



# Introduction to trade defence policy

## Types of trade defence instruments

### Anti-dumping

Dumping occurs when manufacturers from a non-EU country sell goods in the EU below the sales prices in their domestic market or below the cost of production.

If the Commission can establish – through an investigation – that this is happening, it may correct any damage to EU companies by imposing anti-dumping measures.

Typically these are duties on imports of the product from the country in question. The duties can be fixed, variable or a percentage of the total value (ad-valorem).

They can last up to 6 months (provisional measures) and, if the Commission decides to make them definitive, 5 years.

### Anti-subsidy

Subsidisation is when a non-EU government provides financial assistance to companies to produce or export goods.

The Commission is allowed to counteract any trade-distorting effects of these subsidies on the EU market – after an investigation into whether the subsidy is unfair and injuring EU companies.

The countermeasures are duties on imports of the subsidised products (fixed, variable or ad-valorem).

They can last up to 4 months (provisional measures) and, if the Commission decides to make them definitive, 5 years.

### Safeguards

Unlike subsidies and dumping, safeguards are not taken to address unfair trade practices. Rather they are concerned with imports of a certain product that increase so suddenly and sharply that EU producers can't reasonably be expected to adapt immediately to the changed trade situation.

In such cases, WTO and EU rules allow for short-term measures to regulate the imports, giving EU companies temporary relief and time to adapt to this unforeseeable surge.

Such measures usually apply to imports of the product from all non-EU countries. In return, the affected EU industry is required to restructure.

Provisional safeguard measures may last up to 200 days and definitive measures up to 4 years. Where they exceed 3 years, they must be reviewed at mid-term and can be extended for up to 8 years in total.

## What is the role of the Commission?

- examines evidence provided by complainants and decides whether to launch investigations or review existing measures
- conducts investigations
- decides on all the actions (after consulting the trade defence committee composed of representatives of EU Member States) – for example whether to impose or not provisional and definitive trade defence measures, whether to accept or reject undertakings, whether to grant refunds and whether to terminate, amend or extend the measures

## Hearing officer

The Commission has a trade hearing officer to ensure that the rights of interested parties are protected in trade defence investigations – in particular that:

- due consideration is given to all relevant facts and arguments
- confidential treatment of business secrets is respected
- access to the investigation file is granted

## Who decides?

The Commission takes all the decisions. However, where the most important decisions, such as imposition, amendment or termination of definitive measures, are adopted, the Commission must consult the trade defence committee which can block the adoption by a qualified majority of all votes.

## How measures can be reviewed

- Interested parties to an investigation may ask for an interim review of measures if circumstances have changed. This can result in measures being amended, repealed or continued.
- Before the end of the 5-year period, EU producers may request an expiry review, which may result in measures being extended or repealed.
- Importers may request a refund if they believe their exporting producer is not dumping/subsidised or its dumping/subsidy margin is less than the duties paid by the importers.
- The EU rules also contain clauses to prevent measures being circumvented or absorbed by exporters. The Commission regularly monitors the effectiveness of the measures in force.
- Trade defence measures may be also reviewed by the European Court of Justice and the WTO Dispute Settlement Body.