



### **Questions and Answers on the pre-disclosure of duties on imports of subsidised electric cars from China\***

Brussels, 12 June 2024

#### **What is pre-disclosure and why is it necessary?**

According to the EU basic anti-subsidy regulation, the Commission is under the obligation to pre-disclose to interested parties the intended imposition of provisional measures. This is why, before the scheduled date for provisional findings, the Commission informs all interested parties as to whether it plans to impose provisional tariffs ('pre-disclosure').

The pre-disclosure was sent to all interested parties – including the Government of China and Chinese companies – and to EU Member States. It was also [published](#) on the Commission's website.

Individually, sampled companies received detailed information on their own calculations. This is to allow these companies to provide comments on the accuracy of the duty rate calculations: they will be given 3 working days to exercise that right. If the comments received from the companies concerned following pre-disclosure provide sufficient counter-balancing evidence, the Commission can revise its calculations in accordance with the law and calculate new levels of provisional duties.

In addition, pre-disclosure aims at informing the market at large about the forthcoming imposition of measures.

#### **Would the proposed duties be added on top of the current import duties of 10%?**

Yes, countervailing duties would be added on top of the ordinary import duty of 10% levied on imports of battery electric vehicles.

#### **What is the Member States' role on the pre-disclosed duties?**

As in all trade defence investigations, a detailed presentation to the Member States on the level of intended provisional duties will take place after pre-disclosure, and before the imposition of provisional countervailing duties. The presentation focuses on the procedural aspects of the investigation, outlining the evidence base and methodology used for the calculation of provisional duties.

#### **Are the duties already in force?**

The duties pre-disclosed are not in force. Sampled companies now have the possibility to provide comments only on the accuracy of the calculations. Then, by 4 July 2024 at the latest, the Commission would publish in the Official Journal a regulation explaining in detail the provisional findings which led to this level of duties. Duties would enter into force on the day following publication.

From the day following the publication, provisional duties shall be secured by a guarantee (in a form to be decided by customs in each Member State). Finally, they would be collected only if and when definitive duties are imposed.

#### **Do industry and market operators have enough time to prepare for eventual tariffs?**

Today's pre-disclosure is taking place sufficiently in advance to allow interested parties to fully exercise their procedural rights and to confirm to market operators the upcoming imposition of provisional duties. The very initiation of the investigation already started preparing market operators

to the possibility of the imposition of the duties, as well as the registration of imports (3 months ago) to the possibility that such duties might be collected retroactively.

The procedure is transparent and ensures due process for the parties concerned. The Commission is committed to ensuring a rules-based international trade system, in respect of EU rules – which in turn are fully in line with relevant WTO law.

### **Is the level of duties sufficient to protect EU industry from injury?**

The purpose of the provisional countervailing duties would be to remove the substantial unfair competitive advantage of Chinese battery electric vehicles ('BEVs') producers due to the existence of unfair subsidy schemes in China. The duties would therefore aim to ensure that EU and Chinese industries compete on a level playing field. The aim is not to close the EU market to such imports.

### **How were the provisional countervailing duties calculated?**

The provisional duties are the result of an EU anti-subsidy investigation which revealed that the entire BEV value chain is heavily subsidised in China, and that imports of Chinese BEVs presented a threat of clearly foreseeable and imminent injury to EU industry.

The Commission analysed a large volume of evidence relating to each of the investigated companies and on this basis was able to calculate a level of provisional duties corresponding to the levels of subsidisation found in each case.

### **Who was consulted in the process of the investigation?**

The Chinese government enjoys procedural rights to participate in the investigation, as do relevant companies and stakeholders. All the information requested to interested parties, as well as the applicable deadlines, were in line with applicable EU and WTO rules and longstanding practices. The Commission has reached out to Chinese authorities to discuss the provisional findings and explore possible ways to resolve the issues identified in a WTO-compatible manner.

### **Can pre-disclosed tariffs be challenged?**

The pre-disclosure cannot be challenged as such. Only the companies concerned can provide factual comments on their individual duties' calculations, which, if found warranted, would be taken into account in the provisional regulation to be published by 4 July.

