



What fate for the EU anti-subsidy instrument ?

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Why doesn't it attract more attention?

The technical aspects

- ✓ **type and amount of information to be provided by industry**
 - ⇒ particularly difficult to collect
 - ⇒ entirely at industry's own initiative/cost
 - ⇒ increasingly risky exercise for enterprises with global activities
 - ⇒ high EU standards of requirements on evidence

- ✓ **assessment methodology and expected measures**
 - ⇒ poor information on assessment methodologies
 - ⇒ no hope for truly deterring measures because of the lesser duty rule and the principle of *no double penalty*

Why doesn't it attract more attention?

The political dimension

- ✓ **external political impact of proceedings**
 - ⇒ disturb EU bilateral negotiation or cooperation processes
 - ⇒ disturb Member States bilateral relations
- ✓ **internal political attitude vis-à-vis AS proceedings**
 - ⇒ question of EU political willingness to respect EU industry's right to defend itself against competitive distortions

Why doesn't it attract more attention?

The technical and political reality

- ✦ The cost/benefit ratio of an AS initiative is generally negative in the point of view of industry
 - ✦ Preparations for AS proceedings, and proceedings as such, are generally frustrating due to the lack of visibility/understanding on requirements and methodology
 - ✦ AS initiatives bear a higher « political uncertainty» than AD initiatives
- ⇒ *industry, and even less so SME, do not spontaneously “think” about AS action*

What conditions for industry to give it more attention?

Make it an instrument that truly *puts its specificity at the service of industry* for ensuring fair competition in a global economy

- ↙ **not a substitute for the other instruments** (*AD, S, TBR, WTO DS*) whose specificities may ensure more effective results depending on the circumstances of the cases (*e.g. effectiveness of Art. 2.5 of the AD Regulation in case of distortions of input costs*)
- ↙ an instrument which must be **operated**, like the other instruments, **with a broad and forward looking vision of the new and multiple kinds of market distorting schemes brought up notably by emerging economies**
- ↙ an instrument which must be given teeth in order to **make it useful** for industry, **and credible** to offending parties

What conditions for industry to give it more attention?

Make it known

- ◆ inform on its scope and domains of actual/specific relevance
- ◆ clarify its pre-requisites, standards of minimum evidence, assessment methodologies and possible outcome

Make it feasible

- ◆ set reasonable standards of *prima facie* evidence for industry
- ◆ make the collection of information on subsidization schemes a collective exercise involving EU and Member States Embassies
- ◆ facilitate the collection of information by organizing continuous monitoring of the subsidizing activities of « high risk » countries (*e.g. transition economies which operate macro-management of their industrial development and organize subsidization along complex and intricate schemes*)

What conditions for industry to give it more attention?

Make it worth the effort

- ◆ adjust current EU Regulation to abandon the lesser duty rule
- ◆ take at the same time any relevant initiatives in order to actually force the offending country to eliminate its injurious subsidization scheme

Make it consistent with EU stance on competition

- ◆ reject any interferences from external policy considerations
- ◆ adjust current EU Regulation regarding the Community Interest test as AS action addresses root causes of unfair practice

What conditions for industry to give it more attention?

Make it one of the operational elements of a global strategy

- ◆ reject its use for reasons of political or legal comfort
- ◆ ensure its effectiveness as one of the instruments that enable the EU to support the competitiveness of its industry
- ◆ develop and « advertise » a clear strategy of consistent recourse to all instruments of trade discipline, at the service of EU industry, in the context of the EU market access strategy

Conclusions

AS must be operated with a broad and forward looking vision of the new and multiple kinds of market distorting schemes which affect the global economy, with a view to ensuring fair competition and supporting the competitiveness of EU industry

- ➔ willingness to operate the AS instrument in an effective manner would demonstrate, in fact, political consistency between EU trade strategy for open and level playing-field markets, and EU engagement to combat obstacles to this strategy
- ➔ in this context, AS should play its role in synergy with the other instruments of trade discipline (AD, TBR, WTO DS)
- ➔ and should produce results that make it worth the effort and make it credible to the offending countries