

Sayı: 17812098-TİM.AKİB.GSK.TAR.2023/251-1735
Konu: Filipinler / Anti-Damping

Mersin, 4/04/2023

Sayın Üyemiz,

Ticaret Bakanlığından iletilen yazıda, Filipinler tarafından ülkemiz menşeli “Buğday Unu” ithalatına karşı uygulanan anti-damping önlemine ilişkin yürütülen nihai gözden geçirme soruşturması kapsamında Filipinler Tarife Komisyonu (Komisyon) tarafından soruşturma takvimine ilişkin bildirim yayımlandığı belirtilmektedir.

Ek-1'de bir örneği yer alan söz konusu bildirimde, soruşturmaya taraf olmak isteyen firmaların soruşturma başlangıç tarihinden itibaren 30 gün içinde yazılı taleplerini Komisyon'a iletmesi gerektiği, talebin kabul edilmesinin ardından soru formu yanıtlarını 15 iş günü içerisinde yanıtlaması gerektiği ifade edilmektedir. Bahse konu soru formu Komisyon'un internet sitesinde yer almakta olup, bir örneği Ek-2'de iletilmektedir.

Yazıda devamla, önümüzdeki dönemde Komisyon tarafından ihracatçı firmalara yönelik yerinde inceleme ziyaretlerinin yapılabileceği ve çeşitli bilgi/belgelerin istenebileceği ifade edilmektedir. Ayrıca, ilgili tarafların 21 Nisan 2023 tarihine kadar soruşturma kapsamındaki ilk görüşlerini (initial memoranda/position paper) yazılı olarak sunabilecekleri belirtilmektedir.

Diğer taraftan, ilgili herhangi bir tarafın belirlenen süreler içerisinde gerekli bilgileri vermeyi reddettiği veya soruşturmayı engellediği durumlarda, mevcut veriler esas alınarak (facts available) olumlu veya olumsuz ön ve nihai belirlemelerin yapılabileceği; dolayısıyla, ilgili herhangi bir tarafın iş birliği yapmaması ve bu nedenle ilgili bilgilerin yetkili mercilere verilmemesi halinde, bu durumun ilgili tarafların iş birliği yaptığı duruma kıyasla, söz konusu tarafın daha az lehine olan bir sonuca yol açmasının ihtimal dâhilinde olacağı ifade edilmektedir.

Bununla birlikte, firmalarımızın Ticaret Bakanlığı "Ticaret Politikası Savunma Araçları" internet adresinde (www.tpsa.gov.tr) "Türk İhraç Ürünlerine Yönelik Uygulanan Ticaret Politikası Savunma Önlemleri" başlığı altında yer alan "TPSA Önlemlerine İlişkin Faydalı Bilgiler" kısmındaki belgeleri ve Türkiye İhracatçılar Meclisi (TİM) tarafından düzenlenen "Ticaret Politikası Önlemleri Soruşturmaları ve Genelleştirilmiş Tercihler Sistemi Uygulamaları Kapsamında Firmalarca Alınacak Avukatlık ve/veya Danışmanlık Hizmeti Harcamalarının Desteklenmesine İlişkin Uygulama Usul ve Esasları" incelemesinde fayda görüldüğü belirtilmektedir.

Bilgilerini rica ederim.

H. Okan ŞENEL
Genel Sekreter Yrd.

EK:

- 1- Soruşturma Takvimi ve Süreçlere İlişkin Bildirim
- 2- İhracatçı Soru Formu





REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

TC Form 6-B
INFORMATION FOR THE CONDUCT OF
INVESTIGATION PURSUANT TO THE ANTI-DUMPING
ACT OF 1999 (RA 8752): FOREIGN EXPORTER
(To be submitted in triplicate)

For TC use only

TCI (AD) No.: _____

Date: _____

Records Officer: _____

Please check one:

Application for Anti-Dumping Measures

Expiry Review of the Anti-Dumping Measures

1. COMPANY INFORMATION

1.1. Name of Company: _____

1.2. Name of Head of Company/Position: _____

1.3. Contact Details:

a. Main Office:	
Contact Person:	
Position:	
Tel./Fax. Nos.	
Email Address:	
Address:	
b. Plant/Factory:	
Contact Person:	
Position:	
Tel./Fax. Nos.	
Email Address:	
Address:	

1.4. Provide details of the following:

- a. Company ownership/shareholdings, organizational structure, nature, and functions of your company. Substantiate your submissions with articles of incorporation and by-laws, certificate of incorporation, organizational chart, annual report, and/or any relevant brochures or pamphlets of your company.

