



Renewable Energy Association response to the

“Stakeholder Engagement Initiation and Conduct of Investigations – Policy Paper”

Sent by email to traderemedies@trade.gov.uk

14th March, 2018

The REA is a trade body representing the interests of the renewable energy industry, and parts of the clean tech sector.

Procedural comments

To date, a member of the REA’s executive has participated at all stakeholder meetings to which the Association has been invited. The Association does not have detailed expertise in this area, which is hardly surprising given the context; these matters have largely been left entirely to the EU since the UK became a member. Nevertheless we realise that should the UK leave the customs union, trade associations such as ourselves will have to take a greater role in the processes of determining the fairness of trade. Those members who manufacture products that are impacted by existing EU trade remedy measures, i.e. bioethanol and biodiesel, have to date looked to their memberships of EU representative bodies such as the European Biodiesel Board and e-PURE to safeguard their interests. Depending on the way in which Brexit finally manifests itself, this may not be an option.

We believe REA has relatively few members whose businesses are directly impacted by the import or threat of import of unfairly subsidised or dumped goods. With respect to solar PV panels the REA does not support the EU’s anti-dumping measures; with respect to liquid biofuels members have pursued their interests via their European trade body or directly. REA expertise therefore resides in its members. In these circumstances the REA would like to be able to bring a strictly limited number of member companies with us to future Trade Remedies meetings. These would be those who have been or are currently engaged in EU anti-dumping or anti-subsidy investigations with the European Commission and EU trade. Such participation would make the REA’s input more informed.

Comments on issues not covered in the questions

Schedule 4 – Paragraph 9 (3) (a) - It is not clear from either the DIT “Stakeholder Engagement Initiation and Conduct of Investigations” policy paper or the accompanying slides how “applicant UK industry” is to be defined. Is it intended that Trade Associations should take on the responsibility of submitting applications on behalf of their members or, providing such a company can satisfy the

WTO “standing requirements”, can an individual company submit its own application? As noted above, the Association does not have detailed expertise in this area so we would appreciate advice in this regard.

Schedule 4 – Paragraph 9 (3) (b) – if an application is made in writing, what is the definition of “delivery” – the date of postage or the date of receipt by the TRA?

The policy paper specifically excludes consideration of “mature policy proposals” relevant to Schedule 4, Paragraph 9(3) (e), (f), (g), (h). These are areas of particular concern to our members and we would like them to be able to engage directly with the relevant proposals by joining the REA representative team.

We now respond to the questions in the paper, (which are not numbered, nor are they stand alone).

Do you agree with our approach to providing a registration process?

In general yes. However, neither the policy paper nor the slides gives any information as to how the start of an initiation process is to be publically communicated. The European Commission makes use of the Official Journal for such communication. Will there be a similar communication medium in the UK system?

What would you describe as an appropriate length for the registration period?

We have no firm views on this, but, given the dangers identified below on “interested parties and contributors”, we suggest it should be at the longer end of any proposed period.

Do you agree with our approach to sampling?

We agree with the proposed approach to sampling, but we would still like to know whether there will be a communication equivalent to the EU Official Journal.

Do you agree with this approach?

We agree with the proposed approach for questionnaires, deficiency letters and verification visits.

Do you agree with this approach?

On oral hearings, it is not clear whether these can be requested by both “interested parties” and “contributors” or just by the former.

Do you agree?

On the “Statement of Essential Facts” to whom will these be accessible - “interested parties”, “contributors” or both?

What are your views in this area?

On “Statutory Time Limits”, we understand the need to maintain flexibility at the possible expense of carrying out investigations more quickly. However, slide 31 refers to the fact that the TRA will publish Guidance on timescales nearer the time when it starts its operations. Will a Consultation be carried on proposed timescales in the future? Generally speaking our members have been very frustrated by the length of time that the European Commission takes to conduct its investigations.

Do you agree?

On “Information to be provided by the TRA”, what is the proposed timing for the UK’s digital system to be up and running? Is there a fall back in the event of IT problems?

It is not clear whether information from the TRA will have to be requested in writing.

Do you agree?

On “Treatment of Commercial Information”, is there to be a specified form of wording to denote “confidential” information?

The requirement for a non-confidential summary is noted, but guidance must be given on what to provide if information cannot be summarised – for example, specific data/numbers on individual company production and sales volumes and values which, if disclosed, would give advantage to a competitor.

What are your opinions on this approach?

We have no comment on “Consequences of Non-compliance”.

On “Interested Parties and Contributors”:

Schedule 4 – Paragraph 9 (3) (c) – The information contained in an application appears to cover those material facts that will determine who the TRA will contact as “interested parties”. Is there to be any provision regarding the supply of information from interested parties which the applicant (however defined) either does not know or conceals? This could materially affect a company that has a clear interest but whom an applicant wished to keep out of the proceedings.

Schedule 4, Paragraph 32 (3) defines “interested parties” and “contributors”. It is not clear from these definitions how the TRA will know which other external parties have an interest and should therefore be sent a questionnaire. Slide 25 talks about “those seeking to register” which suggests that potential “interested parties” and “contributors” can take the initiative to register, but not how they would find out whether they should register in the first place.

The TRA will apparently have discretion to modify the information requested. How will this be done?