

Review of EU Trade Defence Instruments in Brief

This brief introduces a series on key issues in the EU TDI modernisation review. The briefs will, inter alia, include the areas: Shipping Clause, Analogue Country, Lesser Duty Rule and Union Interest Test. For more information, see www.kommers.se/TDI-brief

Introduction to the EU Trade Defence Instruments

► The most frequent reason for the use of anti-dumping measures is to counter “unfair competition” and to create “a level playing field” in the international trade. Aspects of competition are, however, not considered in anti-dumping investigations. Anti-dumping measures are mainly benefiting third country exporters not facing anti-dumping duties, more than the EU producers that have requested protection. In addition, the protection comes at a high cost. Each 1 euro gained by the protected EU industry implies an extra cost of 4.5 euro for importers, user industry and consumers in the EU.

What are Trade Defence Instruments?

Trade Defence Instruments are temporary protective tariffs on imports. They are of three kinds: (i) anti-dumping measures against price dumped imports, (ii) anti-subsidy measures – also called countervailing measures – against subsidized imports, and (iii) safeguard measures against sudden and unforeseen import increases.

In the EU, anti-dumping measures are the most frequently used trade defence instrument. Dumping exists when companies in a country exports at a price below the domestic price of a similar product. The exports must cause injury to the industry in the importing country for measures to be imposed. In the EU, the imposition of measures should not be against the interest of the EU as a whole.

In reality, dumping implies that different markets are priced differently, and it is almost never associated with sales under the cost of production. Different pricing on different markets is not an economic problem but rather a part of free pricing that defines a market economy. The proceedings used by the EU makes it fairly easy to impose anti-dumping measures on imports from outside the EU.

Why are Trade Defence Instruments used?

The most common reason for imposing anti-dumping measures are to counter “unfair competition” and to create “a level playing field” in international trade. The purpose of anti-dumping measures was originally similar to the competition law, i.e. to prevent that kind of predatory pricing whereby a company tries to outcompete its competitors with low prices and then – when it has achieved a monopoly in the market – raises prices for user industries and consumers. The concepts of unfair and competition are not defined or mentioned in the EU anti-dumping regulation. The concepts are, accordingly, never considered or analysed in any anti-dumping investigation.

Are Trade Defence Instruments effective and efficient?

Calculations from the National Board of Trade show that exporters from third countries countries that are not facing anti-dumping measures are those who benefit to the largest extent from the measures. According to the calculations, companies in countries that are targeted with anti-dumping measures lose on average 9 percentage points of the EU market share while exporters in third countries that are not subject to anti-dumping measures, on average, gain 8 percentage points



of the EU market share. The market share of the EU producers only increase with 1 percentage point. This indicates that the EU industry is not competitive at an international level.

Furthermore, the anti-dumping protection comes at a rather high price. With every 1 euro gained in the protected sector, user industry and consumers pay, on average, 4.5 euro in higher prices and tariffs, according to the calculations by the National Board of Trade.

Two third of all anti-dumping measures are targeting intermediate goods. The anti-dumping measures, accordingly, increase costs for companies with globalized production chains.

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The result of anti-dumping measures is that the competitiveness of EU industry is negatively affected, on the internal market and on markets outside the EU, to the detriment of the EU's economy, as it has negative effects on the user industry and consumer welfare.

The EU's trade defence instruments (anti-dumping, anti-subsidy and safeguard measures) have remained largely unchanged for more than 15 years. The Commission has now taken the initiative to modernise the current instruments in order to improve their efficiency and effectiveness.