

College orientation debate on the treatment of China in anti-dumping investigations

Brussels, 13 January 2016

A Q&A on the College orientation debate on the treatment of China in anti-dumping investigations.

Today, the Commission had a first orientation debate on whether, and if so how, the EU should change the treatment of China in anti-dumping investigations after December 2016. The debate arises because of the expiry, in December 2016, of certain provisions in China's Protocol of Accession to the WTO. The discussion covered all implications surrounding this issue, in particular the potential impact on jobs in Europe. No decision was taken yet, and the Commission will continue developing the options for the way forward in this matter.

What are anti-dumping duties and how are they calculated?

Under World Trade Organisation (WTO) rules, the EU can impose anti-dumping duties on products from third countries if an investigation demonstrates that these products enter the EU at dumped prices that cause injury to the EU industry.

Under standard rules for normal market circumstances, dumping is calculated by comparing the export price of a product to the EU with the domestic prices or costs of the product in the exporting country.

In contrast, owing to state influence, in a non-market economy prices and costs are artificially low and hence do not reflect normal market forces. Therefore, for non-market economies, domestic prices are not used as a benchmark against which to compare export prices. Instead, WTO (and EU anti-dumping) rules allow the use of data from another market economy country – an "analogue country" – as the basis for calculation. This is referred to as the "Non-Market-Economy" methodology.

Does this mean that "Market Economy Status" is about how to calculate anti-dumping duties?

Yes. The debate about Market Economy Status for China is *not* about whether the country is a market economy or not - but about *the method to be used to calculate dumping rates* in anti-dumping investigations concerning that country after December 2016 (see below). A decision about which method is the most appropriate one for a particular country must take into account a number of aspects.

What do the existing rules say?

Under its Protocol of Accession to the WTO of 2001, China is not considered a market economy in anti-dumping proceedings. The EU anti-dumping rules contain similar provisions, and as a result use prices or costs from an "analogue country" to calculate the level of dumping of Chinese products¹. Some provisions of the Protocol of Accession will expire in December 2016 and the Commission is currently looking at the implications.

How much trade is involved?

Currently there are 52 anti-dumping measures in force against China, covering 1.38% of EU imports from that country. The main industries concerned today are steel, mechanical engineering, chemicals and ceramics. There are presently about 250,000 jobs in industries in the EU directly covered by the measures against dumping from China.

Why does the College hold an orientation debate at this moment in time?

Certain provisions of China's Protocol of Accession to the WTO relating to this issue will expire in December 2016, and the Commission is currently looking at the implications.

A change in the status of the Chinese economy under the EU anti-dumping rules would also change the methodology of calculating anti-dumping duties which, in turn, would have an impact on the European economy. Therefore, the Commission is carefully assessing the potential impact of any change in methodology on jobs in the European Union. All relevant stakeholders - including industry - will be fully involved.

This assessment will take some time as it will cover all relevant sectors and all Member States. The objective of the orientation debate being held by the College today is, therefore, not to take a formal decision on this subject at this early stage but to have an open discussion about the way forward.

Will the position of major trade partners - like the US – influence this process?

The Commission welcomes any relevant information which can inform its assessment. Indeed, when carrying out its analysis, the Commission relies on a wide range of sources and information. The Commission intends to exchange experience and closely liaise with trade partners on this issue.

At the same time, each country's legal framework on this matter is different. The EU lists countries that are non-market economies in its legislation. This is not necessarily the case for other WTO Members, like the US.

What would be the legal procedure in case of such a change of the methodology in calculating dumping rates?

Changing methods to calculate dumping margins with regard to any country would require changing the EU anti-dumping rules. This would need to be done under the standard legislative procedure where the European Parliament and the Council decide on the basis of a Commission proposal.

Is granting of Market Economy Status a unilateral or a multilateral decision in the WTO framework?

There is no common WTO definition of "Market Economy Status". How a Member grants this status to any given country depends on the Member's own internal rules and procedures. This also applies to the EU.

More information about the EU's Trade Defence policy and measures can be found on the [DG Trade website](#).

ⁱ The other non-market economies include Vietnam, Kazakhstan, Albania, Armenia, Azerbaijan, Belarus, Georgia, North Korea, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, and Uzbekistan.