

Case Study 13

Example: A producer thinks that his company is damaged by the import of far less expensive products of the same category of goods he is producing. This producer is not well acquainted with the rules of international trade. Can 3E provide him with the information he needs in order to protect his company and if yes, in which way?

Answers given to this specific example by 3E:

The producer of the above example, when reading Unit 12 of 3E (EXTERNAL TRADE) will find out that there is a specific reference to the anti-dumping measures (as well as an explanation of this term), to the necessary access criteria and the relevant legal framework. At the same time the original EU legal texts are placed at the disposal of the reader. Cited below is an extract from 3E:

Anti-dumping measures

The term dumping [1] denotes an unfair trade practice, which is often seen to relate to the systematic import of any cheap (or in certain cases below-cost) product in a given market, for a certain period of time. Thereafter, when the internal competition dilutes or becomes extinct, import prices regain normal or even higher levels.

The European Community laid down long ago rules dealing with imports that may cause significant damage to the Community producers. If left unchallenged, dumping gives the third country an unfair competitive advantage which could be exploited with considerable negative consequences for the Community economy. The legislation ruling anti-dumping issues today is Council Regulation 1972/2002 of the 5th of November 2002, amending Regulation 384/96 EC. This Regulation incorporates measures agreed in the Uruguay Round of the GATT. In addition, it imposes strict time limits for the completion of investigations and decision-making to ensure that relevant complaints are dealt with rapidly and efficiently.

The Anti-Dumping Regulation provides for the imposition of anti-dumping duties on products imported to the EU, but only when the following conditions are met:

- 1 - a finding of dumping:** the export price at which the product is sold on the Community market is shown to be lower than the price on the producer's home market;
- 2 - a material damage to Community industry:** the imports have caused or threaten to cause damage to a substantial part of the industry within the EC, such as loss of market share, reduced prices for producers and resulting pressure on production, sales, profits, productivity etc.;
- 3 - the interests of the Community:** the Community costs of taking measures should not be disproportionate to the benefits.

The European Commission is responsible for investigating if complaints are well-founded and may also impose provisional anti-dumping measures (definitive measures for coal and steel products). In all other cases, it is the Council of Ministers, which imposes the final anti-dumping duties.

Adopting anti-dumping measures; a summary:

When an industry sector in the Community considers that imports from non-EU countries are causing material damage to it, it may submit a complaint to the European Commission, either directly or through its national government. The Commission then has 45 days to examine the complaint, consult the Member States (represented on an Advisory Committee) and decide whether there is or not enough evidence to initiate a formal investigation. The case shall be rejected if there is not enough evidence or if the complainants do not represent at least 25 % of the total EC production of the product in question.

The Commission's investigation shall cover whether or not dumping is taking place, which can be a complex calculation, and also whether dumped imports are causing material damage to Community industry. Measures may also be imposed if the imports in question are hindering the establishment of a new industry sector within the Community or if there is a clear and imminent threat of material damage. The investigation normally takes no more than a year, and should in any case be completed within 15 months.

Anti-dumping measures shall only be imposed if they are shown to be in the broader Community interest. Producers, importers, users and consumers are able to present their views.

Member States should then be consulted, and the Commission may then, within 60 days to nine months, impose **provisional anti-dumping duties**. They should not exceed the dumping margin: the difference between the price on the home market and the price charged on the EC market. These may last for six to nine months. After that, when the Commission has completed its full investigation, it may, after further consultation with the Member States, impose **definitive duties**, or raise the provisional ones [2]. Only the Council of Ministers has the authority to decide upon these. Definitive duties are valid for five years before they expire. If, however, Community producers demonstrate that removal of duties is likely to lead to the renewal of the unlawful practice, the Commission may re-open its investigation. This may also happen if the imposition of duties does not have the desired effect of removing the damage inflicted, for example because the exporter has absorbed the extra costs or the pattern of trade has changed. This may result in changes in the level of duties. A Regulation imposing anti-dumping duties may be challenged in the European Court of First Instance, while the conflict resolution mechanism may be used for the settling of disputes between member countries of the WTO.

Other indicative questions that 3E can answer:

- What is the Uruguay round, the GATT, the WTO, and what is their role in international trade?
- What are the possibilities of exporting products through the EU?
- How are the web sites on business funding found and used?
- Which are the future orientations and priorities of EU exports?

[1] Derives from the verb dump meaning drop, discharge, unload

[2] In the case of withdrawal of provisional anti-dumping duties, the guarantees paid by the importers for the relevant amounts are refunded.