The Commission will continue to monitor the BEV market situation.

### **Is the EU examining the possibility of investigations into other countries?**

We have not seen any evidence of a recent rapid rise in imports of BEVs from other countries. Therefore, we cannot substantiate the possibility of a threat of injury to EU BEV industry needed to trigger the initiation of an investigation.

### **Were Member States informed? What is their role?**

Member States were informed at the same time as interested parties in the investigation.

Following the ordinary trade defence procedure, Member States do not vote on the level of provisional countervailing duties. However, they will be briefed on the provisional findings of the Commission ahead of their publication and will vote afterwards, by simple majority pursuant to the advisory procedure under comitology rules. This vote will follow the so-called advisory procedure (no binding effect).

At definitive stage, before the imposition of definitive measures, Member States will vote pursuant to the examination procedure under [comitology](#) rules. This vote will have binding effect. In order to oppose the measures, qualified majority is needed, as for approval. However, measures can be imposed even if the qualified majority is not reached, provided the votes against do not reach a simple majority.

## **Are there discussions between the Commission and the Member States about what the definitive level of the EU response should be?**

No, as the level of the duties which would be proposed by the Commission at definitive stage, if any, is the result of the evidence and findings gathered by the investigation, notably of the degree of subsidisation found by the Commission for each of the investigated exporting producers.

Ahead of the imposition of definitive countervailing duties, if any, the Member States would have the possibility to vote on the proposal by the Commission.

## **Will the duties be collected retroactively?**

The pre-disclosure is limited to informing interested parties about the level of the provisional countervailing duties. Any potential retroactive collection of the duties on imports that is registered as of 90 days prior to the date of imposition of provisional measures (e.g. as of 5 April 2024, if duties enter into force on 5 July 2024) would be addressed at a later stage in the investigation, which would decide whether legal conditions for such a retroactive collection are met.

## **Are the duties on electric vehicles expected to negatively affect the green transition?**

A successful green transition worldwide will be achieved most effectively and rapidly through fair competition and adherence to global rules. While the EU welcomes imports of goods necessary for the green transition and to achieve the relevant targets, these imports must compete on fair terms with the corresponding EU goods. If these imports are unfairly subsidised, they unduly hurt the EU industry and ultimately undermine the achievement of these goals.

The battery electric vehicle sector is crucial for the EU to achieve its green transition and ensure that by 2035 all new cars registered in Europe are zero-emission. We must therefore prevent strategic dependencies on foreign partners in this critical sector.

The EU's green transition cannot be based on unfair imports at the expense of EU industry.

## **What are the next steps?**

After pre-disclosure, sampled companies now have the possibility to provide comments on the accuracy of the pre-disclosed calculations of their individual duties.

Then, by 4 July 2024 at the latest, the Commission would publish in the Official Journal a regulation explaining in detail the provisional findings which led to the level of the duties. Duties would enter into force on the day following the publication. All interested parties would have 15 days to make comments. Comments on information provided by other interested parties in reaction to the disclosure of the provisional findings should be submitted within 7 days of the deadline to comment on the provisional findings.

According to EU rules, should any company producing in China not selected in the final sample wish to have its particular situation investigated, it can either:

- claim individual examination (IE) in the framework of the current investigation, or
- ask for an accelerated review in accordance with the basic Anti-subsidy Regulation just after imposition of definitive measures (i.e. 13 months after initiation).

As the conditions for requests under the first option can no longer be met as it would prevent the investigation to be completed on time, the findings from the sampled companies will be applied to the other non-sampled exporting producers in China. Regarding the second option, the deadline for concluding such accelerated review is 9 months. Following a substantiated request, one BEV producer in China – Tesla – may receive an individually calculated duty rate at the definitive stage.

Finally, interested parties – including the Government of China and Chinese companies – would have the possibility to provide wider comments and request to be heard within 10 days. The Commission would have 4 months to reach its definitive findings in the investigation. The essential facts and analysis on the basis of which the final findings are made would be disclosed in writing to interested parties ("final disclosure"). Eventual measures would be in force for 5 years.

## **For More Information**

## [Press release](#)

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