

IndustriAll Europe keeps campaigning for effective and efficient trade defence instruments against unfair trade practices

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1. Maintaining a non-standard methodology to calculate dumping from non-market economies.

On 3rd May 2017, the Council agreed on a compromise proposal for a new methodology for calculating anti-dumping margins and assessing market distortions in third countries.

The main elements of the proposal are:

- In the future, a distinction will be made between, on the one hand, WTO members that ‘play by the rules’ and to whom the standard methodology will be applied and on the other, WTO members where significant market distortions exist due to state intervention. For these countries, an alternative methodology will be applied. Although there will be no ‘naming and shaming’ of these members, at the same time it should be absolutely clear that this doesn’t mean that market economy status will be granted to non-market economies such as China.
- The new methodology will be applied in the event of significant market distortions. To a large extent, the definition of these distortions is based on the five technical criteria used by the EU to define a market economy.
- In the new methodology, the normal value of products will be constructed on the basis of prices/costs in international markets or in a comparable country.
- In comparison to the “analogue country” methodology (which, to date, has been used to address dumping from non-market economies), where costs of a comparable country are automatically applied, it will now be up to companies and sectors to deliver the burden of proof of price distortions.
- As this is a complicated exercise (problems of transparency and costly collection of information), the Commission will support companies in substantiating their complaint by issuing reports on countries and sectors. These reports will also be used to judge whether countries/sectors are operating in normal market conditions.
- Nothing will change for existing cases. The non-standard, analogue methodology will continue to be applied.

IndustriAll Europe appreciates the efforts made by the institutions to develop a new and effective non-standard anti-dumping methodology to deal with dumping from non-market economies, this while respecting all international agreements. According to recent research carried out by KU Leuven as part of the Commission’s impact assessment on MES China, the granting of a market economy status to China could put more than 200,000 jobs at risk in Europe’s industry. Nevertheless, a number of concerns remain:

- Creating a fair global level playing field and ensuring reciprocity in trade relations is a priority for industriAll Europe. Therefore, market distortions resulting from social and environmental dumping should also be part of the criteria for triggering the use of the new methodology. To make this operational, reference could be made to the 27 core conventions on sustainable development that are used in the GSP+ agreement (this agreement allows the full removal of tariffs on imports from developing countries that ratify and implement these conventions).

- The Commission promises to take over the burden of proof from companies by drafting reports on countries and sectors. However, what remains unclear is if the level of detail of these reports will be sufficient in terms of underpinning complaints. IndustriAll Europe therefore proposes that reports not only be drafted on sectors, but also on sub-sectors and product groups.
- The new methodology should be re-assessed in the event that the WTO dispute settlement panel, which was set up after China filed a complaint against the EU in December 2016, comes to the conclusion that the use of the analogue methodology is not an infringement of WTO rules and that China has to respect the provisions of the Accession Protocol it signed when joining the WTO. This would mean that the burden of proof remains with Chinese companies and sectors and that the analogue methodology can be maintained/re-introduced.

European jobs must no longer be jeopardised by unfair trading practices from non-market economies or from countries that do not respect international social and environmental agreements. For this reason, industriAll Europe remains extremely concerned about the effectiveness of the new methodology. Indeed, everything must be done to avoid the increased complexity of the new methodology resulting in lower dumping margins and/or in less cases.

2. Strengthening existing trade defence instruments.

The new anti-dumping methodology runs in parallel to the reform of the EU's trade defence instruments, which was already proposed back in 2013. The main issue in this discussion regards the possibility of not applying the lesser duty rule (under the lesser duty rule, authorities impose duties at a level lower than the margin of dumping if this level is deemed to be adequate in terms of removing the 'injury'). In this respect, industriAll Europe welcomes the introduction of an EBIT margin of 5% as a benchmark for calculating the injury margin. On the other hand, industriAll Europe is disappointed that the LDR will only be lifted in cases of raw material distortions. IndustriAll Europe is even more disappointed regarding the definition of raw material distortions. Indeed, the requirement that raw materials in total must represent 27% of the production cost and that each separate raw material must represent at least 7% is arbitrary, complex, not workable and economically irrational. Moreover, industriAll Europe believes the LDR should not only be lifted in case of raw material distortions but also in situations of significant state interference or non-respect of core international social and environmental conventions.

Trade defence instruments are key tools in terms of creating a fair global level playing field and combating unfair competition and it is essential that these be updated and strengthened. Global trade needs to be underpinned by strong social foundations in order to bring this unrestrained and unmanaged globalisation, which invariably leads to redundancies among industrial workers, under control.

***Efficient and effective trade defence instruments** are needed to protect industrial workers against unfair trade practices. Fair trade calls for strong trade defence instruments that ensure that industrial workers do not fall victim to unfair social and environmental dumping. In this respect, industriAll Europe calls for the elimination of the lesser duty rule (under the lesser duty rule, authorities impose duties at a level lower than the margin of dumping if this level is adequate to remove the 'injury') and to maintain non-standard methodologies in addressing dumping from countries that do not respect international agreements. When assessing market distortions, social distortions (non-respect of core labour standards) should also be considered. Trade deals should allow for the imposition of trade restrictions when imports demonstrably conflict with universally accepted labour and environmental standards. This does not exclude the idea that trade agreements should support the industrial and economic development of poor countries and provide them with the autonomy they need to pursue economic diversification.*

industriAll Europe, industriAll Europe calls for a new approach to trade deals, Position Paper 2017.