

Seminar « EU-China relations in trade defence, the way ahead »

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The circumstances that trigger trade discipline initiatives ***Monique Jones, Eurometaux***

Three different factors can possibly play a role in giving rise to circumstances that would trigger trade discipline initiatives. These are

- enterprise market strategy,
- the trade and industrial policy framework operated by the countries' authorities,
- the market itself.

Each of these factors is capable of generating disruptions or distortions in the conduct of economic activities, to the point that they give rise to injury and therefore justify corrective actions.

A. The market itself

As a result of the globalisation of trade and the economy, the operation/behaviour of a market, its eventual structural weaknesses or its low level of integration do, in fact, have an impact on trade defence activities, now, more than ever. A few examples will suffice to illustrate this :

- ✓ It is generally acknowledged that the US safeguard measures relative to steel products were an emergency attempt to rescue an industry which has failed to invest and to restructure in order to keep up with an increasingly competitive environment.
- ✓ The steel and textile industries share a common feature in that they are both suffering from a structural worldwide oversupply. They are also among the few sectors most targeted by trade defence actions.
- ✓ Low world market integration characterized the Russian aluminium market when it was hit by the EU safeguard measure in 1993.
- ✓ Similarly, there is a clear link between the level of trade defence activity conducted by, as well as against, India and the latter's market isolation behind incomparable tariff and non-tariff barriers.

B. The trade and industrial policy framework operated/created by the Authorities

The role of a political authority in triggering trade defence activities is far from negligible and is two-sided.

- ✓ The political authority may develop a *policy of intentionally pushing foreign competition away* by tolerating abusive initiations and conducting proceedings in an untransparent and inconsistent manner.

In this respect, the USA, India and Egypt are maintaining incomparably favourable conditions for their operators to engage in trade defence initiatives. Low standards/requirements for initiations, lax analysis of the causal link between injury suffered by local operators and the causes of competitive distortions, and changing and untransparent calculation methodologies are common features of this intentional policy.

Also, the so-called US “Byrd” amendment – recently condemned by the WTO – is an almost caricatural example of the impact that a political authority can have on the circumstances that trigger trade defence initiatives, as the US authority has thereby created a direct financial incentive for US companies to embark upon anti-dumping action.

- ✓ The political authority should also acknowledge the fact that its *trade and industrial policies* may impact considerably on the operating conditions of its market as well as those of the international markets, thereby eventually creating circumstances that may, or may not, trigger recourse to trade defence.

A few examples relating to trade policies can illustrate this :

- India’s protectionist trade policy may determine the dumping attitude of some exporters to India because dumping becomes the only way to overcome the huge Indian tariff and non-tariff barriers and to find a way to the Indian customer,
- in another respect, the pro-active trade policy of the EU, which results in multiple bilateral or regional free-trade agreements, most certainly offers the long term benefits of improved market integration but, at the same time, it also confronts EU enterprises with ever-increasing competition, generally from emerging, and therefore very offensive, economies; in these circumstances, sensitive sectors become more vulnerable to unfair trade practices, subsidised imports or massive arrivals from these privileged EU trade partners,

Similarly, industrial policies can give rise to disturbing circumstances by encouraging pricing practices which are inconsistent with the value chain of products, or encouraging exports along a totally unsustainable pattern, or creating production capacity without consideration of the global market balance. Three examples drawn from the metals sector can illustrate this :

- the price “squeezing” practices being operated by China, in stages, throughout the entire tungsten industry channel since the mid-80s have already killed world competition in the ores and intermediate tungsten products markets and are now triggering defensive attitudes at downstream stages,
- the purchasing of non-ferrous raw materials by Chinese and Indian operators on the international market at prices which provide practically no allowance for processing costs and certainly not for profit, has been forcefully ongoing for more than 2 years now and has thrown the international and EU markets for some of these raw materials into total disarray, to the detriment of both EU and Chinese enterprises,
- unconstrained production capacity building is continuing relentlessly in China and India in sectors whose international markets are already in balance or in oversupply, meaning that the economics of these world markets are seriously undermined.

C. *Enterprise market strategy*

The enterprise is undoubtedly the focal point of trade defence initiatives, not only because it may be the offended party seeking remedies to unfair practices or disruptive market behaviour, but also because it may also be responsible for creating circumstances that trigger defensive action.

In the end, it is the enterprise that decides whether to go out on foreign markets with massive exports, whether to draw the benefits from local subsidies by means of aggressive export sales, or whether to fight its way to customers by means of dumped prices.

Because of the individual character of the circumstances created by enterprises, and also the fact that they are naturally/commonly viewed as the obvious standing player in trade defence scenarios, there is no real point in expanding on them, however.

I would rather hope that the quick review that I have made of the role of the market and that of the political authority in shaping the circumstances that trigger trade defence initiatives has shed useful light on the global framework in which trade defence actions are developing.

I hope that it will give some fresh ideas to both the market operators and political authorities as to how to avoid creating or maintaining those circumstances that trigger trade defence and to promote operating conditions whereby all market players can truly share the benefits of the market economy system.

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