- b. Full description of all the products that your company manufactures and sells in the domestic market including their physical characteristics, material components, production processes and function/use. If the products involve a number of models/types, the details must include all models/types manufactured. Substantiate your submission with product brochures/catalogues, specifications, and flowchart of production processes.
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-

- c. Provide details on the relationship between your company and other firms, both domestic and foreign, engaged in the production, export and import of subject product. Substantiate your submission with documentary evidence.
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-

2. SUBJECT PRODUCT(S) UNDER REVIEW

2.1. Provide details of the following:

Particulars	Product(s) Produced and Exported to the Philippines	Product(s) Produced and Sold in the Exporting Country
a. Subject Product		Like product to the exported product to the Philippines? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, provide justification below)
b. Product description		
c. Model/Type		
d. Tariff classification		
e. Physical characteristics		
f. Material component		
g. Functions/Uses		
h. Production Processes		
i. Distribution Channels		
j. Name and address of other manufacturers / exporters of subject product(s) to the Philippines		
k. Justifications		If the product(s) you manufacture is not identical to the subject imported product(s), give details and explain how you consider that they closely resemble the subject imported product(s)
Substantiate your submission with documentary evidence such as product brochures/catalogues, technical specifications, and flowchart of production processes.		

2.2. Provide information about your company's total production of the subject product for the last two years up to the current year.

Total Production
Model/Type: _____

Particulars	Year 1	Year 2	Current Year
Production capacity in volume			
Actual production in volume			
Capacity Utilization (%)			

3. MARKET SHARE

3.1. Provide total sales (volume and value) for each model/type of like product that your company sold during the last two years up to the current year. Use separate sheet if necessary.

Total Sales
Model/Type: _____
Period¹: _____

Particulars	Total Sales Quantity ²	Net Sales Revenue ³
Exports to the Philippines		
Sales to Domestic Market		
Exports to Other Countries		
Total		

¹ Specify year.

² Specify unit of measurement (e.g. tons, liters, grams, kilograms).

³ Specify unit of currency (and exchange rate if applicable).

3.2. State the most commonly used terms and conditions with regard to delivery, payments, method of payments, discounts and other information relative to following sales.

a. Domestic Sales

b. Export Sales to the Philippines

c. Export Sales to Other Countries

3.3. Describe your distribution channel (including a diagram if appropriate) and pricing policy relative to the following sales:

a. Domestic Sales

b. Export Sales to the Philippines

c. Export Sales to Other Countries

4. EXPORT SALES TO THE PHILIPPINES

The information elicited in this part is required to determine the export price of the product under review which were shipped to importers in the Philippines. You should include costs incurred beyond ex-factory.

4.1. Provide the export price for each type/model of subject product sold to customers in the Philippines during the period of investigation (i.e., last 12 months preceding the date of the application/petition) on a monthly basis. *Export price refers to (1) the ex-factory price at the point of sale for export; or (2) the freight-on-board (F.O.B.) price at the point of shipment of the allegedly dumped product.* Substantiate your submission with documentary evidence such as: importer's purchase order, price list, sales contract, commercial invoices, bills of lading, letter of credit, proof of payment of costs in relation to export sales, and working paper used in the calculation.

Export Sales to the Philippines

Period¹: _____

Date	Name of the Customer	Level of Trade ²	Association (Y/N) ³	Model / Type	Invoice Number	Payment Terms	Quantity ⁴	Gross Sales Value ⁵	Net Unit FOB Price ⁶
Total									

¹ Specify year and month

² For example, wholesaler, distributor, end-user.

³ If the customer is associated with your business, indicate with letter "Y", if not, use letter "N". Provide a separate explanation of the association.

⁴ Specify unit of measurement.

⁵ Specify unit of currency (and exchange rate, if applicable).

⁶ Excluding post-exportation charges incurred after factory and up to FOB in the country of export. Such costs may include export packing, storage, inland freight from factory to port/border, insurance, handling, export taxes, export inspection fees, customs brokers' fees, commission, and other fees and taxes.

If the export prices are other than FOB in the country of export, provide details of other costs incurred in relation to the export sale of subject product to the Philippines such as freight from border to port, overseas freight, overseas insurance, Philippine customs duty, customs agent fee in the Philippines, and port and transport costs in the Philippines.

