

STATEMENT

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FTA
Foreign Trade Association

NOVEMBER 2016

SLOVAK PRESIDENCY PROPOSAL ON TDI MODERNISATION

PROPOSAL TO UNBLOCK DEADLOCK DOES NOT GO FAR ENOUGH

The proposal by the Slovak Presidency that attempts to break the deadlock that has existed with Member States on the EU trade defence instrument modernisation exercise since 2013 does not go far enough.

DETAILS - GENERAL

Slovakia is asking Member States to: allow the Commission to conduct *ex-officio* investigations; permit reimbursement of duties paid during an expiry review that concludes in the termination of duties; permit a two week pre-notification of provisional duties; push to impose provisional duties within seven months.

DETAILS – LESSER DUTY RULE

On the lesser duty rule (LDR), Slovakia is asking the Member States to: (i) accept the proposal to not apply the LDR in anti-subsidy investigations; and (ii) not to apply the LDR in anti-dumping investigations when (a) the EU industry bringing the complaint behind the investigation is failing to make a profit of 5%, and (b) when State induced distortions on raw material and energy are found (defined as: export taxes, export restrictions, and dual pricing schemes – provided those measures lower the price of the raw material, as compared to the EU price, and account for at least 20% of the cost of production of the product concerned).

REACTION TO GENERAL ISSUES

TWO ISSUES ARE ACCEPTABLE

Since it is already permitted, the FTA has no issue with the Commission initiating *ex officio* investigations. We also support the proposal for the reimbursement of duties – indeed this was one of our proposals at the start of the MTDI exercise. However, after five years of duties the import volume is usually reduced to a point where reimbursement would be of limited value.

TWO ISSUES ARE NOT ACCEPTABLE

A two week pre-notification is worthless when most goods are shipped from Asia (min. four weeks) and offers no advantage to importers looking to legitimately avoid injurious duties. We recognise that obtaining a longer period is unlikely and so are disappointed not to see our reasonable proposal that “goods on the water” would be exempt from duties. We also object to a reduction from nine to seven months to impose provisional duties as this would further reduce the ability for importers to adapt their sourcing strategies.

LESSER DUTY RULE MUST BE MAINTAINED

More importantly, the Slovak proposal on the removal of the LDR cannot be accepted. Firstly, the definition of raw material distortions is too wide and is likely to cover most investigations. Second, the EU industry target profit of 5% is unrealistically high. In practice, the two proposals would result in the removal of the LDR. We also continue to be deeply concerned that the proposal is seen as a *quid pro quo* for reimbursement of duties and the two week pre-notification. The damage caused to EU importers by the removal of the LDR significantly outweighs the meagre advantage that could be realised from these.

We therefore, urge Member State to reject the Slovak proposal.

For further information, please contact:

Stuart Newman – Senior Legal Advisor

stuart.newman@fta-intl.org Phone: + 32 2 741 64 04 www.fta-intl.org