will be automatically treated as a ‘non-co-operating’ party to the investigation and may be subject to the highest level of punitive tariffs once MOFCOM makes its final determination (a tariff level which will be calculated based on evidence which points to the ‘worst case scenario’).

Phase 2 – sampling of companies

It is expected that after the registration phase, a few of the largest processor exporters (possibly 3-6) will be ‘sampled’ by MOFCOM, meaning that a detailed questionnaire will need to be completed, covering the company’s activities, as well as the impact of subsidies paid to farmers

and sales values corresponding to these subsidies. The sampled companies will reportedly have approximately 37 days to complete and return the questionnaire to MOFCOM.

Duties

Sampled processors will then be assigned different countervailing duty rates.

Processors which registered in the first phase but which were not sampled will have a countervailing duty rate which is a weighted average of the duty rates assigned to the sampled companies. As a simplified example, the table below illustrates the advantages for a company to register:

Company	Countervailing duty rate	Company	Countervailing duty rate	Company	Countervailing duty rate
Sampled company A	25%	All registered companies which were not sampled	20%	All companies which did not register in phase 1 (deadline 10 September)	Punitive rate (e.g. 40%)
Sampled company B	20%				
Sampled company C	15%				

Traders will not be assigned a countervailing duty rate (this will happen only to processors). The rate which will apply to their shipments to China will be the rate assigned to the company from which they source the product.

Please note that the conditions for imposing duties are as follows:

- there must be a countervailable subsidy, such as direct payments
- a material injury or threat thereof to the Chinese industry and
- a causal link between subsidised imports from Europe and the injury

Traders which register as a co-operating party now may be able to feed through information at a later point in the investigation, (which may benefit their processor partners, when it will have to be demonstrated that there has been no material injury to the domestic Chinese industry by subsidies granted to these products).

Timeline

Following the submission of the questionnaires from the sampled processors (which will most likely happen in October), MOFCOM can issue a 'preliminary determination' on the investigation (60 days after the initiation of the investigation, i.e. 20 October). From that point on, preliminary duties can be applied to imports. It has also happened in the past that MOFCOM has not issued a preliminary determination in a case and has gone straight to the final determination. The final ruling is expected after 12 months.