5. DOMESTIC SALES

The information requested in this part is required to determine the normal value of the product under review shipped to importer in the Philippines.

5.1. Provide the normal value for each type/model of like product sold to customers in the domestic market at the same level of trade and with similar sales volume as your Filipino customer during the period of investigation (i.e., last 12 months preceding the date of the application/petition) on a monthly basis. *Normal value refers to a comparable price at the date of sale of the like product in the ordinary course of trade when destined for consumption in the country of export or origin. Indicate any factors affecting the comparability of prices for export sales and domestic sales, e.g., quantities sold, conditions and terms of sales, level of trade, taxation, or physical differences.* Substantiate your submission with documentary evidence such as: price list, commercial invoices, basis for the grant of discounts or rebates, commissions or royalties or other consideration or reimbursements made in respect of the selling price, proof of payments of costs in relation to domestic sales, and working paper used in the calculation.

Domestic Sales of Like Articles to the Domestic Customers Period¹: _____

Date	Name of Customer	Level of Trade ²	Association (Y/N) ³	Model / Type	Invoice Number	Payment Terms	Quantity ⁴	Gross Sales Value ⁵	Net Unit Selling Price ⁶
Total									

¹ Specify year and month

² For example, wholesaler, distributor, end-user.

³ If the customer is associated with your business, indicate with letter "Y", if not, use letter "N". Provide a separate explanation of the association.

⁴ Specify unit of measurement.

⁵ Specify unit of currency (and exchange rate, if applicable).

⁶ Excluding cost allowances directly linked to the sale of subject product and such other adjustments between your domestic and export sales affecting price comparability. Cost adjustments may include differences in packing, inland freight, insurance, storage, handling, credit interest, taxes, sales incentives, commissions, warehousing/storage, and other FOB charges.

6. EXPORT SALES TO COUNTRIES OTHER THAN THE PHILIPPINES

6.1. Provide the export price for each type/model of like product sold to customers in countries other than the Philippines at the same level of trade and with similar sales volume as your Filipino customer during the period of investigation (i.e., last 12 months preceding the date of the application/petition) on a monthly basis.

Export Sales to Countries Other Than the Philippines Period¹: _____

Date	Name of Customer	Level of Trade ²	Association (Y/N) ³	Model / Type	Invoice Number	Payment Terms	Quantity ⁴	Gross Sales Value ⁵	Net Unit FOB Price ⁶
Total									

¹ Specify year and month.

² For example, wholesaler, distributor, end-user.

³ If the customer is associated with your business, indicate with letter "Y", if not, use letter "N". Provide a separate explanation of the association.

⁴ Specify unit of measurement.

⁵ Specify unit of currency (and exchange rate, if applicable).

⁶ Excluding post-exportation charges incurred after factory and up to FOB in the country of export. Such costs may include export packing, storage, inland freight from factory to port/border, insurance, handling, export taxes, export inspection fees, customs brokers' fees, commission, and other fees and taxes.

Indicate reasons for the nomination of the third country and submit documentary evidence such as: importer's purchase order, sales contract, commercial invoices, bill of lading, letter of credit, proof of payments of costs in relation to export sales, and working paper used in the calculation.

If the export prices are other than FOB in the country of export, provide details of other costs incurred in relation to the export sale of subject product to other countries such as freight from border to port, overseas freight, overseas insurance, customs duty in the importing country, customs agent fee, port and transport costs in the importing country.

7. COSTS TO PRODUCE AND SELL

This section relates to costs incurred in manufacturing and selling the subject product to the Philippines, and for the product sold in the domestic market and product exported to countries other than the Philippines.

7.1. Provide the actual unit cost to produce and sell (COPS) for each model/type of the product manufactured and sold both for domestic and exports. Submit documentary evidence such as: proof of payment for each cost, i.e., invoice for raw material purchases; payroll of personnel directly involved in the production; invoices and/or accounting records showing payments of overhead, selling, administrative and general expenses (SAGE) and finance costs and working paper used in the calculation.

Cost to Produce and Sell Per Unit

Period: _____

Particulars	Model Exported to the Philippines	Comparable Domestic Model	Comparable Model Exported to Other Countries
Model/Type			
Raw Materials ¹			
Total Raw Materials Cost			
Direct Labor			
Manufacturing Overhead			
Other Costs ²			
Costs of Production			
Selling Costs			
Administration Costs			
Financial Costs			
Delivery Expenses ³			
Other Costs ³			
Unit Cost to Produce and Sell			
Mark-up/Margin of Profit (%)			

¹ Include indirect material costs as a separate item only if not included in manufacturing overhead.

