

Press Release April 8, 2009
New ECIPE Working Paper

Anti-dumping investigation in the EU: how does it work?

Anti-dumping rules are flexible and open to political bias. In the past ten years, EU investigating institutions have been biased towards the imposition of measures. The European Commission claims that all anti-dumping investigations are “rigorously and professionally carried out”. This new paper by Lucy Davis tests the validity of that statement. Davis makes a rigorous examination of the publicly available information from EU anti-dumping cases. She concludes that procedural reform is needed in the investigation process, to raise assessment standards and abate suspicions of anti-dumping protectionism.

All countries tailor their anti-dumping laws to WTO rules, but this still leaves a significant amount of discretion as to how decisions are made. In the EU, the lack of transparency in anti-dumping decision making further heightens suspicions that it is not always driven by sound economic assessment. Investigation reports from the last ten years show repeated laxity in economic analysis and conclusions that are not fully justified by the evidence. When cases are taken to the European Court or the WTO's Dispute Settlement Body (DSB), further errors are exposed.

Emerging from the analysis is a clear trend. Once a complaint has been made and an investigation initiated, the overriding bias is towards imposition of duties and thereafter to maintain these duties through extension in expiry reviews. Whether by fault or design, low standards of analysis in anti-dumping investigations leave the door open to politically-motivated decision making. The main basis for decisions is curbing fair and legitimate competition from more efficient foreign rivals.

Amongst the conclusions are that the Community Interest test is ineffective and lacks economic rigour. Its inclusion in investigations adds little more than positive spin to the decision-making process. Decisions to terminate investigations without imposition of measures rarely come from a deliberate contrary decision by the EC. And when expiry reviews are conducted, the overwhelming majority of measures are extended, some repeatedly and for very long periods of time.

- Given the sensitive nature of anti-dumping policy, far-reaching reform may not be possible. But lower-profile procedural changes, such as raising the standard of economic assessment and facilitating the participation of wider interests in anti-dumping investigations, may be politically more acceptable. And they could have a great effect -- not least in diffusing some of the tensions that increasingly surround anti-dumping cases in the EU, argues Davis.

Publication details:

Anti-dumping investigation in the EU: how does it work?

ECIPE Working Paper No. 04/2009

By Lucy Davis

Lucy Davis (lucy.davis@ecipe.org) is a Trade Policy Analyst with ECIPE

Press information:

Anna Wilson, anna.wilson@ecipe.org, Mobile: 0046 709 263 177.

The paper can be downloaded at www.ecipe.org.