

STATEMENT

Free trade. Sustainable trade.



FTA
Foreign Trade Association

OCTOBER 2016

EU COMMISSION COMMUNICATION: “TOWARDS A ROBUST TRADE POLICY”

UNFAIR TRADING PRACTICES MUST BE GOVERNED APPROPRIATELY

FTA agrees with the EU Commission when it says that that trade is essential for growth, jobs and competitiveness. FTA also agrees that free trade must also be fair trade; the FTA has also held the view that unfair trading practices must be addressed and that the best method for doing so is action by trade defence instruments. We have never advocated for the removal of these instruments: We do, however, believe they should be used in an appropriate, measured, fair and above all in a transparent manner.

LESSER DUTY RULE MUST BE RETAINED

PRINCIPLE IS SOUND BUT PROPOSAL IS VAGUE

Therefore, whilst we certainly sympathise with the effect over-produced and dumped steel has had on the EU’s steel industry, we are concerned with the proposal to remove the so-called lesser duty rule when instances of over-capacity and distortion of raw material costs are found in third countries.

Firstly, the principle of the lesser duty rule is one that has been in place in the EU since the first regulation of 1968. It ensures that the impact of the duties on EU importers and users is reduced whilst still permitting the injury caused to the EU producers is alleviated. Anti-dumping/subsidy duties may indeed make up only a tiny percentage of overall EU trade but to an importer or user of a product hit with duties, it could account for 100%. The EU’s anti-dumping/subsidy “union interest” test fails dismally to take account of this and it is a simple fact that alternative sources, such as the EU, for the same product are often not cost effective or available at sufficient quantity. Second, the proposed criteria for the removal of the principle are still very non-specific – despite having been proposed in April 2013. There is, for example, no definition of “distortion”, or how much distortion is required, or indeed a “raw material”.

LESSER DUTY RULE MUST BE RETAINED

That is why the FTA is calling on the bodies the EU Commission’s Communication addresses to reject the proposal for the removal of the lesser duty rule. At the very least, far greater clarity should be given.

CHINA – MARKET ECONOMY TREATMENT

INTERNATIONAL OBLIGATIONS

FTA is also glad to see the Commission is recognising its international commitments under the WTO by removing the automatic assumption that China operates under non-market economy conditions. The FTA recognises that prices in China can be unreliable but has long protested that the “analogue country” method used to calculate normal value inflates the dumping margin.

PROPOSAL ADDRESSES CONCERNS

The new method proposed appears to be similar to that used in investigations against Russia and is one that the FTA suggested in its position paper as a mitigating solution to the likely lower dumping margins that would result from the removal of the analogue country method. Although the recent WTO Appellate Body ruling on biodiesel from Argentina does restrict the manner in which the method is applied, the FTA believes that as such there is no barrier to the principle. The FTA believes that this should address concerns that unfair trading practices by countries such as China will no longer be addressed.

For further information, please contact:

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