² Relating to costs of production only; identify each cost separately.

³ Identify each cost separately. Please ensure non-operating expenses that relate to the subject articles are included.

Where the figures shows that differences in specifications exist between articles sold to the domestic market and those sold for exports, provide details of these differences.

8. PROFITABILITY

8.1. Attach a copy of your company's financial statements for the last two years and the current year. Provide also a copy of the profit and loss statement for the sale of the subject exported product(s).

8.2 Indicate whether your company has experienced any of the following changes in operations during the POI.

Check as many as appropriate:	If checked, please describe. Skip if not applicable
<input type="checkbox"/> Plant openings	
<input type="checkbox"/> Plant closings	
<input type="checkbox"/> Relocations	
<input type="checkbox"/> Expansions	
<input type="checkbox"/> Acquisitions/mergers/buyouts	
<input type="checkbox"/> Consolidations	
<input type="checkbox"/> Prolonged shutdowns or production curtailments	
<input type="checkbox"/> Revised labor agreements	
<input type="checkbox"/> Technology developments	
<input type="checkbox"/> Others	

9. DISCUSSION ON THE PHILIPPINE MARKET AND MATERIAL INJURY

9.1. Provide a general outline of the Philippine market from your perspective. You may also comment on any factors you believe affect the Philippine market such as supply and demand, prices, the relative importance of imports, etc. Any comment should be supported by documentary evidence.

9.2. Provide details of any factors you consider to be the cause of the material injury claimed by the applicant. Any comment should be supported by documentary evidence.

10. GENERAL COMMENTS

This section gives you the opportunity to make comments on the allegations made by the applicant(s).

10.1. Give any other information you consider relevant which you believe will assist in your rebuttal of the applicant's allegation

a. On the claim that domestic industry suffered material injury because of dumped imports.

b. On the claim that the expiry of anti-dumping duty would be likely lead to the continuation or recurrence of dumping and injury.

Any rebuttal should be supported by documentary evidence.

CERTIFICATION

I hereby certify that all information contained herein is true and correct to the best of my knowledge. I commit that any additional information required will be submitted within 15 working days after receipt of notice from the Commission.

(Signature over printed name)

Authorized Representative of (Name of Company)

Date

GENERAL INFORMATION AND INSTRUCTIONS

1. The respondent is required to accomplish the form and submit the same to the Tariff Commission within the prescribed timeline. Please use additional sheets if necessary.
2. The respondent providing the information must ensure the following:
 - the form is completely and accurately filled up;
 - an explanation/justification is provided when data is lacking;
 - a non-confidential version is attached to this form; and
 - submission of an Excel file of all price and financial data.
3. Information deemed confidential should be so marked.
4. Additional information may be required during the investigation.
5. Information submitted is subject to verification. The authorities of the exporting country and the concerned firm/exporter will be informed of the intention to carry out an on-the-spot investigations to verify information provided or to obtain further details.



REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

IN THE MATTER OF THE CONDUCT OF AN
EXPIRY REVIEW OF THE ANTI-DUMPING
DUTY IMPOSED AGAINST IMPORTATIONS
OF WHEAT FLOUR FROM THE REPUBLIC
OF TÜRKİYE

(ATTN: 2022/2017 Subheading Nos.
1101.00.11 and 1101.00.19)

FOR: ANTI-DUMPING MEASURE,
TC (AD) No. AD-2023-TR2:Wheat Flour TR

Philippine Association of Flour Millers, Inc.
(PAFMI)

Petitioner.

ORDER OF PRELIMINARY CONFERENCE

Pursuant to paragraph 2, Section 6 of Commission Order No. 2021-01 (*Revised Rules of Procedure for the Conduct of Formal Investigations Pursuant to Republic Act No. 8752*), the Tariff Commission (TC or Commission) hereby issues this Order covering matters that were taken up and agreed upon by the parties who were present during the Preliminary Conference held on 28 March 2023.

