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Orgalime Position Paper on the Trade Defence Instruments

INTRODUCTION

Orgalime, the European Engineering Industries Association, represents a fundamentally healthy industry that is a major employer in Europe (10.9 million people), a major export sector (over a third of EU manufacturing exports) and a significant importer thanks to its extensive supply chain. We believe that the EU's trade strategy should focus on shaping globalization and improving the international competitiveness of the EU's industrial base.

Orgalime supports a constructive and well-balanced Trade Defence Policy, which ensures both the necessary protection of the industrial sectors affected by dumping while taking into account legitimate free trade interests under fair competitive conditions. At the same time, in the spirit of a balanced approach, any potential disruptions to the operations and supply chains of the European engineering industries must be avoided. This is essential for our industry whose competitiveness is highly dependent on exports and therefore access to world markets.

1. Modernisation of the trade defence instruments

a. Lesser Duty Rule

Orgalime does not support restrictions of the basic principle of the Lesser Duty Rule or measures that may lead to an inappropriate increase of antidumping measures. Trade policy instruments should aim at restoring fair competitive conditions. Duties levied above the injury margin constitute a protectionist application of Trade defence instruments and result in significant competitive disadvantages for the processing industries in Europe on the global markets.

In practice, the Lesser Duty Rule proved to be an effective balancing instrument, which ensured sufficient protection against dumping while preventing disproportionate burdens to the EU engineering industries.

The EU has always supported the Lesser Duty Rule in its role of a defender of open markets at bilateral and multilateral level. Instead of abandoning the Lesser Duty Rule now, the European

Orgalime, the European Engineering Industries Association, speaks for 40 trade federations representing the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.9 million people in the EU and in 2015 accounted for more than €1,900 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

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Union should continue to convince other WTO members to introduce an effective Lesser Duty Rule in their national trade defence regime.

b. Ex officio procedures

Orgalime does not support any extension of the current *ex officio* procedure as the Commission is proposing with the introduction of Art. 6 (10) into the Antidumping Regulation and Art. 11(11) into the anti-subsidy Regulation¹. The existing procedures are sufficient. We believe that imposing sanctions in cases of non-cooperation should not be a way for the Commission to obtain the information for carrying out an investigation, especially since these companies have not acted illegally.

c. Transparency and SME Helpdesk

Orgalime welcomes the position of the European Parliament and the Council in favour of expanding the SME Helpdesk and the creation of an online transparency database of ongoing investigations and trade defence measures in force. Furthermore, Orgalime would welcome the drafting of comprehensive and publicly available guidelines on the application of trade defence measures.

2. Methodology to calculate anti-dumping duties

Orgalime welcomes the approach of the European Commission's proposal of 9 November 2016² on the amendment to the Anti-Dumping Regulation (2016/1036) and the Anti-Subsidy Regulation (2016/1037) as starting point for discussions following the expiry of Section 15 a (ii) from the protocol on China's accession to the WTO.

However, Orgalime has various concerns that need to be addressed. Generally speaking, any new methodology should by no means lead to more costly or burdensome procedures for interested parties.

a. Country/sector report

Orgalime calls for a transparent procedure for the drafting of the proposed country/sector reports³, during which the different involved stakeholders are consulted. These consultations should be free from political interference, have no costs on or repercussions for the contributing parties and should provide clear reference points and analytical criteria. In this regard, it is essential to ensure that country reports are subject to timely and transparent reviews. The aim of the country report

¹ See [COM\(2013\) 192](#) – Proposal for a Regulation amending Council Regulation 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation on protection against subsidised imports from countries not members of the European Community of 10 April 2013.

² See [COM\(2016\) 721](#) - Proposal for a Regulation amending Regulation 2016/1036 on protection against dumped imports from countries not members of the European Union and Regulation 2016/1037 on protection against subsidised imports from countries not members of the European Union of 9 November 2017.

³ See article 6a(c) of the [COM\(2016\) 721](#).

must be to provide sufficient evidence to the European industry to initiate anti-dumping procedures.

b. Analogue country

Clear definitions need to be established with regard to the proposed criteria of “similar level of economic development” as a basis for the calculation of the non-distorted price.

c. Calculation of duties

In choosing the method for the calculation of the duties, the Commission should ensure that the rationale behind it does not discriminate depending on the country of origin and the industrial sectors concerned.

3. Conclusion

In Orgalime’s view, Trade defence instruments, applied in compliance with European Union law and the rules of the World Trade Organisation, play an important role in achieving open and fair international trade and in defending European production against trade distortions, such as subsidisation or dumping by trade partners. Trade defence instruments should be used for their true purpose, which is to counter predatory behaviour of certain trade partners of the EU in specific situations and moments in time. As such, their modernisation should not be dominated by the interests of particular industry sectors.

Advisers responsible:

Željko Pazin, Director, Legal, Trade, R&D

Silvia Selandari, Adviser, Legal and Trade

Email: first name.second name @orgalime.org



The European Engineering Industries Association