



Trade Defence Instruments: The Union interest test

*D. Spatharis, Head of Unit DG Trade, Trade Defence
Directorate*

General principle:

A fourth condition to impose AD/AS measures: beyond ..

Dumping / subsidisation

Material Injury,

Causation...

Also Union interest test

The EU systematically applies a Union interest test in TDI investigations

Not required by WTO agreement

1. Legal basis

Article 21:

“A determination as to whether the Community interest calls for intervention shall be based on an appreciation of all the interests taken as a whole, including the interests of the domestic industry and users and consumers; [...].”

“[...] The need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition shall be given special consideration. Measures, as determined on the basis of the dumping and injury found, may not be applied where the Authorities [...], on the basis of all the information submitted, can clearly conclude that it is not in the Community interest to apply such measures.”

Similar provision for anti-subsidy

2. What does it mean?

- Analysis of the economic effects of imposition/non-imposition of AD/AS measures on all interested parties in the Union
- Interest taken for the EU as a whole
- Wording in AD/AS BR: identification of compelling reasons why AD/AS measures would not be in the Union interest
- Outcome of analysis does not determine the level of the measures

3. How do we do it?

1. Identify interested parties
2. Gather information
3. Analyse the information, identify the likely effects of imposition or non-imposition of measures
4. Balance the interests at stake and
5. Conclude

Parties examined

Mentioned in Art. 21 (2):

- Domestic industry (complainants + non complainants)
- Importers / traders (distributors, wholesalers, retailers etc.)
- Users
- Consumer organizations (depending on nature of product)

But also: Suppliers located in the Union

Information requested in the questionnaires:

users:

- Turnover (total vs. product incorporating PC)
- Purchases PC (origin, quantity, values)
- Cost of PC in total cost of final product
- Profitability, employment

importers:

- Imports (total vs. PC)
- Imports of PC (origin, quantity, values)
- Profitability, employment

General approach: Pro-active information gathering

- Questionnaire replies also from interested parties such as users, consumers, importers
- Written or oral submissions
- Additional info – independent studies, expert reports etc

What is likely to happen if measures are imposed/not imposed?

Importance of the product for the parties

Impact of measures

4. When is the Union Interest NOT examined

- Before initiation (complaint stage)
- When no finding of dumping/injury/causal link
- Newcomer reviews
- Anti-absorption proceedings
- Anti-circumvention proceedings
- Refund proceedings