1. TIME LINES

ACTIVITY	DATE/DEADLINE
Conduct of Data Verification (Local and Foreign)	Starts April 2023
Request for Inclusion of Parties	19 April 2023
Submission of Initial Memoranda/Position Papers	21 April 2023
Issuance of the Commission's Staff Report (Non-Confidential)	09 June 2023 (indicative)
Submission of Comments on the Commission's Staff Report	19 June 2023 (indicative)
Submission of: (1) Affidavits of Witnesses (2) List of Proposed Additional Issues for the Public Hearing	19 June 2023 (indicative)
Conduct of Public Hearing/s	26 - 30 June 2023 (indicative)
Submission of Amended Memoranda/Initial Memoranda/Position Papers	10 July 2023 (indicative)
Disclosure of Essential Facts to All Interested Parties	17 July 2023 (indicative)
Submission of Comments on the Essential Facts with Supporting Documents	24 July 2023 (indicative)
Submission of Final Report to the Department of Agriculture (DA) Secretary	August 2023 (indicative)

4th Floor, West Insula Condominium, 135 West Avenue, Quezon City, 1105 Philippines
Tel. Nos.: (632) 8926-8731 / (632) 8928-8419 / (632) 8936-3315 / (632) 8936-3318 o Telefax Number: (632) 8921-7960
Website: tariffcommission.gov.ph o Philippine Tariff Finder: finder.tariffcommission.gov.ph
Email Address: TC.Assist@mail.tariffcommission.gov.ph

CERTIFICATE NUMBER:
SCP0003892

Timelines are indicative and may be subject to change due to circumstances beyond the Commission's control, which may include requests for extension of submission of required information or documents and requests for re-scheduling of data verification.

2. RULES OF PROCEDURE

Commission Order No. 2021-01 on the *Revised Rules of Procedure for the Conduct of Formal Investigations Pursuant to Republic Act No. 8752* provides the procedure that will govern the conduct of Formal Investigation on the second expiry review on the anti-dumping duty imposed against importations of wheat flour from the Republic of Türkiye.

3. NATURE OF INVESTIGATION

The investigation of the Commission is fact-finding and administrative in nature. It shall be conducted in a summary manner. However, the Commission may require interested parties to formally present evidence for purposes of determining and clarifying factual matters that are relevant in the conduct of the investigation.

During the course of the investigation, the Commission may issue and apply procedural directions to secure just and expeditious determination of matters in issue.

4. APPLICATION OF THE RULES OF COURT

The relevant provisions of the Rules of Court of the Philippines, whenever practicable and convenient, may be applied supplementary or by analogy in the implementation of Commission Order No. 2021-01. However, no dilatory tactics or unnecessary or unjustified delays shall be allowed and the technical rules of evidence shall not be applied.

5. APPEARANCE OF COUNSEL AND PARTIES

Parties may appear by themselves or through their authorized representative/s or counsel/s. Should parties be represented by counsel/s or authorized representative/s, the necessary authority and the contact details of the counsel/s or representative/s thereof must be submitted to the Commission as soon as practicable. Counsel/s or authorized representative/s of parties shall have authority to bind their clients in all matters of procedure.

The Commission shall post the list of counsels/representatives, and their respective contact details, of interested parties on the Commission's website for purposes of copy furnishing of submissions to other parties.

6. INCLUSION OF PARTIES

As a general rule, parties who did not participate during the preliminary investigation conducted by the Department of Agriculture (DA), IC original investigation, and the first expiry review, have no legal personality to participate in the formal investigation on the second expiry review, including the public hearings.

However, for valid reasons, an interested party may file a written request with the Commission to be included in the formal investigation within thirty (30) calendar days from commencement of the formal investigation. Once the request is approved by the Commission, the party shall be required to submit a fully accomplished Commission questionnaire and other relevant data and information that can be subjected to verification, within fifteen (15) working days from receipt of notice, as an indispensable requirement for inclusion of a party in the proceedings.

7. FORMAL REQUIREMENTS

The original copy of all written submissions shall be signed by the party or authorized representative/s and shall show the contact details of the same and must indicate the following case/docket number: *T/C (AD) No. AD-2023-FR2-Wheat Flour/TR*. The signature of the party or its representative on any document filed with the Commission constitutes as a certification that the signatory has read and knows the content of the submission and that to the best of the signatory's knowledge, the information contained therein is based on a well-grounded fact and is warranted by existing law or it is not interposed for any improper purpose.

All written submissions, including supporting documents, shall be in hard copies [eight (8) copies of confidential version and two (2) copies of non-confidential version], clearly marked confidential or non-confidential with accompanying electronic copies in file format acceptable to the Commission. Copies of submissions not otherwise confidential shall be served to the other parties.

8. MODES OF SERVICE/NOTICE

Service of pleadings and notices may be made using personal service, registered mail, special courier, or electronic mail. The date of electronic mail shall be deemed to be the date of service. A notice to counsel representing a party is considered notice to the latter.

In case of voluminous pleadings or documents and/or numerous parties, the Commission may, upon proper motion of a party, waive the requirement of service, provided that a copy of such pleadings or documents together with its annexes is filed with the Commission and made available for examination and reproduction and the notice of such filing and availability is duly served on the parties by the party filing it.

9. SUBMISSION OF INITIAL MEMORANDA/POSITION PAPERS

The parties shall, within fifteen (15) working days from termination of the Preliminary Conference, submit to the Commission their respective memoranda/position papers and documentary evidence and information in support of their position/s. Copies of these submissions not otherwise confidential shall be served to the other parties.

10. RECOURSE TO OTHER DATA AND INFORMATION

The Commission may, in addition to the pertinent documents forwarded by the Secretary of Agriculture, and the information and/or submissions by the parties, request additional data and information from other sources, both domestic and foreign, to enable it to support its findings. Without the required submissions from the parties, the Commission shall base its findings on the best available information. If necessary, the Commission may seek the opinion of experts or other resource persons on an issue or subject matter relevant to the present case.

11. TREATMENT OF CONFIDENTIAL INFORMATION

Information which is confidential shall not be disclosed to the public without the express authority of the owner of the information.

Parties providing confidential information shall submit two (2) copies of non-confidential summaries thereof to be placed in a public file and made available to all interested parties upon the initiation of the investigation. These summaries must contain sufficient details to permit a reasonable understanding of the confidential information to enable other parties to respond to claims based on such information. In exceptional circumstances wherein summarization of confidential information is not possible, the party must state the reason/s why it cannot be provided.

A party claiming confidentiality is required to provide justifications why said information can be considered as such. Should there be an issue on the nature of the information, the Commission shall issue an appropriate Order stating the reasons for its finding/s.

Where any request for confidentiality is not warranted or the party is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, such information may be disregarded by the Commission, unless it can be demonstrated to the Commission's satisfaction from appropriate sources that the information is correct.

12. MAINTENANCE OF PUBLIC FILE

A public file shall be maintained by the Commission. Except for confidential information, it shall contain a copy of all submissions from interested parties and all relevant correspondences concerning the investigation including the list of counsels of parties and other interested parties. The Commission may, upon written request, make available for examination and reproduction to interested parties all relevant information in its custody that are not considered confidential.

13. CONDUCT OF INSPECTIONS/VERIFICATIONS

The Commission may, in the course of the proceedings, conduct on-site or online investigations, to include ocular inspections and visits, to verify information provided or to obtain further details.

Any interested party shall, when required, allow the Commission access to necessary information, or otherwise provide the necessary information, to enable the Commission to expedite the investigation. The Commission may also visit other domestic producers, importers, foreign exporters or producers who have not provided a submission to the investigation. Visits or inspections may be conducted by the Commission even without the presence of other interested parties, and may, at its option, issue *subpoena duces tecum* for the production of documents relevant in resolving the instant investigation.

Prior to the scheduled visit, parties shall be advised of the general nature of the information to be verified and the pertinent documents that may be required during the on-site investigation. However, the Commission is not precluded from conducting further verification and inquiry on other relevant information during the investigation.

Without the required information/inspection/verification, the Commission will base its findings on the best available information.

14. ISSUANCE OF STAFF REPORT AND COMMENTS THEREON

Prior to the scheduled public hearing, the Commission shall issue a public version of a Staff Report which shall cover, among others, the Commission's findings on price difference, dumping, volume of dumped imports, and other relevant data and information pertinent to the investigation duly verified.

All identified interested parties shall be provided a copy of the Staff Report and within five (5) working days from receipt thereof, submit their comments on the aspect of price difference as this matter will be binding and excluded for discussion in the public hearing. If no comment is submitted, then the factual findings on price difference of the Commission contained in the Staff Report will be binding to the party who did not submit its comment.

15. SUBMISSION OF AFFIDAVITS OF WITNESSES AND LIST OF ADDITIONAL ISSUES FOR THE PUBLIC HEARING

At least five (5) working days before the scheduled public hearing, parties are required to submit to the Commission affidavits of their witnesses which shall serve as the direct examination of the witness, copy the opposing parties. Non-submission of issues/affidavits of witnesses as prescribed above shall bar the presentation of the same during the public hearing.

Should a party desire to submit additional issues for the public hearing, other than the issue on price difference which is excluded in the coverage of the matters for discussion in the public hearing, the same shall be submitted at least five (5) working days before the scheduled hearing for consideration of the Commission.

16. CONDUCT OF PUBLIC HEARING

The Commission, after due notice, shall conduct a public hearing to give all interested parties who submitted themselves to the jurisdiction of the Commission the opportunity to be heard and to present evidence, including the opportunity to respond to the presentations of other parties and to submit their views, among others, on the question on whether the expiry of the definitive anti-dumping duty would be likely, or unlikely, to lead to the continuation or recurrence of dumping or material injury. The public hearing shall be conducted continuously for not more than five (5) working days unless otherwise determined or earlier terminated by the Commission.

All interested parties may appear at the public hearing and present, under oath, evidence relevant and material to the subject matter of the investigation.

The order of the hearing shall be as follows:

- a. Presentation of evidence by the petitioner or domestic industry;
- b. Clarificatory questions/examination by oppositor/s or other interested parties;
- c. Presentation of evidence by the oppositor/s or other interested parties; and
- d. Clarificatory questions/examination by the petitioner or domestic industry.

A party who did not submit a list of issues may be deemed to have no controversial/contestable matter to raise and hence, will be given less priority in the order of parties to ask clarificatory questions during the public hearing.

Failure to appear on the scheduled public hearings is considered a waiver to propound clarificatory questions to the witnesses who were presented on that day.

17. CONDUCT OF EXECUTIVE SESSION

In the course of the proceedings, the Commission may, upon its own determination, or motion of an interested party, conduct an executive session which, unless otherwise stated, shall be attended only by the following:

- a. The party who is to present confidential information or his duly authorized representative;
- b. Authorized officials and employees of the Commission; and
- c. Counsel/s or authorized representative/s of opposing party/ies.

Unless otherwise ordered by the Commission or by a competent court, or required under existing laws, all parties present in the executive session are strictly enjoined from disclosing or discussing any and all subject matters deliberated in the executive session.

The Commission shall implement measures to ensure that confidential information are protected from any unauthorized disclosures.

18. SUBMISSION OF AMENDED AND/OR FINAL MEMORANDA/POSITION PAPER

Parties who earlier submitted their respective memoranda/position papers may submit amended and/or final memoranda/position papers to the Commission within ten (10) calendar days from termination of the public hearing.

Copies of submissions not otherwise confidential shall be served to the other parties.

19. VOLUNTARY PRICE UNDERTAKING

At any stage of the formal investigation, price undertaking shall be entertained provided that it is consistent with Republic Act No. 8752 and its Implementing Rules and Regulations and shall not be prejudicial to public interest.

Whenever practicable, the Commission shall take the initiative to exhaust all available means to effect a fair and reasonable settlement of the case. The parties will be given all the opportunities to present their proposals and/or counter-proposals. The price undertaking agreed upon shall be in writing duly signed by the parties and/or their counsels and shall be subject to approval of the Secretary of Agriculture upon the recommendation of the Commission.

20. TERMINATION OF THE INVESTIGATION

The Commission shall terminate its investigation if:

- a. There is no domestic like product to the allegedly dumped product; or
- b. The provisionally estimated margin of dumping is less than two percent (2%) of the export price; or
- c. The volume of allegedly dumped products or injury is negligible. The volume of the allegedly dumped products from a particular country shall normally be regarded as negligible if it accounts for less than three percent (3%) of the total imports of said product in the Philippines unless countries which individually account for less than three percent (3%) of the total imports of the said product in the Philippines collectively account for more than seven percent (7%) of the total imports of that product; or
- d. Parties agreed to a voluntary price undertaking.

21. DISCLOSURE OF ESSENTIAL FACTS AND COMMENTS THEREON

The Commission shall, before a final determination is made, inform all the interested parties in writing of the Essential Facts which form the basis for the decision on whether the definitive anti-dumping duties imposed should be terminated or not.

All identified interested parties will be provided a copy of the Essential Facts and within an unextendible period of five (5) calendar days from receipt thereof submit their comments with supporting documents for consideration of the Commission.

SO ORDERED.

Issued at Quezon City, Metro Manila, 31 March 2023.



MARILOU P. MENDOZA
Chairperson